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## Vermont Legislative Research Service

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### Vehicle Towing

Towing practices in states can be considered to be carried out on a consensual or nonconsensual basis. For example, if “a vehicle is disabled due to an accident or mechanical malfunction and a tow truck removes the vehicle upon the owner or operator’s consent, or in some circumstances, upon the law enforcement officer’s direction, these tows are considered consensual.”<sup>1</sup> It is considered a nonconsensual tow when “vehicles parked in an illegal or unauthorized manner are removed without the owner or operator’s permission.”<sup>2</sup>

Predatory towing can result in towing companies charging large and unexpected fees in addition to the state regulated towing fees. Predatory towing practices can prevent a consumer’s vehicle from being retrieved until the consumer pays additional fees like excessive storage fees.<sup>3</sup> Tow truck drivers who “lurk around parking lots, snatching up cars in an instant on the slightest violation—or sometimes when there is no violation at all” are also practicing the term predatory towing.<sup>4</sup> Some towing companies further inconvenience consumers with only accepting cash for payment.<sup>5</sup> While most towing cases are legal, some say “companies are too quick to act” in towing cars.<sup>6</sup> Some towing companies provide incentives for predatory towing by allotting commission to tow truck drivers for each car they tow.<sup>7</sup> Certain states and cities have preventative laws to protect car owners from predatory towing practices.

### Vermont

In Vermont, towable offenses include meters violations, parking on a residential street without a permit, parking where parking is prohibited, and so on. Law enforcement may order the removal of a motor vehicle when it is “...parked on the highways of the town contrary to an ordinance of

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<sup>1</sup> James E. Saunders III, "Eenie, Meenie, Miney, Mo... Who's to Regulate This Tow?" *The Florida Bar Journal* 79, no. 1 (January 2005): 30, <https://www.floridabar.org/the-florida-bar-journal/eenie-meenie-miney-mo-whos-to-regulate-this-tow/>.

<sup>2</sup> Saunders III, "Eenie, Meenie, Miney, Mo."

<sup>3</sup> Saunders III, "Eenie, Meenie, Miney, Mo."

<sup>4</sup> Andrew Pollack, "Tow Trucks Prowl, and Authorities Crack Down," *New York Times*, July 31, 2005, <https://www.nytimes.com/2005/07/31/us/tow-trucks-prowl-and-authorities-crack-down.html>.

<sup>5</sup> Pollack, "Tow Trucks."

<sup>6</sup> Pollack, "Tow Trucks."

<sup>7</sup> Pollack, "Tow Trucks."

the town regulating parking so as to interfere with the policing, construction, or maintenance of the highways, including the removal of snow...”<sup>8</sup> Law enforcement may use a “Denver Boot” or other immobilizing device on a vehicle whose owner has four or more unpaid parking violations in a year.<sup>9</sup>

A vehicle is considered abandoned if it has been left unattended for 48 hours without the consent of the property owner.<sup>10</sup> According to Vermont statute, abandoned vehicles are authorized to be removed in the following circumstances:

- 1) If the vehicle is abandoned on public property, a law enforcement officer may remove the vehicle or contact a towing company to remove it;
- 2) If the vehicle is abandoned on public property,
  - a) a law enforcement officer may remove it or
  - b) the landowner may remove it or call a towing company to do so.

If the landowner removes the vehicle, they must inform local law enforcement.<sup>11</sup>

Once an abandoned vehicle has been removed, the towing service must apply to the Department of Motor Vehicles for an abandoned motor vehicle certification (form VN-012)<sup>12</sup> within 30 days.<sup>13</sup> If the DMV cannot identify and notify the owner within 21 days, the Certificate of Abandoned Vehicle will be issued. The rightful owner may reclaim the vehicle by presenting appropriate evidence of ownership to the DMV and paying necessary costs.<sup>14</sup>

There is a maximum fee of \$40.00 that towing services may charge for towing an abandoned vehicle from public property.<sup>15</sup> In Burlington, a towing company may charge “\$62.50 for the tow and \$10.00 for storage for the first day and \$20.00 per day after.”<sup>16</sup> If the vehicle’s owner has unpaid parking violations, all outstanding fines must be paid before the car is released back to the owner.<sup>17</sup> Any vehicle with more than \$49.00 outstanding in unpaid parking tickets may be

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<sup>8</sup>Vermont General Assembly, “23 V.S.A. § 1752,” The Vermont Statutes Online, accessed April 29, 2021, <https://legislature.vermont.gov/statutes/section/23/019/01752>.

<sup>9</sup> Vermont General Assembly, “23 V.S.A. § 1752.”

<sup>10</sup> Department of Motor Vehicles, “Abandoned Vehicles,” Vermont Official State Website, accessed April 29, 2021, <https://dmv.vermont.gov/enforcement-and-safety/laws/abandoned-vehicles>.

<sup>11</sup> Vermont General Assembly, “23 V.S.A. § 2152,” The Vermont Statutes Online, accessed April 29, 2021, <https://legislature.vermont.gov/statutes/section/23/021/02152>.

<sup>12</sup> Department of Motor Vehicles, “Request for an Abandoned Motor Vehicle Certification,” Vermont Agency of Transportation, accessed May 4, 2021, [https://dmv.vermont.gov/sites/dmv/files/documents/VN-012-Abandoned\\_Vehicle\\_Certification.pdf](https://dmv.vermont.gov/sites/dmv/files/documents/VN-012-Abandoned_Vehicle_Certification.pdf).

<sup>13</sup> Department of Motor Vehicles, “Abandoned Vehicles,” Vermont Agency of Transportation, accessed May 4, 2021, <https://dmv.vermont.gov/enforcement-and-safety/laws/abandoned-vehicles#block-views-documents-block-4>.

<sup>14</sup> Department of Motor Vehicles, “Abandoned Vehicles.”

<sup>15</sup> Vermont General Assembly, “23 V.S.A. § 2158,” The Vermont Statutes Online, accessed April 29, 2021, <https://legislature.vermont.gov/statutes/section/23/021/02158>.

<sup>16</sup> Burlington Police Department, “Fines and Towing,” The City of Burlington, accessed April, 29, 2021, <https://www.burlingtonvt.gov/Police/Fines-Towing#:~:text=A%20vehicle%20which%20has%20been,parking%20tickets%20have%20been%20paid.&text=A%20one%2Dtime%20%2413.00%20late,unpaid%20tickets%20after%2030%20days>.

<sup>17</sup>Burlington Police Department, “Fines and Towing.”

removed from public property at any time and held until all outstanding fines are paid.<sup>18</sup> Payments must be made to the Burlington Police Department. Checks and certain credit cards are the accepted payment methods.<sup>19</sup>

In 2017, Representative Barbara Rachelson of Burlington introduced H.484,<sup>20</sup> which establishes consumer rights in connection with towing and storage of motor vehicles. H.484 did not become law and in 2019, Representative Rachelson introduced H.201.<sup>21</sup> This bill also establishes consumer rights. Among other provisions, it would:

- Limit additional fees to \$25.00
- Expand business hours
- Allows people to retrieve their car from being involuntarily towed if they are present
- Expand payment options<sup>22</sup>

H.201 has not been promulgated into law.

## Utah

Utah has established the appropriate fees for specific towing charges in the Utah Consumer Bill of Rights Regarding Towing as detailed in the table that follows.<sup>23</sup>

### Towing & Storage rates for a vehicle rated 10,000 GVWR or less

<p style="text-align: center;"><b>Non-Consent Police Generated Tow</b></p> <ul style="list-style-type: none"> <li>• Tow Fee – Up to \$168 per hour</li> <li>• Storage Fee (outside) - Up to \$40 per day</li> </ul>	<p style="text-align: center;"><b>Non-Consent Non Police Generated Tow (PPI)</b></p> <ul style="list-style-type: none"> <li>• Tow Fee – Up to \$168</li> <li>• Storage Fee (outside) - Up to \$40 per day</li> </ul>
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### Towing & storage rates for a vehicle rated 10,001 lbs. to 26,000 lbs.

<p style="text-align: center;"><b>Non-Consent Police Generated Tow</b></p> <ul style="list-style-type: none"> <li>• Tow Fee – Up to \$280 per hour</li> <li>• Storage Fee (outside) - Up to \$60 per day</li> </ul>	<p style="text-align: center;"><b>Non-Consent Non Police Generated Tow (PPI)</b></p> <ul style="list-style-type: none"> <li>• Tow Fee – Up to \$280</li> <li>• Storage Fee (outside) - Up to \$60 per day</li> </ul>
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### Towing & Storage rates for a vehicle rated 26,001 lbs. or more.

<p style="text-align: center;"><b>Non-Consent Police Generated Tow</b></p> <ul style="list-style-type: none"> <li>• Tow Fee – Up to \$347 per hour</li> <li>• Storage Fee (outside) - Up to \$60 per day</li> </ul>	<p style="text-align: center;"><b>Non-Consent Non Police Generated Tow (PPI)</b></p> <ul style="list-style-type: none"> <li>• Tow Fee – Up to \$347</li> <li>• Storage Fee (outside) - Up to \$85 per day</li> </ul>
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<sup>18</sup> Burlington Police Department, “Parking Enforcement,” accessed April 30, 2021, <https://www.burlingtonvt.gov/sites/default/files/Police/files/Parking%20Enforcement%20as%20of%202-11-15.pdf>.

<sup>19</sup> Burlington Police Department, “Parking Enforcement.”

<sup>20</sup> Vermont Legislature, “An act relating to consumer protections related to involuntary towing and 2 storage of motor vehicles and abandoned motor vehicles,” H.484 (2017), accessed May 4, 2021, <https://legislature.vermont.gov/Documents/2018/Docs/BILLS/H-0484/H-0484%20As%20Introduced.pdf>.

<sup>21</sup> Vermont Legislature, “An act relating to consumer protections related to involuntary towing and 2 storage of motor vehicles and abandoned motor vehicles,” H.201 (2019), accessed May 4, 2021, <https://legislature.vermont.gov/Documents/2020/Docs/BILLS/H-0201/H-0201%20As%20Introduced.pdf>.

<sup>22</sup> Vermont Legislature, “An act relating to consumer protections.”

<sup>23</sup> Utah Department of Transportation, “Utah Consumer Bill of Rights Regarding Towing,” last modified December 16, 2020, <https://www.udot.utah.gov/connect/wp-content/uploads/sites/50/2020/12/Utah-Consumer-Bill-of-Rights-combined-2021-Regarding-Towing.pdf>.

All non-consensual tows are advised to be reported to the Utah Motor Vehicle Division.<sup>24</sup> Further, the “consumer has the right to file a complaint alleging: overcharges, inadequate certifications for the driver, truck, company and violations of Federal Motor Carrier Safety Regulations, Utah Code Annotated or Utah Administrative Code.”<sup>25</sup>

## Michigan

Vehicles in Michigan are most commonly towed at the direction of the police, at the direction of a private property owner, or at the owner’s direction.<sup>26</sup> The Michigan Vehicle Code, MCL 257.252a provides an in-depth description of the scenarios when agencies can immediately remove a vehicle from private or public property to a “place of safe keeping” at the owner’s expense.<sup>27</sup>

Once a vehicle in Michigan is authorized and allowed to be towed, it is referred to as an “abandoned vehicle” until the owner goes through the process of redeeming the vehicle. The Secretary of State has seven days after receiving notification of the abandoned vehicle to mail to the title owner.<sup>28</sup> The mail indicates details of where the vehicle was towed from, what agency towed it, the location the vehicle currently is, and the procedures to redeem, contest, or challenge the towing.<sup>29</sup>

Personal property is protected in the Michigan Vehicle Code by stating “[a]fter the first visit by the owner to inspect the vehicle or retrieve personal property from the vehicle as provided in this subsection, the custodian may charge the owner of the vehicle a fee of not more than \$25.00 for each subsequent visit.”<sup>30</sup>

Owners have the right to challenge whether their vehicle was properly towed and if the towing and storage fees were reasonable. A petition must be filed in the district court with jurisdiction over the location from where the vehicle was towed within 20 days from the towing notice received by the owner.<sup>31</sup>

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<sup>24</sup> Utah Department of Transportation, “Utah Consumer Bill of Rights.”

<sup>25</sup> Utah Department of Transportation, “Utah Consumer Bill of Rights.”

<sup>26</sup> Dana Nessel, “Towing: Know How To Get Your Vehicle Back And Challenge Unauthorized And Unreasonable Fees,” State of Michigan Attorney General, accessed April 27, 2021, [https://www.michigan.gov/documents/ag/2019\\_Towing\\_648790\\_7.pdf](https://www.michigan.gov/documents/ag/2019_Towing_648790_7.pdf).

<sup>27</sup> Nessel, “Towing.”

<sup>28</sup> Michigan Legislature, “Michigan Vehicle Code Excerpt Section 257.252a,” Section 5b, accessed April 27, 2021, [http://www.legislature.mi.gov/\(S\(exm5odngtbbgkohln3a4ioil\)\)/mileg.aspx?page=getObject&objectName=mcl-257-252a](http://www.legislature.mi.gov/(S(exm5odngtbbgkohln3a4ioil))/mileg.aspx?page=getObject&objectName=mcl-257-252a).

<sup>29</sup> Michigan Vehicle Code Excerpt, Section 5b i-vii.

<sup>30</sup> Michigan Vehicle Code Excerpt, Section 19.

<sup>31</sup> Nessel, “Towing.”

## Florida

In 2020, The State of Florida introduced a statute to prevent Illegal and Wrongful Towing. Anyone towing a vehicle in the state must be in strict compliance with this statute.<sup>32</sup> The law applies to non-consensual towing from private property, and imposes several requirements on towing companies, but does not apply to the police.

The law states that notice must be posted for towing to be lawful, and the notice must meet the following requirements:

- a) The notice must clearly indicate that unauthorized vehicles will be towed away at the owner's expense.
- b) The words "tow-away zone" must be included on the sign.
- c) The notice must also provide the name and current telephone number of the person or firm towing or removing the vehicles.

The towing company must notify the police within 30 minutes of towing and provide them with information about the vehicle. They also must provide local law enforcement with a copy of the current rates they charge. Vehicles must be towed to a location within no more than a 10- or 15-mile radius of the removal point, depending on the population size of the county. The site must be open for people to pick up their vehicles on any day from 8AM- 6PM. When closed, they must have a sign clearly posted with a phone number where the site operator can be reached at any time, if called, the operator must return to the site within an hour to allow someone to reclaim their vehicle.<sup>33</sup>

If a person returns to their vehicle while it is being towed, the truck driver must lower the vehicle and may only charge up to half the posted rate of the removal.<sup>34</sup>

Tow truck companies are liable for any damages negligently caused to the vehicle. If someone's car is towed out of compliance with the statute, they are entitled to damages and can later recover their attorney fees and other related costs. If a person wrongly causes another person's vehicle to be towed, they are responsible for all associated costs.<sup>35</sup>

Some cities and counties in Florida also have addition protections in place to prevent wrongful towing. In Miami Beach, ATM machines must be available at the towing company or within reasonable distance, and companies must provide at least two options for payment: cash, money orders, travelers' checks or personal checks.<sup>36</sup>

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<sup>32</sup> FL Towing Statute 2020, 715.07, [http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0700-0799/0715/Sections/0715.07.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0700-0799/0715/Sections/0715.07.html).

<sup>33</sup> FL Towing Statue 2020, 715.07.

<sup>34</sup> FL Towing Statue 2020, 715.07.

<sup>35</sup> FL Towing Statute 2020, 715.07.

<sup>36</sup> Miami Dade County, "Towing Regulations," [MiamiDade.gov](https://www.miamidade.gov/global/economy/consumer-protection/towing-regulations.page). Accessed May 2, 2021.

## New Jersey

The State of New Jersey has a protective law against predatory towing. Since it came into effect on April 15, 2009 and amended in December 2018, The Predatory Towing Prevention Act “regulates towing from private property, and towing initiated by law enforcement, that occur without the prior consent of the towed vehicle’s owner or operator.”<sup>37</sup>

The law prohibits towing companies from “charging an unreasonable or excessive fee, failing to release a vehicle hooked or lifted, but not actually removed from private property, upon request of the vehicle’s owner; trolling for vehicles parked without authorization; or charging for a towing or storage service not on the schedule of services maintained by the Division of Consumer Affairs.”<sup>38</sup> The act also declares, “unattended cars cannot be towed from private parking lots unless there is a sign posted at the vehicular entrances of the property which states, among other things, the times when parking is permitted; that unauthorized parking is prohibited; the name and contact information for the towing company which is responsible for towing unauthorized vehicles, and the charges for towing and storage, along with the times that the vehicle could be retrieved.”<sup>39</sup>

The Acting Director of the New Jersey Division of Consumer Affairs says that the Division's initiative to combat predatory towing “is mainly about fairness... consumers who have their cars towed should be able to easily determine when and where the car can be picked up and should not be subject to excessive fees or hidden charges.”<sup>40</sup> The New Jersey Division of Consumer Affairs has reached settlements with multiple towing companies who allegedly violated the act.<sup>41</sup>

## City of Chicago

Some cities and counties also have their own laws in place, separate from those of the state, to protect its residents from predatory towing. One example of this is the city of Chicago, which was passed in 2016 and was a “relief” to Chicago residents, after a tense public hearing on the severity of the towing issue in the city.<sup>42</sup>

The bill includes many of the same provisions as those listed in the states above, such as requiring towing companies to report towed cars to the police within 30 minutes, requiring pre-tow photographs, requiring towing companies to accept multiple forms of payment, and clarifying that signs must be clearly posted for towing to be legal. It also states that if the vehicle owner is not able to pay right away to pick up their vehicle, the towing company must allow

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<sup>37</sup> The State of New Jersey Office of the Attorney General, “As Part of Predatory Towing Initiative, New Jersey Division of Consumer Affairs Imposed \$55,000 in Civil Penalties Against Six Towing Companies,” accessed April 27, 2021, <https://nj.gov/oag/newsreleases15/pr20150729a.html>.

<sup>38</sup> The State of New Jersey Office of the Attorney General, “As Part of Predatory Towing Initiative.”

<sup>39</sup> The State of New Jersey Office of the Attorney General, “As Part of Predatory Towing Initiative.”

<sup>40</sup> The State of New Jersey Office of the Attorney General, “As Part of Predatory Towing Initiative.”

<sup>41</sup> The State of New Jersey Office of the Attorney General, “As Part of Predatory Towing Initiative.”

<sup>42</sup> Fran Spielman, “Drivers Get Relief As Council Approves Towing Bill of Rights,” *Chicago Sun Times*, June 22, 2016, <https://chicago.suntimes.com/2016/6/22/18386783/drivers-get-relief-as-council-approves-towing-bill-of-rights>.

them access to retrieve any of their belongings. It clarifies that no vehicle can be towed if the owner is present and able to remove the vehicle, or if they arrive on scene before the vehicle is completely towed. The most notable part of the law states that the towing companies must be able to provide a photograph of any relocated vehicle before it was towed, and the photo must make clear the date, time, location, and the vehicles license plate number. This ensures that all vehicles that are towed are done so under just cause.<sup>43</sup>

### **Local Insurance Insight On Towing Practices**

The team conducting this report contacted multiple insurance companies in the State of Vermont. The goal of contacting insurers who pay for the costs of towing was to gain insight on how insurers are affected. Conducting phone and e-mail interviews, the authors of this report attempted to gain insight on the following specific questions:

- a) How is the cost of towing handled by the agency in personal automobile claims?
- b) What impact do tow practices have on the agency's business?
- c) Are there any other observations about towing practices in the area that may be helpful for the Representative to know?

The first interviewed company requested to remain anonymous in this report. The agency's employee who handles all auto claims spoke on the different ways insurance companies protect their clients when it comes to towing. The employee pointed out that many insurance agencies cover towing expenses at the choice of the customer when the customer is constructing the insurance premium.<sup>44</sup>

Once the customer chooses that they do indeed want their towing expenses covered by the insurance agency, there are two ways companies can cover a customer's towing fines. First, the company can provide "road-side assistance" that includes a company-owned tow truck preventing any extra charges other towing companies may impose on the driver.<sup>45</sup> Second, an insurance company can insure their customer by "reimbursement."<sup>46</sup> The company can examine the receipt the customer received from a towing company and pay back the towing company's expenses in lieu of the driver. This specific agency in question covers the cost of towing claims in a hybrid model of "road-side assistance" and "reimbursement."<sup>47</sup> Yet, the specific claim agent we interviewed admitted this can be a problem for the driver with towing insurance. The employee says, "Towing costs are often much greater than what the policy covers."<sup>48</sup> This leaves many insured drivers with extra fees even when towing is insured. When this employee was asked how towing practices impact the agency's business, the employee responded "[it] does not affect our agency much... there are no adverse effects."<sup>49</sup>

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<sup>43</sup> Towing Bill of Rights, 9-84-036, Municipal Code of Chicago, Chapter 9-84 § 3, [https://codelibrary.amlegal.com/codes/chicago/latest/chicago\\_il/0-0-0-2488613](https://codelibrary.amlegal.com/codes/chicago/latest/chicago_il/0-0-0-2488613).

<sup>44</sup> Anonymous Insurance Agency phone interview I with author, May 18, 2021.

<sup>45</sup> Anonymous Insurance I, interview.

<sup>46</sup> Anonymous Insurance I, interview.

<sup>47</sup> Anonymous Insurance I, interview.

<sup>48</sup> Anonymous Insurance I, interview.

<sup>49</sup> Anonymous Insurance I, interview.

The second Insurance Agency we contacted also requested to remain anonymous in the phone interview. This company is a small agent with an office in Colchester, Vermont. This agency also provides “road-side assistance” along with “reimbursement” assistance to their clients depending on the customer’s preference.<sup>50</sup> When this employee answered the question “How do towing practices in Vermont impact your agency’s business?” the employee responded, “It does not.”<sup>51</sup>

Roger E. Johnson from Titus Insurance Agency in Shelburne, Vermont answered the posed questions in an e-mail interview. Johnson answered question A responding “We are independent agents and thus don’t directly pay claims of any variety to insureds. The carriers do that. That being said, towing claims are paid via reimbursement; typically limited to something between \$50-\$150 per occurrence.”<sup>52</sup> Answer to question B explored the impact of towing practices on Titus insurance. Johnson responded that the present impact is “virtually none.”<sup>53</sup> Due to the fact that towing coverages are optional, towing practices are “loosely connected with [Titus] insurance in the end.”<sup>54</sup> Johnson further states that “Towing only becomes significant if an insured wants to tow to distant locations, but anything beyond the closest shop isn’t usually covered by a carrier.”<sup>55</sup> Roger Johnson’s response to question C asking if there are any other observations by him or his agency on the towing practices in Vermont is as follows:

Towing, and the towing issues around Burlington are only vaguely connected with insurance. The principle of indemnification that drives insurance coverages leaves towing only tangentially related to our industry, and thus leaves both agents and carriers without strong justified opinions on the quality of the service in the area. I would think most of the opinions on towing you get from agents or carriers will be more closely related to personal experience as opposed to some industry specific opinion.<sup>56</sup>

The authors of this report contacted numerous insurance companies in Burlington and Vermont to try to gather more information on how they are affected by the states towing policies. Many companies and agencies were not responsive and two of the three agencies that were responsive, wished to remain anonymous.

## **Conclusion**

There are a variety of measures the state of Vermont and/or the city of Burlington can take to protect its citizens from predatory towing practices. Multiple other states have put acts in place that ensure that towing issues are handled appropriately, and vehicle owners aren't wrongfully towed or wrongfully charged.

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<sup>50</sup> Anonymous Insurance Agency phone interview II with author, May 18, 2021.

<sup>51</sup> Anonymous Insurance II, interview.

<sup>52</sup> Roger E. Johnson, e-mail interview with author, May 18, 2021.

<sup>53</sup> Roger E. Johnson, interview.

<sup>54</sup> Roger E. Johnson, interview.

<sup>55</sup> Roger E. Johnson, interview.

<sup>56</sup> Roger E. Johnson, interview.

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This report was completed on May 18, 2021, by Erin Tevnan, Maya Berger, and Marjorie Brown under the supervision of VLRS Director, Professor Anthony “Jack” Gierzynski in response to a request from Representative Barbara Rachelson.

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