

**BILL NO. 30-0243**

**Thirtieth Legislature of the Virgin Islands**

**September 18, 2013**

An Act amending title 22 Virgin Islands Code, by adding a new Chapter 44, establishing a regulatory framework for the sale of portable electronic insurance

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**PROPOSED BY:** Senator Shawn-Michael Malone by Request of the Governor

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1 *Be it enacted by the Legislature of the Virgin Islands:*

2       **SECTION 1.** Title 22 Virgin Islands Code, is amended by adding a new Chapter 44  
3 entitled “Portable Electronics Insurance”.

4       **SECTION 2.** Title 22 Virgin Islands Code, chapter 44, is amended by adding Section  
5 1060 to read as follows:

6 **“§1060. DEFINITIONS**

7       For purpose of this section, the following terms have the following meanings:

8       (a)     “Commissioner” shall have the following meaning ascribed to it in 22 VIC,  
9 section 51.

10       (b)     “Customer” means a person who purchases portable electronics or services;

11       (c)     “Enrolled Customer” means a customer who elects coverage under a portable  
12 electronics insurance policy issued to a vendor of portable electronics;

1 (d) "Location" means any physical location in this Territory or any website, call  
2 center site or similar location directed to residents of this Territory;

3 (e) "Portable Electronics" means electronic devices that are portable in nature and  
4 their accessories;

5 (f) (1) "Portable Electronics Insurance" means insurance providing coverage for the  
6 repair or replacement of portable electronics which may provide coverage for portable  
7 electronics against any one or more of the following causes of loss, loss, theft, inoperability due  
8 to mechanical failure, malfunction, damage or other similar causes of loss. Portable electronics  
9 Insurance also includes any agreement whereby a person or any legal entity, in exchange for  
10 consideration paid, agrees to provide for the future repair, replacement or provision of portable  
11 electronics.

12 (2) "Portable Electronics Insurance" does not include:

13 (A) a service contract or extended warranty providing coverage limited  
14 to the repair, replacement or maintenance of property for the operational or  
15 structural failure of property due to a defect in materials, workmanship, accidental  
16 damage from handling, power surges, or normal wear and tear.

17 (B) a policy of insurance covering a seller's or a manufacture's  
18 obligations under a warranty; or

19 (C) a homeowner's renter's, private passenger automobile, commercial  
20 multi-peril, or similar policy.

21 (g) "Portable Electronic Transactions" means:

22 (1) the sale or lease of portable electronics by a vendor to a customer; or

23 (2) the sale of a service related to the use of portable electronics by a vendor  
24 to a customer.

1 (h) "Supervising Entity" means a business entity that is a licensed insurer or  
2 insurance producer that is appointed by an insurer to supervise the administration of a portable  
3 electronics insurance program;

4 (i) "Vendor" means a person in the business of engaging in portable electronic  
5 transactions directly or indirectly."

6 **SECTION 3.** Title 22 Virgin Islands Code, chapter 44 is amended by adding section  
7 1061 as follows:

8 **"§1061. Licensure of vendors**

9 (a) A vendor is required to hold a limited lines license to sell or offer coverage under  
10 a policy of portable electronics insurance.

11 (b) A limited lines licenses issued under this subdivision shall authorize any  
12 employee or authorized representative of the vendor to sell or offer coverage under a policy of  
13 portable electronics insurance to a customer at each location which the vendor engages in  
14 portable electronic transactions.

15 (c) The supervising entity shall maintain a registry of vendor locations which are  
16 authorized to sell or solicit portable electronics insurance coverage in this territory. Upon  
17 request by the director and with ten days notice to the supervising entity, the registry shall be  
18 open to inspection and examination by the Commissioner during regular business hours of the  
19 supervising entity.

20 (d) Notwithstanding any other provisions of law, a license issued pursuant to this  
21 section shall authorize the licensee and its employees or authorized representatives to engage  
22 only in those activities that are permitted in this section."

23 **SECTION 4.** Title 22 Virgin Islands Code, chapter 44 is amended by adding section  
24 1062 to read as follows:

1 **“§1062. Requirements for sale of portable electronics insurance**

2 (a) At every location where portable electronics insurance is offered to customers,  
3 brochures or other written materials must be made available to a prospective customer which:

4 (1) disclose that the portable electronics insurance may provide a duplication  
5 of coverage already provided by a customer’s homeowner’s insurance policy, renter’s  
6 insurance policy or other source of coverage;

7 (2) state that the enrollment by the customer in a portable electronics  
8 insurance program is not required in order to purchase or lease portable electronics or  
9 services;

10 (3) summarize the material terms of the insurance coverage, including:

11 (A) the identity of the insurer;

12 (B) the identity of the supervising entity;

13 (C) the amount of any applicable deductible and how it is to be paid;

14 (D) benefits of the coverage; and

15 (E) key terms and conditions of coverage such as whether portable  
16 electronics may be repaired or replaced with similar make and model  
17 reconditioned or non-original manufacture parts or equipment.

18 (4) summarize the process for filing a claim, including a description of how to  
19 return portable electronics and the maximum fee applicable in the event the customer  
20 fails to comply with any equipment return requirements.

21 (5) state that an enrolled customer may cancel enrollment for coverage under  
22 a portable electronics insurance policy at any time and the person paying the premium  
23 shall receive a refund of any applicable unearned premium.

24 (b) The written materials required by this section shall not be subject to filing or  
25 approval requirements with the Commissioner.

1 (c) Portable electronics insurance may be offered on a month to month or other  
2 periodic basis as a group or master commercial inland marine policy issued to a vendor of  
3 portable electronics for its enrolled customers.

4 (d) Eligibility and underwriting standards for customers electing to enroll in coverage  
5 shall be established for each portable electronics insurance program.

6 **SECTION 5.** Title 22 Virgin Islands Code, chapter 44, is amended by adding section  
7 1063 to read as follows:

8 **“§1063. Authority of vendors of portable electronics**

9 (a) The employees and authorized representatives of vendors may sell or offer  
10 portable electronics insurance to customers and shall not be subject to licensure as an insurance  
11 producer under this chapter provided that:

12 (1) the vendor obtains a limited lines license to authorize its employees or  
13 authorized representatives to sell or offer portable electronics insurance pursuant to this  
14 section;

15 (2) the insurer issuing the portable electronics insurance either directly  
16 supervises or appoints a supervising entity to supervise the administration of the program  
17 including development of a training program for employees and authorized  
18 representatives of the vendors. The training required by this subdivision shall comply  
19 with the following:

20 (A) the training shall be delivered to employees and authorized  
21 representatives of a vendors who are directly engaged in the activity of selling or  
22 offering portable electronics insurance.

23 (B) The training may be provided in electronic form. However, if  
24 conducted in an electronic form the supervising entity shall implement a  
25 supplemental education program regarding the portable electronics insurance

1 product that is conducted and overseen by licensed employees of the supervising  
2 entity; and

3 (C) Each employee and authorized representative shall receive basic  
4 instruction about the portable electronics insurance offered to customers and the  
5 disclosure required under section 3; and

6 (3) no employee or authorized representative of a vendor of portable  
7 electronics shall advertise, represent or otherwise hold himself or herself out as a non  
8 limited lines licensed insurance producer.

9 (b) Notwithstanding any other provision of law, employees or authorized  
10 representatives of a vendor of portable electronics shall not be compensated based primarily on  
11 the number of customers enrolled for portable electronics insurance coverage but may receive  
12 compensation for activities under the limited lines license which is incidental to their overall  
13 compensation.

14 (c) The charges for portable electronics insurance coverage may be billed and  
15 collected by the vendor of portable electronics. Any charge to the enrolled customer for  
16 coverage that is not included in the cost associated with the purchase or lease of portable  
17 electronics or related services shall not be separately itemized on the enrolled customer's bill. If  
18 the portable electronics insurance coverage is included with the purchase or lease of portable  
19 electronics or related services, the vendor shall clearly and conspicuously disclose to the enrolled  
20 customer that the portable electronics insurance coverage is included with the portable  
21 electronics or related services. Vendors billing and collecting such charges shall not be required  
22 to maintain such funds in a segregated account provided that the vendor is authorized by the  
23 insurer to hold such funds in an alternative manner and remits such amounts to the supervising  
24 entity within sixty (60) days of receipt. All funds received by a vendor from an enrolled  
25 customer for the sale of portable electronics insurance shall be considered funds held in trust by

1 the vendor in a fiduciary capacity for the benefit of the insurer. Vendors may receive  
2 compensation for billing and collection services.

3 **SECTION 6.** Title 22 Virgin Islands Code, chapter 44, is amended by adding section  
4 1064 to read as follows:

5 **“§1064. Suspension or revocation of license**

6 (a) If a vendor of portable electronics or its employee or authorized representative  
7 violates any provision of this section, the Commissioner may do any of the following:

8 (b) After notice and hearing, impose fines not to exceed \$500 per violation or \$5,000  
9 in the aggregate for such conduct.

10 (c) After notice and hearing, impose other penalties that the Commissioner deems  
11 necessary and reasonable to carry out the purpose of this article, including:

12 (1) Suspending the privilege of transacting portable electronics insurance  
13 pursuant to this section at specific business locations where violations have occurred; and

14 (2) Suspending or revoking the ability of individual employees or authorized  
15 representatives to act under the license.”

16 **SECTION 7.** Title 22 Virgin Islands Code, chapter 44 is amended by adding section  
17 1065 to read as follows:

18 **“§1065. Termination of portable electronics insurance**

19 Notwithstanding the provision of law:

20 (1) An insurer may terminate or otherwise change the terms and conditions of a  
21 policy of portable electronics insurance only upon providing the policyholder and enrolled  
22 customers with at least thirty (30) days notice as provided below.

23 (2) If the insurer changes the terms and conditions, then the insurer shall provide the  
24 vendor policyholder with a revised policy or endorsement and each enrolled customer with a

1 revised certificate, endorsement, updated brochure, or other evidence indicating a change in the  
2 terms and conditions have occurred and a summary of material changes.

3 (3) Notwithstanding paragraph 1 of this section, an insurer may terminate an  
4 enrolled customer's enrollment under a portable electronics insurance policy upon fifteen (15)  
5 days notice for discovery of fraud material misrepresentation in obtaining coverage or in the  
6 presentation of a claim there under. Such notice may be provided as set forth below.

7 (4) Notwithstanding the paragraph 1 of this section, an insurer may immediately  
8 terminate an enrolled customer's under a portable electronics insurance policy without prior  
9 notice:

10 (A) For nonpayment of premium:

11 (B) If the enrolled customer ceases to have an active service with the vendor  
12 of a portable electronics; or

13 (C) If an enrolled customer exhausts the aggregate limit of liability, if any,  
14 under the terms of the portable electronics insurance policy and the insurer sends notice  
15 of termination to the enrolled customer within thirty (30) calendar days after exhaustion  
16 of the limit. However, if notice is not timely sent, enrollment shall continue  
17 notwithstanding the aggregate limit of liability until the insurer sends notice of  
18 termination to the enrolled customer.

19 (5) Where a portable electronics insurance policy is terminated by a policyholder, the  
20 policyholder shall mail or deliver written notice to each enrolled customer advising the enrolled  
21 customer of the termination of the policy and the effective date of termination. The written  
22 notice shall be mailed or delivered to the enrolled customer at least thirty (30) days prior to the  
23 termination as provided below.

24 (6) Whenever notice or correspondence with respect to a policy of portable  
25 electronics insurance is required pursuant to this section or is otherwise required by law, it shall



1 be in writing and sent within the notice period, if any, specified with the statute or regulation  
2 requiring the notice or correspondence. Notwithstanding any other provision of law, notices and  
3 correspondence may be sent either by mail or by electronic means as set forth in this  
4 subparagraph. If the notice or correspondence is mailed, it shall be sent to the vendor or portable  
5 electronics at the vendor's mailing address specified for such purpose and to its affected enrolled  
6 customer's last known mailing addresses on file with the insurer. The insurer or vendor of  
7 portable electronics, as the case may be, shall maintain proof of mailing in a form authorized or  
8 accepted by the United States Postal Service or other commercial mail delivery service. If the  
9 notice or correspondence is sent by electronic means, it shall be sent to the vendor of portable  
10 electronics at the vendor's electronic mailing address specified for such purpose and to its  
11 affected enrolled customer's last know electronic mailing address as provided by each enrolled  
12 customer to the insurer or vendor of portable electronics, as the case may be. For purposes of  
13 this subparagraph, enrolled customer's provision of electronic mail address to the insurer or  
14 vendor of portable electronics, as the case may be, shall be deemed consent to receive notices  
15 and correspondence by electronic means. The insurer or vendor of portable electronics, as the  
16 case may be, shall maintain proof that the notice or correspondence was sent.

17 (7) Notice or correspondence required by this section or otherwise required by law  
18 may be sent on behalf of an insurer or vendor, as the case may be, by the supervising entity  
19 appointed by the insurer.

20 **SECTION 8.** Title 22 Virgin Islands Code, chapter 44 is amended by adding section  
21 1066 to read as follows:

22 **“§1066. Application for License and Fees**

23 (a) A sworn application for license under the Chapter shall be made to and be filed  
24 with the Commissioner on forms prescribed and furnished by the Commissioner.

25 (b) The application shall:

1 (1) Provide the name, residence address, and other information required by  
2 the Commissioner for an employee or officer of the vendor that is designated by the  
3 applicant as the person responsible for the vendor's compliance with the requirements of  
4 this Chapter, including implementation of the training program provided for herein.  
5 However, if the vendor derives more than 50% of its revenue from the sale of portable  
6 electronics insurance the information noted above shall be provided for all officers,  
7 directors, and shareholder of record having beneficial ownership of 10% or more of any  
8 class of securities registered under the Federal Securities Law or as may be otherwise  
9 required under 9 VIC, section 601 et. seq.; and

10 (2) Identify the location of the applicant's home office.

11 (c) Any vendor engaging in portable electronics insurance transactions on or before  
12 the effective date of this Chapter must apply for licensure within ninety (90) days of the  
13 application being made available by the Commissioner. Any applicant commencing operations  
14 after the effective date of this Chapter must obtain a license prior to offering portable electronics  
15 insurance.

16 (d) Initial licenses issued pursuant to this Chapter shall expire on December 31<sup>st</sup>  
17 following its date. Licenses shall be renewed annually on application of the licensee unless he  
18 has failed to comply with this title.

19 (e) Each vendor of portable electronics licensed under this Chapter shall pay to the  
20 Commissioner a fee as prescribed by the Commissioner but in no event shall the fee exceed  
21 \$1,000 for an initial portable electronics limited lines license and \$500 for each renewal thereof.

22 **Bill Summary**

23 Section 1 establishes Chapter 44 within title 22 for portable electronics insurance.

24 Section 2 section 1060 establishes definitions of words as used in this chapter.

1           Section 3 section 1061 establishes requirements for vendors of portable electronic  
2 insurance.

3           Section 4 section 1062 establishes requirements for sale of portable electronic insurance  
4 such as disclosures and underwriting standards.

5           Section 5 section 1063 describes how employees of vendors may offer insurance, and  
6 establishes requirement for payment and billing of portable electronic insurance charges.

7           Section 6 section 1064 sets forth the authority of the Commissioner over portable  
8 electronic insurance licensees.

9           Section 7 section 1065 codifies the requirements for termination or modification of  
10 portable electronics insurance policies.

11           Section 8 section 1066 establishes application and fee requirements for a portable  
12 electronics insurance license applicant.

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14 **BR13-1043/September 11, 2013/**

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