

VERMONT DEPARTMENT OF FINANCIAL REGULATION

REGULATION I-2019-02

**BUSINESS ENTITY LIMITED LINES PRODUCER
FOR SELF-STORAGE INSURANCE LICENSE**

Section 1. Authority

This rule is promulgated under the authority granted to the Commissioner by 8 V.S.A. §§ 15, 4813a(6) and 4813f(b).

Section 2. Purpose

The purpose of this rule is to establish a business entity limited lines producer license for the sale of self-storage insurance and to set forth requirements for the sale of self-storage insurance by an owner and its employees and authorized representatives.

Section 3. Scope

This rule governs the sale of self-storage insurance by an owner and its employees and authorized representatives.

Section 4. Definitions

- (1) “Designated Responsible Licensed Producer” or “DRLP” means a licensed insurance producer who is a natural person appointed by the insurer as described in Section 6(A)(4) of this rule, to be responsible for the business entity’s compliance with the insurance laws, rules, and regulations of the State, pursuant to 8 V.S.A. § 4813f(b)(2).
- (2) “Occupant” means a person, successor, assignee, agent, or representative entitled to the use of storage space in a self-storage facility under a rental agreement to the exclusion of others, as defined in 9 V.S.A. § 3901(2).
- (3) “Offer and disseminate” means providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other non-licensable activities permitted by the Department of Financial Regulation.
- (4) “Owner” means the owner, operator, lessor, or sublessor of a self-storage facility, an agent, or any other person authorized by the owner to manage the facility or to receive rent from an occupant under a rental agreement, as defined in 9 V.S.A. § 3901(3).
- (5) “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 the person engaged

in that act either sells insurance or obtains insurance from insurers for purchasers, as defined in 8 V.S.A. § 4813a.

- (6) “Personal property” means movable property not affixed to land, and includes goods, merchandise, and household items, as defined in 9 V.S.A. § 3901(4).
- (7) “Rental agreement” means any written agreement that establishes or modifies the terms, conditions, rules, or any other provision concerning the use and occupancy of a self-storage facility, as defined in 9 V.S.A. § 3901(5).
- (8) “Self-storage facility” means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such space for the purpose of storing and removing personal property, as defined in 9 V.S.A. § 3901(6).
- (9) “Self-storage insurance” means personal property insurance offered and disseminated in connection with and incidental to the rental of storage space at a self-storage facility and that provides coverage to occupants at the self-storage facility where the insurance is transacted for the loss of or damage to personal property that occurs at that facility or when such property is in transit to or from that facility during the period of the rental agreement.
- (10) “Self-storage insurance producer” means an owner that is licensed to sell, solicit, or negotiate self-storage insurance pursuant to this rule.
- (11) “Supervising entity” means a business entity that is a licensed insurer or insurance producer that is appointed by an insurer to supervise the administration of a self-storage insurance program.

Section 5. General Rules

- (A) No owner, and no officer, director, employee, or authorized representative of an owner, may offer and disseminate, sell, solicit, or negotiate the purchase of self-storage insurance unless that owner is licensed in compliance with the requirements of this rule. Notwithstanding the foregoing, an owner is not required to be licensed solely to display and make available to occupants and prospective occupants brochures and other promotional materials created by or on behalf of an authorized insurer or surplus lines insurer.
- (B) The Commissioner may issue to an owner that has complied with the requirements of this rule, a business entity limited lines producer license for self-storage insurance that authorizes the self-storage insurance producer to offer and disseminate, sell, solicit, or negotiate self-storage insurance through a licensed insurer to occupants at each self-storage facility at which the owner conducts business.
- (C) Self-storage insurance may be provided under an individual policy or under a commercial, corporate, group, or master policy.

Section 6. Licensing

(A) In order for an owner to obtain a business entity limited lines producer license for the sale of self-storage insurance, it must:

- (1) Submit an application and fees for licensure as required under Title 8 V.S.A. Chapter 131. Such application must provide the name, residence address, and other information required by the Commissioner for an employee or officer of the owner or supervising entity that is designated by the applicant as the person responsible for the owner's compliance with the requirements of this rule;
- (2) State in the application or as otherwise required by the Commissioner that, before employees and authorized representatives of the owner directly engage in the activity of offering and disseminating, selling, soliciting, or negotiating self-storage insurance, such employees and authorized representatives shall receive the training required by this rule;
- (3) Appoint a Designated Responsible Licensed Producer. The DRLP designated by an owner pursuant to this subsection shall not be required to be an officer, director, or employee of the owner;
- (4) Submit on a form prescribed by the Commissioner a certificate by an appointing insurer, stating that the insurer has satisfied itself that the named applicant is trustworthy and competent to act as its self-storage insurance producer; that the insurer has reviewed the training materials for conformity with the requirements set forth in Section 7(A)(3). of this rule, and that the insurer will appoint the applicant to act as its self-storage insurance producer. An officer of the insurer shall execute the certification; and
- (5) Be appointed by an insurer to act as its self-storage insurance producer.

(B) Owners applying for licensure pursuant to this rule shall be exempt from any written examination requirement under Title 8 V.S.A. Chapter 131. Self-storage insurance producers shall be exempt from continuing education requirements under 8 V.S.A. § 4800a.

Section 7. Self-Storage Insurance Producer Employees and Authorized Representatives

(A) The employees and authorized representatives of self-storage insurance producers may offer and disseminate, sell, or solicit self-storage insurance to occupants; may provide general information about the insurance offered and disseminated by the self-storage facility, including a description of the coverage and price; and shall not be subject to licensure as an insurance producer provided that:

- (1) The owner obtains a limited lines license to authorize its employees and authorized representatives to offer and disseminate, sell, solicit, or negotiate self-storage insurance pursuant to this rule;
- (2) The insurer issuing the self-storage insurance either directly supervises or appoints a supervising entity to supervise the administration of the self-storage insurance program including development of a training program for employees and authorized representatives of the self-storage insurance producer; and,
- (3) The training required by this subdivision shall comply with the following:
 - (i) The training shall be delivered to employees and authorized representatives of a self-storage insurance producer who are directly engaged in the activity of offering and disseminating, selling, soliciting, or negotiating self-storage insurance. Such training shall be delivered before the employees and authorized representatives directly engage in the activity of offering and disseminating, selling, soliciting, or negotiating self-storage insurance;
 - (ii) The training may be provided in electronic form. However, if provided in an electronic form, the insurer or supervising entity shall implement a supplemental education program for employees and authorized representatives of the self-storage insurance producer who are directly engaged in the activity of offering and disseminating, selling, soliciting, or negotiating self-storage insurance and that is provided and overseen by licensed employees of the insurer or supervising entity;
 - (iii) Each employee and authorized representative shall receive basic instruction about the self-storage insurance offered and disseminated to occupants, the disclosures required under section 8 of this rule, and ethical sales practices; and,
 - (iv) All training materials used shall be made available to the Commissioner upon request.

(B) A self-storage facility's employee or authorized representative who is not licensed as an insurance producer may not:

- (1) Evaluate or interpret the technical terms, benefits, and conditions of the offered and disseminated self-storage insurance coverage;
- (2) Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; and
- (3) Hold himself or herself out as a licensed insurer, licensed producer, or insurance expert.

(C) Notwithstanding any other provision of law, a self-storage insurance producer that meets the conditions of this rule is authorized to receive compensation.

Section 8. Requirements for the Sale of Self-Storage Insurance

(A) At every location where self-storage insurance is offered and disseminated to occupants, brochures or other written or electronic materials must be made available which:

- (1) Disclose that self-storage insurance may provide a duplication of coverage already provided by an occupant's homeowner's insurance policy or renter's insurance policy, or by another source of coverage;
- (2) State that the purchase by the occupant of the self-storage insurance offered and disseminated by the self-storage insurance producer is not required in order to lease storage space at the self-storage facility;
- (3) Provide the material terms of the self-storage insurance coverage, or summarize the material terms of the self-storage insurance coverage, including:
 - (i) The identity and contact information of the insurer and the self-storage insurance producer;
 - (ii) The identity and contact information of the supervising entity, if any;
 - (iii) The amount of any applicable deductible and how it is to be paid;
 - (iv) Benefits of the coverage; and
 - (v) Key terms and conditions of coverage.
- (4) Summarize the process for filing a claim.
- (5) State that an occupant that purchases the self-storage insurance may cancel enrollment for the coverage under the self-storage insurance policy at any time and the person paying the premium shall receive a refund or credit of any applicable unearned premium.
- (6) Explain that an unlicensed employee or authorized representative of the owner is permitted to provide general information about the insurance offered and disseminated by the self-storage facility, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered and disseminated by the self-storage facility or to evaluate the adequacy of the customer's existing insurance coverage.

(B) Eligibility and underwriting standards for customers electing to enroll in the self-storage insurance coverage shall be established for the self-storage insurance program.

(C) At the time of licensure, the self-storage insurance producer shall establish and maintain a register on a form prescribed by the Commissioner of each self-storage facility that offers and disseminates self-storage insurance on behalf of the self-storage insurance producer. The register shall be maintained and updated annually by the self-storage insurance producer and shall include the name, address, and contact information of the self-storage facility and an officer or person who directs or controls the self-storage facility's operations, and the self-storage insurance producer's Federal Tax Identification Number. The self-storage insurance producer shall submit such register within 30 days upon request by the Department of Financial Regulation. The self-storage insurance producer shall also certify that the individuals listed on the self-storage facility register are in compliance with 18 U.S.C. § 1033.

Section 9. Self-Storage Insurance Producer Prohibitions

A self-storage insurance producer shall not:

- (A) Offer and disseminate, sell, solicit, or negotiate the purchase of self-storage insurance except in conjunction with and incidental to the rental of storage space at a self-storage facility;
- (B) Advertise, represent, or otherwise portray itself or any of its employees or authorized representatives as non-limited lines licensed producers, unless so licensed;
- (C) Make any statement or engage in any conduct, express or implied, that would lead an occupant to believe:
 - (1) That the self-storage insurance coverage offered and disseminated by the self-storage insurance producer does not provide a duplication of coverage already provided by an occupant's personal homeowner's insurance policy, renter's insurance policy, or by another source of coverage;
 - (2) That the purchase by the occupant of the self-storage insurance offered and disseminated by the self-storage insurance producer is required in order to lease storage space at the self-storage facility; or
 - (3) That the self-storage insurance producer or the self-storage insurance producer's employees or authorized representatives are qualified to evaluate the adequacy of the occupant's existing insurance coverage.

Section 10. Premium Funds

Notwithstanding any other provision of law, rule, or regulation, a self-storage insurance producer that has the express written consent of the insurer to mingle premium funds with the producer's own funds may do so if the following conditions are met:

(A) The premiums funds are held in a fiduciary capacity and are reasonably ascertainable from the books of accounts and records of the self-storage insurance producer; and

(B) The amounts due to the insurer are equal to or less than the combined accounts receivable and current bank balances of the self-storage insurance producer.

If these conditions are met, the self-storage insurance producer need not hold the premiums funds in a trust account.

Section 11. Enforcement

The self-storage insurance producer and any self-storage facility offering and disseminating self-storage insurance under the business entity limited lines producer license for self-storage insurance shall be subject to the provisions of 8 V.S.A. § 13, 8 V.S.A. Chapter 129, and 8 V.S.A. § 4804.

Section 12. Severability

If any provision of this rule, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of this rule that can be given effect without the invalid provision or application, and to that end the provisions of this rule are severable.