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H.743

Introduced by Representatives Yacovone of Morristown, Anthony of Barre
City, Brumsted of Shelburne, Carroll of Bennington, Emmons
of Springfield, Kornheiser of Brattleboro, Lanpher of
Vergennes, Masland of Thetford, Morris of Springfield, Ode of
Burlington, Patt of Worcester, Townsend of South Burlington,
and Troiano of Stannard

Referred to Committee on

Date:

Subject: Insurance; property; Fair Access to Insurance Requirements

Statement of purpose of bill as introduced: This bill proposes to establish the
Fair Access to Insurance Requirements (FAIR) Plan, a shared market plan that
would provide property insurance to eligible applicants who are otherwise
unable to obtain coverage in the voluntary market.

An act relating to providing fair access to property insurance

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 8 V.S.A. chapter 105 subchapter 5 is added to read:

Subchapter 5. Fair Access to Insurance Requirements

§ 4011. FAIR ACCESS TO INSURANCE REQUIREMENTS PLAN

1 All insurers licensed to transact business in this State for the issuance of fire
2 and casualty insurance under this chapter and every advisory or service
3 organization operating in this State under chapter 128 of this title shall
4 cooperate in the formation, implementation, rating, and operation of a FAIR
5 Plan for the equitable apportionment among insurers of applicants for
6 insurance who are unable to procure insurance in the voluntary market through
7 ordinary methods.

8 § 4012. DEFINITIONS

9 As used in this subchapter:

10 (1) “Association” means the joint underwriting association formed
11 under the Plan.

12 (2) “Commissioner” means the Commissioner of Financial Regulation.

13 (3) “FAIR Plan” or “Plan” means the Fair Access to Insurance
14 Requirements Plan formed pursuant to this subchapter.

15 § 4103. GENERAL PROVISIONS OF PLAN

16 The Plan shall provide:

17 (1) procedures for the formation of a joint underwriting association
18 consistent with chapter 137 of this title to oversee and implement the FAIR
19 Plan required by this subchapter;

20 (2) reasonable rules for the distribution of risks on an equitable basis;

1 (3) rates applicable to, and based upon, that class of risks to which the
2 Plan applies, which shall be established in accordance with subsection 4985(b)
3 of this title;

4 (4) limits of liability and coverages, as approved by the Commissioner;
5 and

6 (5) a method whereby applicants, insureds, and insurers are entitled to a
7 hearing before the Commissioner for the settlement of grievances.

8 § 4014. SUBMISSION AND APPROVAL OF PLAN

9 (a) A Plan conforming to the standards of section 4012 of this title shall be
10 submitted to the Commissioner within 90 days of July 1, 2020. Each insurer
11 and advisory or service organization described in section 4011 of this title shall
12 file with the Commissioner within 90 days of July 1, 2020 a consent to operate
13 in conformity with the Plan and an agreement to be bound by the operation of
14 the Plan.

15 (b) The Plan shall be deemed approved unless disapproved by the
16 Commissioner within 30 days of its submission. Notice of disapproval shall be
17 given to each insurer and advisory or service organization, together with the
18 reasons for disapproval.

19 (c) Changes in the Plan shall be submitted to the Commissioner at least 30
20 days before their effective date. Changes shall be deemed approved unless

1 disapproved as provided in subsection (b) of this section within 30 days of
2 their submission.

3 (d) After approval, the original Plan, or changes in the original Plan, may
4 be disapproved for failure to conform to any of the standards of section 4012
5 of this title. If the Commissioner disapproves the Plan, he or she shall give
6 10 days' written notice to each insurer and advisory or service organization
7 affected of a hearing at which evidence in support of the proposed change shall
8 be submitted. If the Commissioner determines after hearing that the evidence
9 does not justify the proposed Plan or change, he or she shall order the Plan or
10 change ineffective after a certain date, which shall be not less than 60 nor more
11 than 120 days after the date of the order. The order shall not affect policies
12 issued prior to the date on which the Plan or change becomes ineffective.

13 § 4015. COMMISSIONER TO FORMULATE PLAN

14 (a) If no Plan conforming to the standards of section 4012 of this title is
15 submitted to the Commissioner within 90 days of July 1, 2020 or within the
16 time provided for in any order of disapproval, the Commissioner shall prepare
17 and promulgate a Plan conforming to the requirements of section 4012 of this
18 title on or before July 1, 2021.

19 (b) The Plan shall be prepared and promulgated after notice to each insurer
20 and advisory or service organization, who shall be given an opportunity to be
21 heard.

1 § 4016. INSURERES TO PARTICIPATE IN PLAN

2 After approval of, or preparation and promulgation of, the Plan, every
3 insurer licensed to transact business in this State shall participate in the Plan
4 according to its provisions as described in section 4011 of this title.

5 § 4017. INSURER OR RATING ORGANIZATION; CONDUCT OF

6 If the Commissioner finds that the conduct of any insurer or advisory or
7 service organization is not in conformity with the Plan, he or she may, after
8 hearing, order the cessation of the conduct complained of. Further conduct in
9 violation of the order is subject to the provisions of chapter 101, subchapter 12
10 of this title.

11 § 4018. SOLICITATION OF BUSINESS; COMPENSATION OF AGENTS

12 (a) An insurance company shall not direct any agent or other producer not
13 to solicit business through the Association.

14 (b) An insurance agent shall not direct any other agent in his or her employ,
15 any broker, or other producer not to solicit business through the Association.

16 (c) An agent, broker, or other producer shall not be penalized in any way
17 by an insurance company or employer producer for submitting applications to
18 the Association.

19 (d) An insurance agent or broker licensed to sell basic property insurance
20 shall not refuse a request for inspection from an eligible applicant for basic
21 property insurance unless such applicant is:

1 (1) indebted to any agent, broker, or company for coverage requested; or
2 (2) unwilling to make satisfactory payment arrangements for the
3 coverage requested.

4 (e) Agents and brokers submitting applications to the Association shall be
5 compensated by commissions upon the original issuance of coverage, each
6 installment payment if any, and each renewal thereof and shall not be entitled
7 to other compensation.

8 (f) Commissions to licensed insurance agents and brokers from the
9 Association established in accordance with the provisions of this subchapter
10 shall be established by the Commissioner from time to time at such percentage
11 of the average commission rate customarily paid by those insurance companies
12 that customarily compensate agents by commissions, as the Commissioner,
13 after hearing, shall find to be sufficiently attractive to encourage agents and
14 brokers to actively seek out risks and to assist property owners to obtain
15 coverage while at the same time leaving a further incentive to the agent or
16 broker to place such business through his or her customary markets when the
17 agent finds this practicable.

18 Sec. 2. DATA COLLECTION; REPORT AND RECOMMENDATIONS

19 (a) In a form and manner prescribed by the Commissioner of Financial
20 Regulation, all insurers licensed to transact business in this State for the
21 issuance of fire and casualty insurance under 8 V.S.A. chapter 105 shall

1 annually report to the Department of Financial Regulation all policy
2 cancellations that are the result of an alleged property defect or deficiency.

3 (b) The Commissioner shall review the information collected under
4 subsection (a) of this section as well as any other information he or she deems
5 relevant and report back to the Senate Committee on Finance and the House
6 Committee on Commerce and Economic Development findings and
7 recommendations regarding such cancellations. In particular, the
8 Commissioner shall consider whether policyholders are provided adequate
9 notice of cancellations that are the result of an alleged property defect or
10 deficiency and also whether policyholders are provided a sufficient opportunity
11 to either correct the alleged defect of deficiency, and thereby prevent
12 cancellation of the policy, or appeal the insurance company's action. The
13 Commissioner shall submit the report required by this subsection on or before
14 January 1, 2021 and annually thereafter.

15 Sec. 3. EFFECTIVE DATE

16 This act shall take effect on July 1, 2020.