Chapter 31

VIRGIN ISLANDS PRODUCER AND ADJUSTER LICENSING ACT

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Purpose and Scope

This Act governs the qualifications and procedures for the licensing of insurance producers and adjusters. It simplifies and organizes some statutory language to improve efficiency, permits the use of new technology and reduces costs associated with issuing and renewing insurance licenses.

This Act does not apply to excess and surplus lines brokers licensed pursuant to V.I. Code Ann. Chapter 27 of Title 22 except as provided in Sections 763 and 764(b) of this chapter.

Section 751. Definitions

(a) "Adjuster" means any person who, for compensation as an independent contractor or as an employee of an independent contractor, or for fee or commission, investigates or reports to the adjuster's principal relative to claims arising under insurance contracts, on behalf solely of either the insurer or the insured. An attorney-at-law who adjusts insurance losses from time to time incidental to the practice of his or her profession, or an adjuster of marine losses, or a salaried employee of an insurer or of a general agent is not deemed to be an "adjuster" for the purpose of this chapter.

(1) "Independent adjuster" means an adjuster representing the interests of the insurer.

(2) "Public adjuster" means an adjuster employed by and representing solely the financial interests of the insured named in the policy.

(b) "Agent" means any person appointed by an insurer to solicit application for insurance on its behalf, and if authorized so to do, to effectuate and countersign insurance contracts except as to life or disability insurances, and to collect premiums on insurance so applied for or effectuated.

(c) "Bail bond insurance", as used in this chapter, is defined in V.I. Code Ann. Section 459 of Title 22.

(d)"Broker" means any person who, on behalf of the insured, for compensation as an independent contractor, for commission, or fee, and not being an agent of the insurer, solicits, negotiates, or procures insurance or reinsurance or the renewal or continuance thereof, or in any manner aids therein, for insureds or prospective insured other than himself.

(e) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, sole proprietor or other legal entity.

(f) "Home state" means the District of Columbia and any state or Territory of the United States in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer.

(g) "Insurance", as used in this chapter, is defined in V.I. Code Ann. Section 3 of Title 22.

(h) "Insurance producer" means a person required to be licensed under the laws of this Territory to sell, solicit or negotiate insurance. It does not include excess and surplus line brokers licensed under V.I. Code Ann. Chapter 27 of Title 22 or adjusters as defined in this section.

(i) "Insurer", as used in this Chapter, is defined in V.I. Code Ann. Section 4 of Title 22.

(j) "License" means a document issued by this Territory's Commissioner authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license

itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit to an insurer.
(k) "Limited lines credit insurance" includes life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, automobile protection gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the Commissioner determines should be designated a form of limited line credit insurance.
(l). "Limited lines insurance" means those lines of insurance defined in Section 759 of this chapter or any other line of insurance that the Commissioner deems necessary to recognize for the purposes of complying with Section 763(g) of this chapter.
(m) "Limited lines producer" means a person authorized by the Commissioner to sell, solicit or negotiate limited lines insurance.
(n) "Managing General Agent" means an individual, firm or business entity that (1) manages all or part of the insurance business of an insurer (including the management of a separate division, department or underwriting office); and (2) acts as an agent for such insurer whether known as a managing general agent, manager or other similar term, who, with or without the authority, either separately or together with affiliates, produces, directly or indirectly, and underwrites an amount of gross direct written premium equal to or more than five percent (5%) of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year together with the following activity related to the business produced, adjusts or pays claims in excess of $10,000 per claim or negotiates reinsurance on behalf of the insurer.
(o) "NAIC" means National Association of Insurance Commissioners.
(p) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.
(q) "Person" means an individual or a business entity.
(r) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.
(s) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.
(t) "Solicitor" means an individual authorized by an agent or broker (insurance producer) to solicit applications for insurance as a representative of such agent or broker and to collect premiums in connection wherewith. An individual employed by, and devoting full time to clerical work with incidental taking of insurance applications and receiving premiums in the office of the agent or broker is not deemed to be solicitor if his or her compensation is not related to the volume of such applications, insurances, or premiums.
(u) "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of an insurance producer's authority to transact insurance.

(v) “Title insurance agent” means a business entity licensed under the laws of this Territory and appointed by an authorized title insurance company to sell, solicit, or negotiate insurance on behalf of the title insurance company.
(w) “Uniform Application” means the current version of the NAIC Uniform Application for resident and nonresident producer licensing.
(x) “Uniform Business Entity Application” means the current version of the NAIC Uniform Business Entity Application for resident and nonresident business entities.

Section 752. License Required
(a) A person shall not do or perform any act as an insurance producer in the Virgin Islands unless then licensed therefor in the Virgin Islands.
(b) A person shall not sell, solicit or negotiate insurance in this Territory for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this Act.
(c) A person may not act as or hold himself out to be an adjuster in this Territory unless licensed by the Commissioner or otherwise authorized to act as an adjuster under this chapter.

Section 753. Exceptions to Licensing
(a) Nothing in this Act shall be construed to require an insurer to obtain an insurance producer license. In this section, the term “insurer” does not include an insurer’s officers, directors, employees, subsidiaries or affiliates.
(b) A license as an insurance producer shall not be required of the following:
(1) An officer, director or employee of an insurer or of an insurers producer, provided that the officer, director or employee does not receive any commission on policies written or sold to insure risks residing, located or to be performed in this Territory and
(A) The officer, director or employee’s activities are executives, administrative, managerial, clerical or a combination of these, and are only indirectly related to the sale, solicitation or negotiation of insurance; or
(B) The officer, director or employee’s function relates to underwriting, loss control, inspection or the processing, adjusting, investigating or settling of a claim on a contract of insurance; or
(C) The officer, director or employee is acting in the capacity of an agency supervisor assisting insurance producers where the person’s activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation or negotiation of insurance.
(2) A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance; or for the purpose of enrolling individuals under plans; issuing certificates under plans or otherwise assisting in administering plans; or performs administrative services related to mass marketed property and casualty insurance; where no commission is paid to the person for the service;

(3) An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, director or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts;

(4) Employees of insurers or an organization employed by insurers who are engaging in the inspection, rating or classification of risks, or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation or negotiation of insurance.

(5) A person whose activities in this Territory are limited to advertising without the intent to solicit insurance in this Territory through communications in printed publications or other forms of electronics mass media whose distribution is not limited to residents of the Territory, provided that the person does not sell, solicit or negotiate insurance that would insure risks residing, located or to be performed in this Territory;

(6) A person who is not a resident of this Territory who sells, solicits or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that that person is otherwise licensed as in insurance producer to sell, solicit or negotiate that insurance in the state or Territory where the insured maintains its principal place of business and the contract of insurance insures risks located in that state or Territory;

(7) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interest of the employer or of the subsidiaries or business affiliates of the employer provided that the employee does not sell or solicit insurance or receive a commission.

Section 754. Unlicensed activities- Acts committed in this Territory- Sanctions

(a) For the purpose of this section, an act is committed in this Territory if it is committed, in whole or in part, in the Territory of the Virgin Islands, or affects persons or property within the Territory and relates to or involves an insurance contract, health care services contract, or health maintenance agreement.

(b) If the Commissioner has cause to believe that any person has violated the provisions of Section 752 of this chapter, the Commissioner may:

(1) Issue and enforce a cease and desist order in accordance with the provisions of V.I. Code Ann. Sections 54 and 55 of Title 22;

(2) Suspend or revoke a license.

(3) Any person violating this section shall be liable to a fine of not to exceed $10,000 and/or imprisonment for not to exceed six months for each instance of such violation.

(c) Upon failure to pay a civil penalty when due, the attorney general may bring a civil action on behalf of the Commissioner to recover the unpaid penalty.

Section 755. Application of chapter to insurance producers appointed by health care service contractors, health maintenance organizations, or both.
The provisions of this chapter shall apply to insurance producers appointed by either health care service contractors or health maintenance organizations, or both.

Section 756. Determining whether authorization exists- Burden on insurance producer.
Any insurance producer soliciting, negotiating, or procuring an application for insurance or health care services in this Territory must make a good faith effort to determine whether the entity that is issuing the coverage is:

(1) Authorized as an admitted insurer to transact health insurance coverage in this Territory; or

(2) If a Property or Casualty insurer, conducting business as an admitted insurer or through a surplus line broker licensed under V.I. Code Ann. Chapter 27 of Title 22

Section 757. Application for Examination
(a) A resident individual applying for an insurance producer license or an adjuster license shall take and pass a written examination which includes knowledge of this Territory's law unless exempt pursuant to Section 765 of this chapter. This requirement shall not apply to-

(1) applicants for a license as a nonresident adjuster who are duly licensed in another state and have fulfilled qualification requirements in their state of residence and who are deemed by the Commissioner to be fully qualified and competent; or

(2) applicants for a producer license or adjuster license covering the same kinds of insurance as a producer or adjuster license then held by them in the Territory.

(3) applicants who within the five-year period next preceding date of application have been licensed in this Territory under a license requiring qualifications similar to qualifications required by the license applied for and who are deemed by the Commissioner to be fully qualified and competent;

(b) The examination described in subsection (a) of this section shall be required for the following lines of authority:

(1) Any of the lines of authority set forth in section 759(a) of this chapter.

(2) Title insurance;

(3) Surety bail bonds or bail bond insurance as provided in V.I. Code Ann. Section 459 of Title 22;

(4) Any other line of authority designated by the Commissioner; unless:
exempt under Section 765 of this chapter.

(c)The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer or adjuster and the insurance laws and regulation of this Territory.

(d) Examination required by this section shall be developed and conducted under rules and regulations prescribed by the Commissioner.

(1) The Commissioner may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the fee set in the V.I. Code Ann. Section 601 of Title 22.
(2) Each individual applying for an examination shall remit a fee as prescribed by the Commissioner as set forth in the V.I. Code Ann. Section 601 of Title 22.
(3) An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.
(4) The Commissioner may require a waiting period of reasonable duration before giving a new examination to an applicant who has failed to pass a previous similar examination

(e) The Commissioner shall prepare, or approve, and make available a manual specifying in general terms the subjects that may be covered in any examination for a particular license.
(f) Applicants for the renewal of licenses in force on the effective date of this title, or issued thereafter shall not be required to take an examination except as provided in subsection (g) of this section.
(g) The Commissioner may at any time require any licensed insurance producer or adjuster to take and successfully pass an examination testing his or her competence and qualifications as a condition to the continuance or renewal of his or her license, if the licensee has been guilty of violation of this title, or has so conducted his or her affairs under his license as to cause the Commissioner reasonably to desire further evidence of his or her qualifications.

Section 758. Application for License

(a) Any corporation, firm or individual having a place of business in the Virgin Islands and acting as a resident agent may be licensed by the Commissioner as a resident insurance producer to solicit, accept applications, write, issue, deliver or place policies or contracts of direct insurance upon risks located within the Virgin Islands for an insurer authorized to transact business therein, during the time he shall conform to the agreement and requirements of this section and other provisions of the insurance law if an application for such insurance producer's license is filed with the Commissioner accompanied by a statement signed by the proposed insurance producer on a form prescribed by the Commissioner in which he agrees that he will not rebate any part of the premium or commission or offer any valuable consideration as an inducement to take insurance other than that clearly expressed in the policy and that, if he signs policies, he will maintain an office within the Virgin Islands and keep therein at all times a complete record of all applications for and policies of insurance placed by or through him and will not sign any policies in blank to be issued outside of his or her office.
(b) An individual applying for a resident insurance producer or adjuster license shall make application to the Commissioner on the Uniform Application or any other application prescribed by the Commissioner, along with any additional information required by the Commissioner, and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the individual's knowledge and

belief. As a part of or in connection with any such application the applicant shall furnish information concerning his or her identity, personal history, experience, business record, purposes, and other pertinent facts, as the Commissioner may reasonably require. Before approving the application, the Commissioner shall find that the individual:

(1) Is at least eighteen (18) years of age or over;

(2) Is a bona fide resident of and actually resides in this Territory;

(3) Is of good reputation and character, is honest and trustworthy, and is otherwise suitable to be licensed;

(4) Has not committed any act that is a ground for denial, nonrenewal or revocation as set forth in Section 776 of this chapter;

(5) Has paid the fees set forth in V.I. Code Ann. Title 22 of Section 601; and

(6) Has completed a prelicensing course of study for the lines of authority for which the applicant has applied.

(7) Has successfully passed the examinations for the lines of authority for which the person has applied.

(8) Has submitted a national criminal records check**.**

(9) If applying for a resident insurance agent license with a variable life-variable annuity line of authority shall include in the person's application the person's individual central registration depository number.

(10) If applying for a resident public adjuster, licensee has filed the bond in the amount of $5,000 and has had experience or special education or training with reference to the handling of loss claims under insurance contracts, of sufficient duration and extent reasonably to make him competent to fulfill the responsibilities of an adjuster.

(11) If applying for a resident insurance agent or solicitor licensee, has filed an appointment by an insurer or agent or broker, accordingly.

(12) If a resident producer or adjuster, other than an agent licensed for life or disability insurances only, shall have and maintain a principal place of business in this Territory

(13) If applying for a broker's license or for the renewal of a broker's license existing on the effective date of this title, maintain in force a bond in favor of the people of the Territory of the Virgin Islands, executed by an authorized corporate surety approved by the Commissioner in the amount of $10,000. The bond shall be continuous in form, and total aggregate liability on the bond may be limited to the payment of $10,000.

(c) A resident business entity acting as an adjuster is required to obtain an insurance adjuster license. Application shall be made to the Commissioner on the Uniform Application or any other application prescribed by the Commissioner, and the individual signing the application shall declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the Commissioner shall find that:

(1) if a corporation, be other than an insurer;

(2) Be domiciled or maintains its principal place of business in this Territory;

(3) Is empowered to be an adjuster under a member's agreement, if a firm, or by its articles of incorporation, if a corporation;

(4) The business entity has paid the fees set forth in V.I. Code Ann. Title 22 of Section 601;

(5) The business entity has designated a licensed adjuster responsible for the business entity's compliance with the insurance laws, rules and regulations of this Territory;

(6) The business entity has not committed any act that is a ground for denial, nonrenewal, or revocation as set forth in Section 776 of this chapter;

(7) If applying for a resident public adjuster, has filed a bond in the amount of $5,000.00 applying for a resident; and

(8) The applicant has submitted any other documents requested by the Commissioner.

(d) A resident business entity acting as a title insurance agent is required to obtain a title insurance agent license. Application shall be made to the Commissioner on the uniform business entity application or any other application prescribed by the Commissioner, and the individual submitting the application shall declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the Commissioner shall find that the business entity:

(1) Has paid the fees set forth in V.I. Code Ann. Title 22 of Section 601;

(2) Maintains a lawfully established place of business in this Territory;

(3) Is empowered to be a title insurance agent under a members' agreement, if a limited liability company, or by its articles of incorporation, if a corporation;

(4) Is appointed as an agent by one or more authorized title insurance companies;

(5) The business entity has designated a licensed title agent responsible for the business entity compliance with the insurance laws, rules and regulations in this territory; and

(6) Has complied with all applicable laws, rules and regulations of this Territory.

(e) The Commissioner may require any documents reasonably necessary to verify the information contained in an application and may, from time to time, require any licensed insurance producer or title insurance agent to produce the information called for in an application for license.

(f) A firm or corporation shall not be licensed as an agent or broker unless each individual to be empowered and designated in the license to exercise the powers conferred thereby is qualified as though he were the sole individual to be empowered.

(g) Each insurer that sells, solicits or negotiates any form of limited line credit insurance shall provide to each individual whose duties will include selling, soliciting or negotiating limited line credit insurance a program of instruction that shall be approved by the Commissioner.

(h) If the Commissioner finds that the applicant is so qualified and that the license fee has been paid, he shall issue the license. Otherwise, the Commissioner shall refuse to issue the license.

(i)The Commissioner shall issue Apprentice agent's or solicitor's license qualificatons as provided by rules and regulations.

Section 759. License

(a) Unless denied licensure pursuant to Section 776 of this chapter, persons who have met the requirements of Sections 757 and 758 of this chapter shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of authority:

(1) Life- insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accidental death and may include benefits for disability income.
(2) Accident and health or sickness- insurance coverage for disability, sickness, bodily injury or accidental death and may include benefits for disability income.
(3) Property- insurance coverage for the direct or consequential loss or damage to property of every kind.
(4) Casualty - insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property.
(5) Variable life and variable annuity products- insurance coverage provided under variable life insurance contracts and variable annuities.
(6) Personal lines- property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.
(7) Credit- Limited line credit insurance.
(8) Surety- as used in this chapter, is defined in V.I. Code Ann. Section 458 of Title 22.
(9) Travel
(10) Title
(11) Specialty lines
    (i) Communications equipment or services
    (ii) Rental car
    (iii) Self-service storage; or
(12) Any other line of insurance permitted under this Territory's laws or regulations.

(b) An insurance producer license shall remain in effect until December 31st of each year unless revoked or suspended as long as the fee set forth in V.I. Code Ann. Title 22 of Section 601 is paid and education requirements for resident individual insurance producers are met by the due date.
(c) Any individual insurance producer, and adjuster who allow his or her license to lapse may, within twelve (12) months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination. However, a penalty in the amount of double the unpaid renewal fee shall be required for any renewal fee received after 15 days of the due date. During this 15- day grace period no penalty shall be charged.
(d) A licensed insurance producer or adjuster who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance (e.g., a long-term medical disability) may request a waiver of those procedures. An insurance producer or adjuster

under these circumstances may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

(e) An insurance Producer's license shall be in form as the Commissioner prescribes, and shall set forth:

(1) The name and address of the licensee, or if he is required to have a place of business, the address of the place of business;

(2) If the agent or broker is a firm or corporation, the name of each individual authorized to exercise the powers conferred by the license;

(3) National Insurance Producer Registry number and Virgin Islands Insurance license number;

(4) the lines of authority the licensee is thereby licensed to handle;

(5) if a solicitor's license, the name and address of the agent or broker represented by the solicitor;

(6) the condition under which the license is granted;

(7) the date of issuance and the expiration date of license; and

(8) and any other information the Commissioner deems necessary.

(f) An insurance adjuster's license shall contain:

(1) the name of the adjuster, and the address of his place of business;

(2)) if the adjuster is a firm or corporation, the name of the individual authorized to exercise the powers conferred by the license;

(3) a statement as to whether he is so licensed as an independent adjuster or as a public adjuster;

(4) date of issuance and the expiration date of license; and

(5) any other information the Commissioner deems necessary.

(g)Licensees shall inform the Commissioner by any means acceptable to the Commissioner of a change of address within thirty (30) days of the change. Failure to timely inform the Commissioner of a change of address shall result in a fine in accordance with Section 775 of this chapter.

(h) An agent is required to have but one license inclusive of all kinds or combination of kinds of insurance he is licensed to handle, regardless of the number of insurers for whom he is appointed as agent for such insurances or any of them.

(i) In order to assist in the performance of the Commissioner's duties, the Commissioner may contract with non-governmental entities, including the National Association of Insurance Commissioners (NAIC) or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees, related to producer licensing that the Commissioner and the non-governmental entity may deem appropriate.

(j) the license(s) of each producers, other than licenses as to life and disability insurances only, and adjuster licenses shall be displayed in a conspicuous place in that part of his business which is customarily open to the public.

Section 760. Broker's Authority

(a) A broker's license shall be issued to cover all lines of insurance only. The Commissioner shall not issue a broker's license limited to particular lines of insurance.

(b) A broker, as such, is not an agent or other representative of an insurer; and does not have power, by his own acts, to bind the insurer upon any risk or with reference to any insurance contract.

(c) An insurer or agent shall have the right to pay a broker licensed under this title, or under the laws of any other jurisdiction, and such broker shall have the right to receive from the insurer or agent, the customary commissions upon insurances placed in the insurer by the broker.

Section 761. Agent-broker combinations

A licensed agent may be licensed as a broker and be a broker as to insurers for which he is not then licensed as agent. A licensed broker may be licensed as and be an agent as to insurers appointing him as agent. The sole relationship between a broker and an insurer as to which he is licensed as an agent shall, as to transactions arising during the existence of such agency appointment, be that of insurer and agent.

Section 762 Solicitor

A. The Commissioner shall issue a solicitor's license only upon application by the applicant and the request of the agent or broker to be represented, upon such forms as the Commissioner shall prescribe and furnish.
B. The fee for issuance or renewal of a solicitor's license shall be paid by the agent or broker by whom the solicitor is employed.
C. The solicitor's license shall be delivered to and shall remain in the possession of the employing agent or broker. Upon termination of such employment the license shall likewise terminate and shall be returned to the Commissioner for cancellation.
D. A solicitor's license shall not cover any kind of insurance for which the agent or broker by whom he is employed is not then licensed.
E. A solicitor shall not have power to bind an insurer upon or with reference to any risk or insurance contract, or to countersign insurance contracts.
F. Any individual while licensed as a solicitor shall not be licensed as an agent or broker.
G. All business transacted by a solicitor under his license shall be in the name of the agent or broker by whom he is employed and the agent or broker shall be responsible for all acts or omission of the solicitor within the scope of such employment.

Section 763. Nonresident Licensing

(a) Unless denied licensure pursuant to Section 776 of this chapter, a nonresident person shall receive a nonresident insurance producer license if:

(1) The person is currently licensed as a resident and in good standing in his or her home state;

(2) The person is licensed in his or her home state for the lines of authority requested in this Territory;

(3) The person has submitted or transmitted to the Commissioner the application for licensure that the person submitted to his or her home state, or in lieu of the same, a completed Uniform Application or a form prescribed by the Commissioner;

(4) The person has submitted the proper request for licensure and has paid the fees required by V.I. Code Ann. Title 22 of Section 601;

(5) The person is of good reputation and character, is honest and trustworthy, and is otherwise suitable to be licensed;

(6) The person's home state awards non-resident insurance producer licenses to residents of this Territory on the same basis;

(7) If the applicant is a business entity, the applicant has designated an insurance agent licensed as an agent in this Territory to be responsible for the applicant's compliance with the insurance laws of this Territory; and

(8) The applicant has submitted any other documents requested by the Commissioner.

(b) The Commissioner may verify the insurance producer's licensing status through the producer database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries. If that information is not available on the producer database, the Commissioner may require a certification letter from the applicant's home state.

(c) An individual or business entity seeking to renew a nonresident insurance producer license shall apply annually for a renewal of the license on or before December 31st of each year.

(d) If an individual or business entity does not apply for the renewal of the individual or business entity's license on or before the license renewal date specified in subsection (c)(1) of this section, the individual or business entity may submit a late renewal application along with all applicable fees required under this Act, A late fee is required after the 15th day of January following the license renewal date.

(e) Any such licensee shall be subject to the same obligations and duties, and to the Commissioner's supervision, as required by resident in the Virgin Islands, except as to the requirement for the maintenance of an office in the Virgin Islands.

(e) A nonresident insurance producer who moves from one state or territory to another state or territory or a resident insurance producer who moves from this Territory to another state shall file a change of address and provide certification from the new resident state within thirty (30) days of the change of legal residence A filing fee of $25.00 must be submitted. No license application is required.

(f) Except as to Subsection (a), nothing in this section otherwise amends or supersedes any provision of VI Code Ann. Chapter 27 of Title 22.

(g) Notwithstanding any other provision of this Act, a person licensed as a limited line credit insurance or other type of limited lines insurance producer in his or her home state shall receive a nonresident limited lines insurance producer license, pursuant to Subsection (a) of this section, granting the same scope of authority as granted under the license issued by the insurance producer's home state. For the purpose of this subsection, limited lines insurance is any authority granted by the home state which restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to Section 759(a)(1) through (6) of this chapter.

Section 764.   Reciprocity

(a) The Commissioner shall waive any requirements for a nonresident license applicant with a valid license from his or her home state, except the requirements imposed by Section 763 of this chapter, if the applicant's home state awards nonresident licenses to residents of this Territory on the same basis.

(b) A nonresident insurance producer's satisfaction of his or her home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of this Territory's continuing education requirements if the non-resident insurance producer's home state recognizes the satisfaction of its continuing education requirements imposed upon insurance producers from this Territory on the same basis.

Section 765.   Exemption from Examination

(a) An individual who applies for an insurance producer license in this Territory who was previously licensed for the same lines of authority in another state shall not be required to complete any prelicensing education or examination. This exemption is only available if the person is currently licensed in that state or if the application is received within ninety (90) days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's Producer Database records, maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries, indicate that the producer is or was licensed in good standing for the line of authority requested.

(b) A person licensed as an insurance producer in another state who moves to this Territory shall make application within ninety (90) days of establishing legal residence to become a resident licensee pursuant to Section 758 of this chapter. No prelicensing education or examination shall be required of that person to obtain any line of authority previously held in the prior state except where the Commissioner determines otherwise by regulation.

(c) Applicant for an insurance producer license acting as a title agent shall, prior to the issuance of any such license, personally take and pass to the satisfaction of the Commissioner an examination given by the Commissioner as a test of his or her qualification and competence; but this requirement shall not apply to attorneys licensed to practice law.

Section 766. Separate licenses

(a)   The Commissioner may license an individual concurrently as an independent adjuster and as a public adjuster. A separate application shall be required for each type of adjuster. The full license fee shall be paid for each license.

(b) An adjuster shall have authority under his license only to investigate or report to his principal upon claims on behalf only of the insurers, if licensed as an independent adjuster. An adjuster licensed concurrently as both an independent and a public adjuster shall not represent both the insurer and the insured in the same transaction.

(c) A nonresident independent adjuster who enters the Territory for the adjustment of a single loss, or of losses arising out of a catastrophe common to all such losses, shall formally register with the Office of the Commissioner of Insurance; and the Commissioner is authorized to establish, and amend from time to time, a schedule of fees for such registration.

(d) No license by this territory shall be required of a nonresident independent adjuster, for the adjustment in this territory of a single loss, or of losses arising out of a catastrophe common to all such losses.

Section 767. Public adjuster's bond

(a) Prior to the issuance of a license as a public adjuster, the applicant therefor shall file with the Commissioner of Insurance and shall thereafter maintain in force while so licensed a surety bond in favor of the people of the Territory of the Virgin Islands, executed by an authorized corporate surety approved by the Commissioner, in the amount of $5,000. The bond may be continuous in form, and total aggregate liability on the bond may be limited to the payment of $5,000. The bond shall be contingent on the accounting by the adjuster to any insured whose claim he is handling, for moneys or any settlement received in connection therewith.

(b) Any such bond shall remain in force until the surety is released from liability by the Commissioner, or until canceled by the surety. Without prejudice to any liability accrued prior to cancellation, the surety may cancel a bond upon 30 days advance notice in writing filed with the Commissioner.

(c) Any such bond shall be required of any adjuster acting as a public adjuster as of the effective date of this title, or thereafter under any unexpired license theretofore issued.

Section 768. Report of losses

(a) Every adjuster who investigates any fire loss claim under any insurance contract covering property located in this territory shall promptly report to the Commissioner any facts or circumstances found and from which he believes fraud has been committed or attempted.

(b) Upon completing the adjustment of any fire loss requiring claim payments aggregating $100 or more, for damage to or destruction of property located in this territory, under any policy or policies issued by an unauthorized insurer, an adjuster shall promptly report the details thereof to the Commissioner, upon forms prescribed and furnished by him. Such report shall state the names of the insurers and insured involved, amount of insurance on the property carried in each insurer, the amount of the claim and the amount paid by each insurer on account thereof, the circumstances of the loss, and other information as the Commissioner requests.

(c) Upon the Commissioner's Request each adjuster shall in similar manner report to the Commissioner relative to losses and claims investigated or adjusted, and arising under other insurance contracts issued by unauthorized insurers.

Section 769. Continuing Education Courses and Requirements

(1) The Commissioner shall by rule establish minimum continuing education requirements for the renewal or reissuance of a license to an insurance producer.

(2) The Commissioner shall require that continuing education courses will be made available on a territory-wide basis in order to ensure that persons residing in all geographical areas of this Territory will have a reasonable opportunity to attend such courses.

(3) The continuing education requirements must be appropriate to the license for the lines of authority specified in Section 759 of this chapter or by rule.

Section 770. Managing General Agent License Requirement

(a)(1) No person shall act as a managing general agent representing an insurer licensed in this Territory with respect to risks located in this Territory unless the person is licensed as a managing general agent pursuant to the subsections (c) or (d) of this section.

(2) No person shall act as a managing general agent representing an insurer organized under the laws of this Territory with respect to risks located outside this Territory unless the person is licensed as a managing general agent pursuant to subsection (c) of this section.

(b) Every person who seeks to act as a managing general agent as described in subsection (a) of this section shall apply to the Commissioner for a license. Except as otherwise provided in subsection (d) of this section, the application shall be in writing on a form provided by the Commissioner and shall be sworn or affirmed before a notary public or other person empowered to administer oaths. The application shall be kept on file by the Commissioner and shall include all of the following:

(1) The name and principal business address of the applicant;

(2) If the applicant is an individual, the applicant's current occupation;

(3) If the applicant is an individual, the applicant's occupation or occupations during the five-year period prior to applying for the license to act as a managing general agent;

(4) A copy of the contract between the applicant and the insurer as required by and in compliance with Section 771 of this chapter.

(5) A copy of a certified resolution of the board of directors of the insurer on whose behalf the applicant will act, appointing the applicant as a managing general agent and agent of the insurer, specifying the duties the applicant is expected to perform on behalf of the insurer and the lines of insurance the applicant will manage, and authorizing the insurer to enter into a contract with the applicant;

(6) A statement that the applicant submits to the jurisdiction of the Commissioner and the courts of this Territory;

(7) Any other information required by the Commissioner.

(c) The Commissioner shall issue to a resident of this Territory or a business entity organized under the laws of this Territory a license to act as a managing general agent representing an insurer licensed to do business in this Territory with respect to risks located in this Territory or a license to act as a managing general agent representing an insurer organized under the laws of this Territory with respect to risks located outside this Territory, and shall renew such a license, if Commissioner is satisfied that all of the following conditions are met:

(1) The applicant is a suitable person and intends to hold him or her-self out in good faith as a managing general agent.

(2) The applicant is honest, trustworthy, and understands the duties and obligations of a managing general agent.

(3) The applicant has filed a completed application that complies with subsection (b) of this section.

(4) The applicant has paid the filing fee.

(5) The applicant maintains a bond in the amount of not less than fifty thousand dollars for the protection of the insurer.

(6) The applicant is not, and has never been, under an order of suspension or revocation under Section 6 of this chapter or under any other law of this Territory, or any other state, relating to insurance, and is otherwise in compliance with Title 22 and all other laws of this Territory relating to insurance.

(d) If the applicant is a resident of another state or a business entity organized under the laws of another state, the applicant shall submit an application, along with the filing fee, to the Commissioner. The Commissioner shall issue a license to act as a managing general agent if the request for licensure includes proof that the applicant is licensed and in good standing as a managing general agent in the applicant's home state and either a copy of the application for licensure the applicant submitted to the applicant's home state or the application described in subsection (b) of this section has been submitted.

If the applicant's home state does not license managing general agents under provisions similar to those in this Section, or if the applicant's home state does not grant licenses to residents of this Territory on the same reciprocal basis, the applicant shall comply with subsections (b) and (c) of this section.

(e) Unless suspended or revoked by an order of the Commissioner pursuant to Section 776 of this chapter and except as provided in subsection (f) of this section, any license issued or renewed pursuant to subsection (c) or (d) of this section shall expire on the 31st day of December next after its issuance or renewal.

(f) If the appointment of a managing general agent is terminated by the insurer, the license of the managing general agent shall expire on the date of the termination.

(g) A license shall be renewed in accordance with the renewal procedures as provided by the laws, rules and regulations of this Territory.

Section 771. Responsibilities of Managing General Agent

(a) No person acting in the capacity of a managing general agent shall place business with an insurer, unless there is in force a written contract between the parties that sets forth the responsibilities of each party, specifies the separation of responsibilities where both parties share responsibility for a particular function, and contains at a minimum the substance of the requirements and conditions set forth in subsection (b) to (l) of this section.
(b) The insurer may immediately terminate the contract for cause upon giving written notice to the managing general agent. Upon giving written notice to the managing general agent, the insurer may immediately suspend the underwriting authority of the managing general agent during the pendency of any dispute regarding the cause for termination.
(c) The managing general agent shall render accounts to the insurer detailing all transactions and remit all funds due under the contract to the insurer on not less than a monthly basis.
(d) The managing general agent shall hold all funds collected for the account of an insurer in a fiduciary capacity in a bank that is a member of the federal reserve system. The managing general agent shall use this account for all payments on behalf of the insurer. If the managing general agent represents more than one insurer, the managing general agent shall maintain separate accounts for each insurer. The managing general agent may retain no more than three months' estimated claims payments and allocated loss adjustment expenses in each account. The managing general agent shall not commingle the funds in an account with the funds in any other account held by the managing general agent.
(e) The managing general agent shall maintain separate records of business written by the managing general agent. The insurer shall have access to and the right to copy, in a form usable by the insurer, all accounts and records related to its business. The Commissioner shall have access to and the right to copy, in a form usable to the Commissioner, all books, bank accounts, records, contracts, and other documents, including the contract required by subsection (a) of this section, of the managing general agent.
(f) The managing general agent shall not assign the contract in whole or part.
(g) The contract shall contain appropriate underwriting guidelines, including, but not limited to, all of the following:

(1) The maximum annual premium volume;
(2) The basis of the rates to be charged;
(3) The types of risks that may be written;
(4) Maximum limits of liability;
(5) Applicable exclusions;
(6) Territorial limitations;
(7) Policy cancellation provisions;
(8) The maximum policy period.

(h) The insurer may cancel or refuse to renew any policy of insurance subject to the applicable laws, rules, and regulations of this Territory.
(i) If the contract permits the managing general agent to settle claims on behalf of the insurer, all of the following apply:

(1) The managing general agent shall report every claim to the insurer no later than thirty days after the claim is reported to the managing general agent.

(2) The managing general agent shall send a copy of the claim file to the insurer as soon as any of the following becomes known, or at any time earlier upon the request of the insurer:

(A) The claim has the potential to exceed one percent of the policyholder surplus of the insurer as of the 31st day of December of the last completed calendar year or exceeds the limit set by the insurer, whichever is less.

(B) The claim involves a coverage dispute.

(C) The claim may exceed the managing general agent's claims settlement authority.

(D) The claim is open for more than six months.

(e) The claim is closed by payment of one per cent of the policyholder surplus of the insurer or an amount set by the insurer, whichever is less.

(3) All claim files are the joint property of the insurer and managing general agent, except upon an order of rehabilitation or liquidation of the insurer, at which time the files become the sole property of the insurer or its estate. If the insurer is subject to an order of rehabilitation or liquidation, the managing general agent shall have reasonable access to and the right to copy the files on a timely basis.

(4) Any settlement authority granted to the managing general agent may immediately be terminated for cause upon the provision of written notice by the insurer to the managing general agent. The settlement authority shall immediately terminate upon the termination of the contract, unless otherwise specified in writing by the insurer. Upon giving written notice to the managing general agent, the insurer may immediately suspend the settlement authority during the pendency of any dispute regarding the cause for termination.

(j) Where electronic claim files are in existence, the contract shall address the timely transmission of the data.

(k) If the contract provides for a sharing of interim profits by the managing general agent and if the managing general agent has the authority to determine the amount of the interim profits by establishing loss reserves, controlling claim payments, or in any other manner, the interim profits shall not be paid to the managing general agent until the profits have been verified by an on-site review pursuant to Section 772 of this chapter and until one year after the profits are earned for property and health insurance business and five years after they are earned for casualty insurance business.

(l) No managing general agent shall do any of the following:

(1) Bind reinsurance or retrocessions on behalf of the insurer, except that the managing general agent may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the insurer contains reinsurance underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which the automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured, and commission schedules;

(2) Commit the insurer to participate in insurance or reinsurance syndicates;

(3) Appoint any producer without assuring that the producer is lawfully licensed to transact the type of insurance for which he is appointed;

(4) Without prior written approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, which amount shall not exceed one per cent of the policyholder surplus of the insurer as of the thirty-first day of December of the last completed calendar year;

(5) Without prior written approval of the insurer, collect any payment from a reinsurer or commit the insurer to any claim settlement with a reinsurer. A report of any such payment or claim settlement shall be forwarded promptly to the insurer.

(6) Permit its producers to serve on the board of directors of the insurer;

(7) Jointly employ an individual who is employed by the insurer;

(8) Appoint a submanaging general agent or other person to act as an agent on its behalf.

Section 772. Independent financial examination of each managing general agent.

(a) The insurer shall have on file, in a form acceptable to the Commissioner, an independent financial examination of each managing general agent with which it has done business.

(b) If a managing general agent establishes loss reserves, the insurer annually shall obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the managing general agent. This annual opinion is in addition to any other required loss reserve certification.

(c) The insurer shall conduct not less frequently than twice a year an on-site review of the underwriting and claims processing operations of the managing general agent.

(d) Binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicates shall be vested in an officer of the insurer who is not affiliated with the managing general agent.

(e) Within thirty days of entering into or terminating a contract with a managing general agent, the insurer shall provide written notification of the appointment or termination to the Commissioner. Notices of appointment of a managing general agent shall include a statement of duties which the applicant is expected to perform on behalf of the insurer, the lines of insurance the applicant will manage, and any other information the Commissioner may request.

(f) An insurer shall review its books and records each quarter to determine if any producer has become a managing general agent. If the insurer determines that a producer has become a managing general agent, the insurer, within sixty days, shall provide written notice of the determination to the producer and Commissioner. The insurer and producer shall comply with Sections 770 to 773 of this chapter within thirty days of receipt of the notice.

(g) No insurer shall appoint to its board of directors its managing general agent or an officer, director, employee, producer, or controlling shareholder of its managing general agent.

Section 773. Acts of Agent deemed Acts of Insurer - Examinations

(a) The acts of a managing general agent are deemed to be the acts of the insurer on whose behalf it is acting.
(b) A managing general agent may be examined pursuant to VI Code Ann. Section 101 of Title 22, as if it were the insurer. The managing general agent shall pay the expenses incurred in the conduct of the examination in accordance with VI Code Ann. Section 107 of Title 22.

Section 774. Assumed Names

An insurance producer doing business under any name other than the producer's legal name is required to seek approval from the Commissioner prior to using the assumed name.

Section 775. Producer to File for Change of Address.

(a) If a person licensed as an insurance producer under Section 758 of this chapter changes his or her address within the Territory, the person shall, within thirty days after making that change, file a change of address with the Commissioner or the Commissioner's designee.
(b) (1) If a person licensed is an insurance producer under Section 766 of this chapter changes his or her home state, the person shall, within thirty days after making that change, file a change of address with the Commissioner and provide the Commissioner with certification from the new home state.

(2) If a resident insurance producer complies with subsection (b)(1) of this section and the producer is in good standing with the Commissioner, the producer's license shall be changed to that of a nonresident license after paying a filing fee of $25.00. No license application shall be required. A change in the residency status of an insurance producer license under this section does not change the license renewal date established by the initial licensure under Section 759 of the chapter.

(3) Any person violating this section shall be liable for a fine of not to exceed $500.00.

Section 776. License Refusal, Nonrenewal, suspension or Revocation

(a) The Commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with V.I. Code Ann. Section 7 of Title 22 or any combination of actions, for any one or more of the following causes:

(1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(2) Violating or failing to comply with any insurance laws, rule, subpoena, consent agreement, or order of the Commissioner or of another state's Commissioner;

(3) Obtaining, maintaining, or attempting to obtain a license through misrepresentation or fraud;

(4) Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business;

(5) Intentionally misrepresenting the terms, benefits, value, cost, or effective dates of any actual or proposed insurance contract or application for insurance;

(6) Having been convicted of or pleaded guilty or no contest to a felony regardless of whether a judgment of conviction has been entered by the court;

(7) Having been convicted of or pleaded guilty or no contest to a misdemeanor that involves the misuse or theft of money or property belonging to another, fraud, forgery, dishonest acts, or breach of a fiduciary duty, that is based on any act or omission relating to the business of insurance, securities, or financial services, or that involves moral turpitude regardless of whether a judgment has been entered by the court.

(8) Having admitted or been found to have committed any insurance unfair trade act or practice or insurance fraud;

(9) Using fraudulent, coercive, or dishonest practices, or untrustworthiness or financial irresponsibility in the conduct of business in this Territory or elsewhere;

(10) Having an insurance producer or adjuster license, or their equivalent, denied, suspended or revoked in any other state, province, district or Territory.

(10) Forging or causing the forgery of another's name to an application for insurance or to any document related to an insurance transaction;

(11) Improperly using notes or any other reference material, equipment or devices of any kind to complete an examination for an insurance license;

(12) Knowingly accepting insurance business from an individual who is not licensed;

(14) Failing to pay income taxes in accordance with Virgin Islands and Federal laws or comply with any administrative or court order directing payment of income or corporate taxes in accordance with Virgin Islands and Federal laws;

(15) Failing to respond to an Order or request of the Commissioner or its designee within 15 days of such request;

(16) Any other actions determined a violation as determined by the Commissioner pursuant to the laws, rules and regulations of this Territory.

(b) In the event that the action by the Commissioner is to non-renew or to deny an application for a license, the Commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee license. The applicant or licensee may make written demand upon the Commissioner for a hearing before the Commissioner to determine the reasonableness of the Commissioner's action. The hearing shall be held within 30 days after his or her receipt of the demand and shall be held pursuant to V.I. Code Ann. Section 151 of Title 22.

(c) The license of a business entity may be suspended, revoked or refused if the Commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the partnership or corporation and the violation was neither reported to the insurance Commissioner nor corrective action taken.

(d) In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil fine according to V.I. Code Ann. Section 7 of Title 22.

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

(f) The Commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by Title 22 against any person who is under investigation for or charged with a violation of this chapter even if the person's license or registration has been surrendered or has lapsed by operation of law.

(g) After hearing and in addition to or in lieu of suspension, revocation, or refusal to renew any such license, the Commissioner may levy a fine upon the licensee in amount not less than $ 250 and not more than $ 1,000. The order levying such fine shall specify the period within which the fine shall be fully paid, and which period shall not be less than 15 nor more than 30 days from the date of the order. Upon failure to pay any such fine when due, the Commissioner shall revoke the licenses of the licensee if not already revoked, and the fine shall be recovered in a civil action brought in behalf of the Commissioner by the Attorney General. Any fine so collected shall be paid by the Commissioner to the Commissioner of Finance for the account of the General Fund.

(h) The Commissioner shall not reinstate the license of, or relicense, any licensee or former licensee as to whom a license has been suspended, revoked, or renewal refused, until any cause for the suspension, revocation, or refusal of such license is no longer existing, or until any fine theretofore levied upon the licensee pursuant to section (g) of this section has been fully paid.

(i) Every such Order suspending any such license shall specify the period during which suspension will be effective and which period shall in no event exceed twelve months

Section 777. Hearing to Determine Administrative Action Modification.

(a) Upon written application of a person whose license was denied, revoked, or surrendered for cause under Section 776 of this chapter, the Commissioner shall hold a hearing to determine whether the administrative action imposing the denial, revocation, or surrender should be modified, provided that all of the following conditions are met:

(1) At least five years have elapsed since the date of the administrative action sought to be modified;

(2) At least two years have elapsed since any previous request for a modification was made under this section; and

(3) The burden of proof is on the person requesting the modification.

(b) The modification of an order issued under V.I. Code Ann. Section 54 of Title 22 is at the discretion of the Commissioner. The Commissioner may modify such an order if the Commissioner finds all of the following:

(1) At least five years have elapsed since the date of the administrative action:

(2) The person is of good business repute and is suitable to be an insurance agent;

(3) The person has made restitution for all pecuniary losses suffered by any person as a result of the conduct that gave rise to the administrative action;

(4) The person has not been convicted of any felony or of any misdemeanor described in Section 776 of this chapter unless the conviction was the subject of a previous administrative action by the Commissioner;

(5) The circumstances surrounding the previous violation are such that it is unlikely the person would commit such offenses in the future; and

(6) The person's character has been rehabilitated.

(c) The issuance of any license pursuant to a modification under this section shall be conditioned upon the successful completion of all prelicensing education and/or examination requirements.

Section 778. Fine in lieu of license suspension, revocation, or refusal

(a) Upon the hearing of an appeal from an order suspending, revoking, or refusing to renew any license issued under this chapter, the court, if it finds that the licensee is guilty of violation of the law and if it deems the suspension, revocation, or refusal too severe a penalty under the facts as found, may impose a fine of not more than $ 1,000 in lieu thereof, and payment of such fine within ten days thereafter shall reinstate, restore or renew, the license.

(b) If it appears that a license of the licensee has previously been suspended, revoked, or refused for a similar offense, the court shall not have jurisdiction to impose a fine in lieu of the action required by the order appealed from.

Section 779. Appointments

(a) (1)An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.

(2) An insurance producer shall not act as a solicitor of an agent or broker unless the insurance producer becomes an appointed solicitor of that agent or broker. An insurance producer who is not acting as a solicitor of an agent or broker is not required to become appointed.

(b) (1)To appoint an insurance producer as its agent, the appointing insurer shall file, in a format approved by the Commissioner, a notice of appointment within fifteen (15) days from the date the contract is executed.

(2 To appoint an insurance producer as its solicitor, the appointing agent or broker shall file, in a format approved by the Commissioner, a notice of appointment within fifteen (15) days from the date the contract is executed.

(c) An insurer, or agent or broker shall pay an appointment fee, in the amount and method of payment set forth in VI Code Ann, Section 601 of Title 22 or by rules and regulation, for each agent appointed by the insurer or solicitor appointed by the agent or broker.

Section 780. Notification of Insurance Commissioner of Termination

(a) Termination for cause. An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer shall notify the Commissioner with fifteen (15) days following the effective date of the termination, using a format prescribed by the Commissioner, if the reason for termination is one of the reasons set forth in Section 776 of this chapter or the insurer has knowledge the producer was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities in Section 776 of this chapter. Upon the written request of the Commissioner, the insurer shall provide additional information, documents, records or other data pertaining to the termination or activity of the producer.

(b) Termination Without Cause. An insurer or authorized representative of the insurer that terminates the appointment, employment, or contract with a producer for any reason not set forth in Section 776 of this chapter, shall notify the Commissioner within thirty (30) days following the effective date of the termination, using a format prescribed by the Commissioner. Upon written request of the Commissioner, the insurer shall provide additional information, documents, records or other data pertaining to the termination.

(c) Ongoing Notification Requirement. The insurer or the authorized representative of the insurer shall promptly notify the Commissioner in a format acceptable to the Commissioner if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the Commissioner in accordance with Subsection (a) had the insurer then known of its existence.

(d) Copy of Notification to be provided to Producer.

(1) Within fifteen (15) days after making the notification required by Subsections (a), (b) and (c), the insurer shall mail a copy of this notification to the producer at his or her last known address. If the producer is terminated for cause for any of the reasons listed in Section 776 of this chapter, the insurer shall provide a copy of the notification to the producer at his or her last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.

(2) Within thirty (30) days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the Commissioner. The producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the Commissioner's file and accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under Subsection (f).

(e) Immunities

(1) In the absence of actual malice, an insurer, the authorized representative of the insurer, a producer, the Commissioner, or an organization of which the Commissioner is a member and compiles the information and makes it available to other Commissioners or regulatory or law enforcement agencies shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees, as a result of any statement or information required by or provided pursuant to this section or any information relating to any statement that may be requested in writing by the Commissioner, from an insurer or producer; or a statement by a terminating insurer or producer to an insurer or producer limited solely and exclusively to whether a termination for cause under Subsection (a) was reported to

the Commissioner, provided that the propriety of any termination for cause under Subsection (a) is certified in writing by an officer or authorized representative of the insurer or producer terminating the relationship.

(2) In any action brought against a person that may have immunity under Paragraph (1) for making a statement required by this section or providing any information relating to any statement that may be requested by the Commissioner, the party bringing the action shall plead specifically in any allegation that Paragraph (1) does not apply because the person making the statement or providing the information did so with actual malice.

(3) Paragraph (1) or (2) shall not abrogate or modify any existing statutory or common law privileges or immunities.

(f) Confidentiality

(1) Any document, materials or other information in the control or possession of the Division of Banking and Insurance that is furnished by an insurer, producer or an employee or agent thereof acting on behalf of the insurer or producer, or obtained by the Commissioner in an examination pursuant to Title 22 shall be confidential by law and privileged, and shall not be subject to VI Code Ann. Sections 881(a) of Title 3, unless otherwise ordered by a court, by the lawful custodian of records, or by another person duly authorized to release information. However, the Commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's duties.

(2) Neither the Commissioner nor any person who received documents, materials or other information while acting under the authority of the Commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to Paragraph (1) of this subsection.

(3) In order to assist in the performance of the Commissioner's duties under this Act, the Commissioner:

(A) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to Paragraph (1), with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates or subsidiaries, and with state, Territory, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information;

(B)May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, materials or information;

(C) May enter into agreements governing sharing and use of information consistent with this subsection.

(4) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in Paragraph (3) of this subsection.

(5) Nothing in this chapter shall prohibit the Commissioner from releasing final, adjudicated action including for cause terminations, which are open to public inspection pursuant to V.I. Code Ann. Sections 56(b) of Title 22 and 881(a) of Title 3 to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.

(g) Penalties for Failing to Report. An insurer, the authorized representative of the insurer, or producer that fails to report as required under the provisions of this section or that is found to have reported with actual malice by a court of competent jurisdiction, after notice and hearing, may have its license or certificate of authority suspended or revoked and may be fined in accordance with V.I. Code Ann. Section 7 of Title 22.

Section 781. Records of agents, brokers, adjusters

(a) Every producer or adjuster shall keep at his address as shown on his license, a record of all transactions consummated under his license. This record shall be in organized form and shall include:
   (1) If an agent or broker-
      (A) a record of each insurance contract procured, issued, or countersigned, together with the names of the insurers and insureds, the amount of insurance, the amount of premium paid or to be paid, and a statement of the subject of the insurance; and
      (B) the names of any other licensees from whom business is accepted, and of persons to whom commissions or allowances of any kind are promised or paid.
   (2) if an adjuster, a record of each investigation or adjustment undertaken or consummated, and a statement of any fee, commission, or other compensation received or to be received by the adjuster on account of such investigation or adjustment; and
   (3) Such other and additional information as shall be customary, or as may reasonably be required by the Commissioner.

(b) All such records as to any particular transaction shall be kept available and open to the inspection of the Commissioner during all business hours during the five years immediately after the date of the completion of such transaction.

(c) This section shall not apply as to life or disability insurances.

Section 782. Reporting and accounting for premiums, penalty

(a) An agent or any other representative of an insurer involved in the procuring or issuance of an insurance contract shall report to the insurer the exact amount of consideration charged as premium for such contract, and such amount shall likewise be shown in the contract and in the records of the agent. Each willful violation of this provision shall constitute a misdemeanor.

(b) All funds representing premiums, less commission, or return premiums received by a producer shall be so received in his fiduciary capacity, unless there is a separate agreement between him and the insurer.

(c) Any producer who, not being lawfully entitled thereto, diverts or appropriates such funds or any portion thereof to his own use, shall be punished as provided in the criminal statutes of the Territory.

Section 783. Prohibition

No managing general agent, insurer, or other person shall violate, or fail to comply with, any provision of Sections 770, 771, or 782 of this chapter.

Section 784. Penalties for violations

(A) If the Commissioner, after a hearing conducted in accordance with Chapter 7 of the VI Code Ann., finds a violation of Section 781 of this chapter, the Commissioner may order any of the following:

(1) For each separate violation committed by an insurer, managing general agent, or other person, a civil penalty in an amount of not more than $1,000;

(2) For a violation committed by a managing general agent or the producer of the managing general agent, revocation or suspension of the license of the managing general agent or the license of the producer;

(3) For a violation committed by a managing general agent, reimbursement of the insurer or the rehabilitator or liquidator of the insurer by the managing general agent and by any officer, director, shareholder, or other representative or agent of the managing general agent who actually benefited from the violation, for any losses incurred by the insurer that were caused by the violation.

(B) Nothing in this section affects the authority of the Commissioner to impose any other civil penalties or to initiate any other proceedings or remedies pursuant to the laws of this Territory.

Section 785. Rights not Limited or Restricted

Nothing in this Chapter is intended, in any manner, to limit or restrict the rights of policyholders and claimants of any insurer on whose behalf a managing general agent is acting, or of auditors, accountants, examiners, or other persons that conduct examinations of insurers.

Section 786. Reporting of Actions

(a) A producer shall report to the Commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in this Territory within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent to order or other relevant legal documents.

(b) Within thirty (30) days of the initial pretrial hearing date, a producer shall report to the Commissioner any criminal prosecution of the producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

Section 787. Service of process on nonresident agent or broker

Every nonresident agent or broker by obtaining a license in the Virgin Islands may be sued in the Virgin Islands upon any cause of action, arising out of or based upon any business or acts done or omitted to be done, in the discretion of the plaintiff, in which is located the plaintiff's property, residence or principal office or place of business. The Commissioner is hereby constituted the attorney in fact of such nonresident agent or broker for the purpose of being served with and accepting service of process in such suits, action or other proceedings. The summons or other process together with a certified copy of the complaint, or other pleading shall be served upon the Commissioner in triplicate, and the Commissioner shall forthwith forward a true copy thereof, under registered cover with proper postage affixed thereon, properly addressed to the residence of the nonresident agent or broker. The place of residence of a licensed nonresident agent or broker placed on file by him with the Commissioner shall be deemed to be his place of residence until such agent or broker places on file with the Commissioner a written notice stating another place of residence. Upon such service of process the court in which such action is begun shall be deemed to have duly acquired jurisdiction in personam, and the nonresident agent or broker shall have 40 days from the date of service upon the Commissioner within which to plead, answer, or otherwise defend the action. In any action in which the process shall be so served the plaintiff shall pay to the Commissioner the sum of $25, which sum shall be taxed as a part of the costs in the action if the plaintiff shall prevail therein. The Commissioner shall enter alphabetically in a process book, kept for that purpose, the name of plaintiff and defendant, the title and number, if any, of the cause in which process has been served upon him, and the day and hour when the service was made.

Section 788. Compensation Disclosure

(a) (1) Where any insurance producer or any affiliate of the producer receives any compensation from the customer for the placement of insurance or represents the customer with respect to that placement, neither that producer nor any affiliate shall accept or receive any compensation from an insurer or other third party for that placement of insurance unless the producer has, prior to the customer's purchase of insurance:

(A) Obtained the customer's documented acknowledgement that such compensation will be received by the producer or affiliate; and

(B) Disclosed the amount of compensation from the insurer or other third party for that placement. If the amount of compensation is not known at the time of disclosure, the producer shall disclose the specific method for calculating the compensation and, if possible, a reasonable estimate of the amount.

(2) Paragraph (1) shall not apply to an insurance producer who:

(A) Does not receive compensation from the customer for the placement of insurance; and

(B) In connection with that placement of insurance represents an insurer that has appointed the producer; and

(C) Discloses to the customer prior to the purchase of insurance:

(i) That the insurance producer will receive compensation from an insurer in connection with that placement; or

(ii) That, in connection with that placement of insurance, the insurance producer represents the insurer and that the producer may provide services to the customer for the insurer.

(b) A person shall not be considered a "customer" for purposes of this section if the person is merely:

(1) A participant or beneficiary of an employee benefit plan; or

(2) Covered by a group or blanket insurance policy or group annuity contract sold, solicited or negotiated by the insurance producer or affiliate.

(c) This section shall not apply to:

(1) A person licensed as an insurance producer who acts only as an intermediary between an insurer and the customer's producer, for example a managing general agent, a sales manager, or wholesale broker; or

(2) A reinsurance intermediary

(d) For purposes of this section:

"Affiliate" means a person who controls, is controlled by, or is under common control with the producer.

(1) "Compensation from an insurer or other third party" means payments, commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes or any other form of valuable consideration, whether or not payable pursuant to a written agreement.

(2) "Compensation from the customer" shall not include any fee or amount collected by or paid to the producer that does not exceed an amount established by the commissioner pursuant to V.I. Code Ann Section 818 of Title 22.

(3) "Documented acknowledgement" means the customer's written consent obtained prior to the customer's purchase of insurance. In the case of a purchase over the telephone or by electronic means for which written consent cannot reasonably be obtained, consent documented by the producer shall be acceptable.

Section 789. Paying Unlawful Consideration

(a) Neither an insurer nor an insurance producer shall pay a commission, service fee, brokerage fee, or other type of consideration for selling, soliciting, or negotiating insurance in this Territory, if the person is required to be licensed under this chapter but is not so licensed. However, renewal or other deferred commissions may be paid to such a person for selling,

soliciting, or negotiating insurance in this Territory if the person was required to be licensed under this chapter at the time of the sale, solicitation, or negotiation and was so licensed at that time.
(b) No insurer or insurance producer shall pay a referral fee or other compensation to an unlicensed person for any referral unless the compensation is a fixed dollar amount for each referral and does not depend on whether the person referred purchases an insurance product.
(c) The Commissioner shall suspend or revoke the licenses of all licensees participating in any violation of this section.

Section 790. Rules and Regulations
The Commissioner may, in accordance with VI Code Ann., Section 53(c)(1) of Title 22, promulgate reasonable rules and regulations as are necessary or proper to carry out the purposes of this Act.

Section 791. Immunity
In the absence of actual malice, an insurer, the authorized representative of an insurer, an insurance producer, the Commissioner, the Commissioner's designee or any organization of which the Commissioner is a member, which organization compiles information pursuant to Section 792 of this chapter and makes it available to other Commissioners or to regulatory or law enforcement agencies, is immune from any civil liability that otherwise might be incurred or imposed as a result of providing any written or verbal information.

Section 792. Centralized Agent License Registry
The Commissioner may participate, in whole or in part, with the NAIC or any of its affiliates or subsidiaries, in a centralized agent license registry in which insurance producers acting as agents appointments are centrally or simultaneously electronically stored for all states that require an agent to be licensed and that participate in the registry.

Section 793. Severability
If any provisions of this chapter, or the application of a provision to any person or circumstances, shall be held invalid the remainder of the provisions of the chapter and the application of the provision to persons or circumstances other than those to which it is held invalid will not be affected.

Section 794. Effective Date
This Act shall take effect 180 days from the date of enactment.