

**VIRGIN ISLANDS RULES AND REGULATIONS
REGULATIONS OF PORTABLE ELECTRONIC INSURANCE
TITLE 22- INSURANCE**

CHAPTER 44- PORTABLE ELECTRONIC INSURANCE

SECTION 1. Title

These Rules and Regulations shall be known and may be cited as the “Rules and Regulations governing the Sale of Portable Electronic Insurance.”

SECTION 2. Authority

These Rules and Regulations (“Rules”) are promulgated pursuant to the authority vested in the Commissioner of Insurance (“Commissioner”) under 22 V.I.C. § 53(c)(1) and all other applicable provisions of Virgin Islands law.

SECTION 3. Scope and Purpose

These Rules shall apply only to vendors or their employees or authorized representatives selling, soliciting, or negotiating coverage under a policy of Portable Electronic Insurance. The purpose of this Rule is to establish a limited lines vendor license and to set forth specific requirements that should be followed by vendors or their employees or authorized representatives.

SECTION 4. Severability

Any section or provision of this Rule held to be invalid or unconstitutional by a Court of competent jurisdiction will not affect the validity of any other section or provision.

SECTION 1061-1. Licensed Required

No vendor shall advertise or hold himself out as engaging in the business of the sale of Portable Electronic Insurance, without holding at the time thereof a limited lines insurance vendor license.

SECTION 1061-2. Solicitation

(a) Employees and authorized representatives of vendors shall not sell or offer coverage under a policy of portable electronic insurance unless:

1. The vendor on whose behalf the person is acting holds a limited lines vendor license, and if so licensed, such person may so solicit, negotiate, and effect such undertakings; and
2. The insurer issuing the portable electronic insurance either supervises or appoints a supervising entity to supervise the administration of the program including development of a training program for employees and authorized representative of the vendor. The training required by this paragraph shall comply with the following:

- (i) Training shall be delivered to employees and authorized representatives of a vendor who are directly engaged in the activity of selling or offering portable electronics insurance;
 - (ii) Training may be provided in electronic form; provided, however, if conducted in an electronic form the insurer or a supervising entity shall implement a supplemental education program regarding the portable electronics insurance product that is conducted and overseen by licensed employees of the supervising entity; and
 - (iii) Each employee and authorized representative shall receive basic instruction about the portable electronic insurance offered to customers and the disclosure required; and
- (b) For purposes of this chapter, "solicit" shall include any written or printed presentation or advertising made by mail or other publication, or any oral presentation or advertising by means of telephone, print, radio, or television which implies that the vendor is licensed under this rule.

SECTION 1061-3. Licensing of vendors

A limited lines license may be held by corporations, limited liability companies, partnerships, limited liability partnerships or limited partnership or sole proprietorship.

- (a) A Portable Electronic Insurance limited lines vendor license permits a vendor's employees and authorized representatives to sell, solicit and negotiate on behalf of any insurer while there is in effect an unrevoked notice of appointment of such insurer filed with the Commissioner of Insurance.
- (b) Limited lines insurance" means those lines of insurance not specifically identified in Title 22, Virgin Islands Code or any other line of insurance that the Commissioner deems necessary to recognize for the purposes of complying with Title 22.

SECTION 1061-4. Vendors- Notice of Appointment

Every applicant for a limited lines license to act as portable electronic insurance vendor must file with the Commissioner a notice of appointment, in such form as the Commissioner prescribes, executed by an admitted insurer or its authorized representative authorizing vendor to solicit and negotiate such undertakings on its behalf. Additional notices of appointment may be filed by other insurers, upon the payment for each appointment and statement of agreement, before such license is issued and thereafter, as long as such license remains in force. Each appointment shall, by its terms, continue in force until:

1. Termination of the portable electronic insurance vendor's license;
2. The end of the license year, if the fee provided for the notice of appointment and statement of agreement is not paid; or
3. The filing of a notice of termination by the insurer, its representative, or by the vendor.

SECTION 1061-5. Display of License

Every Portable Electronic Insurance license shall be prominently displayed in the place of business of the licensee.

Section 1062-1. Advertising

- (a) All Advertising shall prominently display the vendor's name.
- (b) All advertising must be in the name listed on the portable electronic insurance vendor license of the vendor.

SECTION 1064-1. Portable Electronic Insurance Vendor Prohibitions

A portable electronic insurance vendor shall not:

- a. Offer, sell, or solicit the purchase of insurance except in conjunction with and incidental to portable electronic insurance transactions;
- b. Advertise, represent, or otherwise portray itself or any of its employees or representatives as non-limited lines licensed vendor, unless so licensed;
- c. Make any statement or engage in any conduct, express or implied, that would lead a consumer to believe that:
 - 1. the insurance coverage offered by the portable electronic insurance vendor does not provide a duplication of coverage already provided by a customer's personal homeowner's insurance policy, renter's insurance policy, or by another source of coverage;
 - 2. the purchase by the customer of portable electronic insurance is required in order to purchase or lease portable electronics from the portable electronic insurance vendor; and
 - 3. the portable electronic insurance vendor or portable electronic insurance vendor's employees or authorized representatives are qualified to evaluate the adequacy of the customer's existing insurance coverage.

SECTION 1064-2. Hearings, Meeting, Revocation or Suspension of License

(a) An informal meeting may be conducted by the Director or an individual designated by the Director. The Director or the individual designated by the Director may regulate the conduct of the meeting in accord with 22 V.I.C § 101, and in accord with the informal procedures set forth by the Division. A review of the findings of the Director or the designee may be made to the Commissioner of Insurance for a formal hearing.

(1) To file a request for an informal meeting of a Division action, an aggrieved party must file a petition via regular U.S. mail or e-mail with the Division. The petition must be received by the Division within thirty (30) days after the date of the action about which the party complains. If the Petition is not filed within 30 days, the right to request an informal meeting is waived.

(2) To be valid the petition must contain the following:

- A. A brief statement of the factual and legal basis for the Petitioner's claim, signed by Petitioner or Petitioner's counsel;
- B. Verification statement that all factual assertions contained in the petition are true;
- C. Signature at the end of the petition;
- D. All documentary exhibits, and all other types of evidence to be offered in support of Petitioner's claim;
- E. A list of witnesses and a written summary of the testimony that each witness may provide;

F. A list of proposed dates for the meeting, and the amount of time the party anticipates that the meeting will last.

(3) Failure to provide a valid petition along with all requirements will be deemed as a waiver of the request for an informal meeting.

(4) An aggrieved party may be represented by counsel or any other qualified representative. No ex parte communications with the Director or the designee are allowed once a valid petition has been filed.

(5) An informal meeting provides an aggrieved party the opportunity to explain its situation, to present mitigating information, or provide factual and legal arguments as to why the Division should reconsider an action. Accordingly, the informal meeting will be conducted by the Director or Director-designee, whose role is to provide for the orderly presentation of the case, to evaluate the testimony and documentary evidence, and to make an objective recommendation to the Division as to how the case should be decided.

(6) At the conclusion of the informal meeting, a party may submit its proposed findings and recommendations for the consideration of the Director or the designee who convened the hearing.

(b) The Commissioner may hold a formal hearing for any purpose within the scope of this title as deemed necessary in accordance with 22 V.I.C. § 151. While the Commissioner may also hold a formal hearing at the request of the vendor upon receiving a written request, the Commissioner, in his own discretion, may refer the parties to an informal meeting in reference to a complaint.

(c) The Commissioner may subpoena witnesses; administer oaths and affirmations; examine any individual under oath; require and compel production of books, papers, contracts and other documents in accordance with 22 V.I.C. § 107. Subpoenas of witnesses shall be served by certified mail or in person.

(d) If any individual fails to obey a subpoena, duly issued and served, with respect to any matter concerning which he or she may be lawfully interrogated, the Commissioner may apply to the Superior Court of the Virgin Islands which may issue an order requiring the individual to comply with the subpoena and to testify. Failure to obey the order of the Commissioner may be punished by the court as contempt thereof.

(e) Any person willfully testifying falsely under oath to any matter material to any examination, investigation, or hearing shall, upon conviction, be guilty of perjury and punished accordingly.

(f) Notice of the time and place of the hearing, stating the matters to be considered shall be given thirty (30) days in advance pursuant to 22 V.I.C. § 154.

(g) The Commissioner shall allow any party to the hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence and to examine witnesses, to present evidence in support of his or her interest, and to have subpoenas issued by the Commissioner to compel attendance of witnesses and production of evidence on his or her behalf.

(h) The Commissioner may suspend for up to twelve (12) months or revoke or refuse to continue any license, if after notice and hearing the Commissioner determines that the licensee or any member of the vendor has violated any provision of Title 22 of the Virgin Islands Code.

(i) The act of the vendor's employee within the scope of the authority delegated to him shall be deemed the act or conduct of the vendor.

(j) If the Commissioner finds that one (1) or more grounds exist for the suspension or revocation

of any license, the Commissioner may request that formal prosecution be made against the person with the Attorney General's Office in accordance with 22 V.I.C. § 55.

(k) If the Commissioner finds that two (2) or more grounds exist for the suspension or revocation of any license and that the license has been suspended within the previous twenty-four (24) months, the license may be revoked.

(l) The Commissioner may not again issue a license to any vendor whose license has been revoked. The Commissioner may reconsider the Order of Revocation if:

- (1) At least five years have elapsed since the date of the final Order of Revocation;
- (2) The vendor has made restitution for all pecuniary losses suffered by any person as a result of the conduct that gave rise to the administrative action;
- (3) The vendor has not been the subject of any other unfavorable ruling in an administrative or judicial action related to the provision of Title 22 of the Virgin Islands Code, or relating to financial crimes in general.
- (4) The circumstances surrounding the previous violation are such that it is unlikely that the vendor would commit such offenses in the future.

(m) If the Commissioner or the Commissioner's designee determines that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in an Order, a summary suspension of a licensee may be ordered pending an administrative hearing before the Commissioner, which shall be promptly instituted.

(n) A person may appeal from any order of the Commissioner as a matter of right. The appeal shall be taken to the Superior Court of the Virgin Islands by filing written notice of appeal to the Court and by filing a copy of the notice with the Commissioner within thirty (30) days after issuance of the order by the Commissioner in accordance with 22 V.I.C. § 160. Such appeal shall be taken to the Superior Court of the Virgin Islands only from an order refusing a hearing or an order on hearing.

(o) Within sixty (60) days after the filing of the copy of the notice of appeal with the Commissioner, the Commissioner shall make, certify and deposit in the office of the clerk of the court in which the appeal is pending a full and complete transcript of all proceedings had before the Commissioner and all evidence before the Commissioner in the matter, including all of the Division's files therein in accordance with 22 V.I.C. § 161.

(p) Notwithstanding the above subsections, the Commissioner shall revoke or refuse to renew any such license immediately and without hearing upon conviction of the vendor of a felony by final judgment of any court of competent jurisdiction.

SECTION 1064-3. Insurance Complaint Form and Procedure

(a) Complaints may be filed against a vendor and investigated by a Financial Services Examiner on behalf of the Commissioner of Insurance.

(b) After investigation by the Financial Services Examiner, a hearing may be conducted pursuant to this chapter and Chapter 7, Title 22, Virgin Islands Code.

(c) Any person desiring to make a complaint concerning an alleged violation by any vendor or its employees shall use the insurance complaint form. A copy of the complaint form may be obtained from the Insurance Commissioner's Office.

(d) The form must be signed by the Complainant.

SECTION 1064-4. Complaint, Cooperation Required

- (a) All complaints will be investigated by the Financial Services Examiners at the Insurance Commissioner's Office.
- (b) Every vendor shall promptly respond to all correspondence, requests for information, or otherwise, directed to the vendor by the Commissioner or designated employee thereof. Every licensed vendor shall fully cooperate with any investigation conducted by the Insurance Commissioner's Office.
- (c) Failure on the part of any vendor to make all financial and business records available for inspection or examination by the Division upon request by the Commissioner, or failure to otherwise cooperate, may be grounds for a hearing and/or suspension of the license of the vendor.

SECTION 1064-5. Open for Inspection; Record

- (a) A vendor or its supervisory entity shall keep at its place of business the usual and customary records pertaining to transactions made under the license. The vendor or its supervisory entity shall keep all records as to any particular transaction available and open to the inspection of the Commissioner at any reasonable business time during the five years immediately after the date of completion of the transaction.
- (b) In a case where a complaint is filed against the vendor, all insurance records of the vendor should be made available to the Division for inspection. All records required herein as well all records of an insurance transaction shall be maintained for a period of five (5) years at the vendor's or its supervisory entity place of business. If the records are to be kept at a location other than the physical address on file at the Division, such address must be submitted to the Division in writing for approval with a notation of the address where the records are to be maintained.

SECTION 1066-1. Application for Portable Electronics Insurance Vendor License

An applicant for Portable Electronic Insurance vendor license shall file with the Commissioner an application in such form and having such supporting documents as the Commissioner prescribes. As a part of or in connection with any application the applicant shall furnish information concerning the vendor's identity, personal history, experience, business record, purposes, and other pertinent facts, as the Commissioner may reasonably require.

SECTION 1066-2. Licensing

In order for a portable electronic insurance applicant to obtain a limited lines vendor license for the sale of portable electronics insurance, it must submit:

1. An application and \$1,100 licensure fee as required by 22 V.I.C. § 1066.
2. An appointment by an insurer and statement of agreement from vendor to act as its vendor along with a \$25.00 filing fee pursuant to 22 V.I.C. § 601 as amended pursuant to Act 6585.
3. A tax clearance letter from the Bureau of the Internal Revenue.
4. A copy of applicant's articles of incorporation and by-laws, certification of tradename or certificate of existence from the Division of Corporations and Trademarks of the U.S. Virgin Islands.

SECTION 1066-3. License Period

- (a) All licenses issued under this Rule shall be for a license period of one (1) calendar year, said length never to exceed one year.
- (b) Such licenses may be issued for the entire year, or upon application made during any period for the balance thereof, with the expiration being December 31st of each year.

SECTION 1066-4. Renewal

- (a) Applications for renewal of licenses shall be filed on or before December 31st of each year upon payment of the fee of \$600.
- (b) Upon failure to file such application as provided in subdivision (a), the license shall expire on December 31st.
- (c) No application shall be deemed filed within the meaning of this section unless the document itself is complete and has been actually delivered to the Division, and the proper fee for its filing has been paid to the Division during office hours, or unless both such document and fee have been filed and remitted.

SECTION 1066-5. License Denial

The Commissioner may decline to issue a limit lines vendor license until he is satisfied that:

1. The applicant is of good business reputation and of good general reputation.
2. The applicant has never been refused a license or had a license revoked by any public authority for reasons which indicated lack of honesty or integrity, or which shows improper business or financial practices on the part of the applicant.
3. The applicant has not participated in or been connected with any business transaction which, in the opinion of the Commissioner tends to show unfitness to act in a fiduciary capacity or to maintain the standards of fairness and honesty required of a trustee or other fiduciary.
4. The applicant has not willfully misstated any material fact in his application or procured a misstatement in the supporting documents thereof.
5. There is no outstanding judgment against the applicant, if an individual, of a conviction of a misdemeanor or felony denounced by Virgin Islands Code, or one of the elements of which involves a misappropriation of money or property.
6. The applicant has not committed an act forbidden by Virgin Islands Code.