

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 for 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. Section 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 its 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 agent license and to set forth specific requirements that should be followed by vendors or its employees or authorized representatives.

SECTION 4. Severability

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

SECTION 1061-1. License 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 agent license pursuant to 22 V.I.C. 753.

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 the vendor in which the person is acting on its behalf holds a limited lines agent license, and if so licensed, such person may so solicit, negotiate, and effect such undertakings.

(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, radio, or television which implies that the vendor is licensed under this rule.

SECTION 1061-3. Licensing of vendors

A 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 agent license permits the 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 pursuant to 22 V.I.C. Section 753(a) 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.
- (c) "Agent", as used in this chapter, is defined in 22 V.I.C. Section 751(b).

SECTION 1061-4. Agents- Notice of Appointment

Every vendor for a license to act as portable electronic insurance agent 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 pursuant to 22 V.I.C. Section 753(a). Each appointment shall, by its terms, continue in force until:

1. Termination of the portable electronic insurance agent'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 in accordance with 22 V.I.C. Section 783.

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 agent license of the vendor.

SECTION 1064-1. Portable Electronic Insurance Agent Prohibitions

A portable electronic insurance agent 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 agent, unless so licensed;
- c. Make any statement or engage in any conduct, express or implied, that would lead a consumer to believe:
 1. That the insurance coverage offered by the portable electronic insurance producer 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. That the purchase by the customer of portable electronic insurance is required in order to purchase or lease portable electronics from the portable electronic insurance agent; and
 3. That the portable electronic insurance agent or portable electronic insurance agent's employees or authorized representatives are qualified to evaluate the adequacy of the customer's existing insurance coverage.

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

(a) All hearings shall be conducted in the manner prescribed in Chapter 7, Title 22, Virgin Islands Code.

(b) The Commissioner may hold a formal hearing for any purpose within the scope of this title as he may deem necessary in accordance with 22 V.I.C. 151. The Commissioner may also hold a formal hearing at the request of the vendor upon receiving a written request. The Commissioner, at his own discretion, may hold informal hearings 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 court 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 not less than ten (10) 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 in 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 a company has violated any provision of Title 22 of the V.I. 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. Section 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 person or entity whose license has been revoked.

(m) If the Commissioner or its designee determines that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its 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 V.I. Code Ann. Title 22 of Section 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 thirty (30) 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. Section 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 licensee 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 and hearings may be conducted pursuant to this chapter and Chapter 7, Title 22, Virgin Islands Code.

(b) 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.

(c) The form must be signed by the complainant.

SECTION 1064-4. Complaint, Cooperation Required

(a) All complaints will be investigated by the 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 upon request by the Commissioner, or failure to otherwise cooperate, may be grounds for a hearing and/or suspension of license.

SECTION 1064-5. Open for Inspection; Record

(a) A vendor or its supervisory entity shall keep at the 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 pursuant to 22 V.I.C 784.

(b) All records required herein 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 Agent License

An applicant for Portable Electronic Insurance agent 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 electronics vendor to obtain a limited lines agent license for the sale of portable electronics insurance, it must:

1. Submit an application and \$1,000 licensure fee as required by 22 V.I.C. 1066.
2. Submit an appointment by an insurer and statement of agreement from vendor to act as its agent pursuant to 22 V.I.C. 753(a) along with a \$25.00 filing fee pursuant to 22 V.I.C. 601 as amended pursuant to Act 6585.
3. Submit a tax clearance letter from the Bureau of the Internal Revenue.

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 1st of each year upon payment of the fee of \$500.

(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 has been actually delivered to the Division of Banking and Insurance, and the proper fee for its filing has been paid to the Division of Banking and Insurance 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 agent license until he is satisfied that:

1. The applicant is of good business reputation and of good general reputation.

2. That 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 show improper business practice on the part of the applicant.
3. That 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. That the applicant has not willfully misstated any material fact in his application or procured a misstatement in the supporting documents thereof.
5. That there is no outstanding judgment against the applicant 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. That the applicant has not committed an act forbidden by Virgin Islands Code.
7. That the applicant is a fit and proper person to hold the license applied for.