Question: Will a New York State personal auto policy extend to a rental car rented in the U.S. Virgin Islands?

Answer: For most coverages that are mandatory in New York, the answer is yes, though it is uncertain with regard to Liability and Uninsured Motorist coverages.

With regard to coverages required under New York law:

- Liability Coverage must apply to losses "arising out of the ownership, maintenance, use or operation of a specific motor vehicle or motor vehicles within the state of New York, or elsewhere in the United States in North America or Canada …" That's kind of vague when it comes to the U.S. island territories, but the ISO Personal Auto Policy, PP 00 01 09 18, states that the policy territory is:

  1. The United States of America, its territories or possessions;
  2. Puerto Rico; or
  3. Canada.

  I haven't reviewed most non-ISO policies, but I would be surprised if they differed much from that. You should check your clients' specific policy forms to make sure. The USVI is a U.S. territory, so a policy issued in New York using the ISO PAP should provide liability coverage for a rental.

  However, the Other Insurance condition in the Liability Coverage section of the ISO PAP says that any insurance the carrier provides for a vehicle the named insured does not own shall be excess over any other collectible insurance except insurance written specifically to cover as excess over the limits of liability that apply in that specific policy. Therefore, the insurance carried by the rental company would be primary and the renter's liability coverage would be excess.

- The Personal Injury Protection – New York endorsement (ISO number PP 05 87 01 20, though all carriers must use the same text) states that the carrier will pay first-party benefits to reimburse for basic economic loss sustained by an eligible injured person on account of personal injuries caused by an accident arising out of the use or operation of a motor vehicle or a motorcycle during the policy period and within the United States of America, its territories or possessions, or Canada. Unless an exclusion applies, the insured should have PIP coverage while driving a rental around St. Thomas.

- Interestingly, paragraph (1) of subsection (f) of Section 3420 of the New York Insurance Law, which requires every auto policy to provide Uninsured Motorist Coverage, requires that coverage to apply to "bodily injury, sickness or disease, including death resulting therefrom, sustained by the insured, caused by accident occurring in this state …" Accordingly, the mandatory UM endorsement (ISO's version is endorsement number PP 04 76 01 20) states, "The coverage provided by this UM endorsement applies only to accidents which occur within the State of New York." The text of that endorsement is

not required by regulation, so it's possible that carriers using non-ISO forms may grant coverage outside of New York. However, if the insured has purchased Supplementary Uninsured/Underinsured Motorists Coverage, that endorsement (ISO number PP 04 76 01 20, though again all carriers must use the same text) states:

III. SUM Coverage Period and Territory:

This SUM coverage applies only to accidents that occur:

1. during the policy period shown in the Declarations; and

2. in the United States, its territories or possessions, or Canada.

The insured would have SUM coverage while driving a rental in the USVI.

- Lastly, the mandatory Rental Vehicle Coverage – New York endorsement (ISO number PP 03 46 01 20, though again all carriers must use the same text) states that it "provides coverage for the insured's obligations in the event of actual damage to, or loss of, any rental vehicle, including loss of use, rented by the insured anywhere in the United States, its territories or possessions, and Canada …" Therefore, coverage would apply to a rental in the USVI.

Be aware that new editions of the endorsements will be published in the near future to exclude coverage for peer-to-peer car sharing situations. See our video on peer-to-peer car sharing for more information on that.