

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 868
Economic Matters

(Delegates Love and Krysiak)

Finance

Property and Casualty Insurance - Portable Electronics Insurance - Regulation

This bill establishes a limited lines license for a vendor of portable electronics to sell coverage under a policy of portable electronics insurance in connection with the sale of the devices or related services. The license authorizes the vendor, through specially trained employees and authorized representatives, to sell coverage for loss by disappearance, theft, damage, or other perils. Policies are subject to prior approval by the Maryland Insurance Administration (MIA), and vendors are subject to discipline and fines for violations and omissions. The bill requires specific disclosure materials for consumers at each sale location, and sets prior notice provisions for nonrenewals and cancellations.

The bill takes effect January 1, 2010.

Fiscal Summary

State Effect: Minimal increase in special fund revenues for MIA in FY 2010 and each year thereafter from insurance producer licensing fees, rate and form filing fees, and assessment of penalties. Due to existing regulatory limited lines licensing procedures and personnel, MIA can handle the bill's requirements with existing budgeted resources. Thus, the bill has no effect on special fund expenditures.

Local Effect: The bill does not directly affect local finances or operations.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Definitions: “Portable electronics insurance” is defined as insurance that provides coverage for the repair or replacement of portable electronics, including coverage against loss by disappearance, theft, mechanical failure, malfunction, damage, and any other applicable peril. The defined term and the bill both exclude service contracts under Title 14, Subtitle 4 of the Commercial Law Article that do not include coverage of loss or theft; insurance covering a seller’s or manufacturer’s warranty; or a homeowner’s, renter’s, private passenger automobile, or similar policy covering loss by disappearance or theft of portable electronics. A “portable electronics transaction” is (1) the sale or lease of portable electronics by a vendor to a customer; or (2) the sale of service related to the use of portable electronics. A “vendor” is a person in the business of leasing, selling, or providing portable electronics, or services related to their use, to customers in the State.

Limited Lines License: A vendor must hold a limited lines license to sell a portable electronics insurance policy in connection with a portable electronics transaction. The limited lines license under the bill is generally modeled on the limited lines license held by motor vehicle rental companies. The vendor may use supervised employees or authorized representatives to sell or offer coverage if they are trained in accordance with the requirements stated in the bill.

The acts of an employee or authorized representative are deemed the acts of the vendor. A vendor may collect premiums for coverage, and need not keep them in a segregated account if the vendor remits the premiums to an appointed insurance producer of the appointing insurer in accordance with written permission of the insurer. The vendor’s employees and authorized representatives may not be compensated for the sale of coverage. The vendor, however, may be compensated for billing and collection services.

The Insurance Commissioner must issue to a vendor a limited lines license that authorizes the vendor to sell or offer coverage under a policy of portable electronics insurance to a customer in connection with a portable electronics transaction if the vendor:

- meets the requirements of the bill;
- pays the applicable fees for insurance producers; and
- submits additional information the Commissioner requires, including documentation of professional competence, good character, and trustworthiness.

A limited lines license under the bill is subject to the same term and renewal conditions as those specified for an insurance producer license.

Scope of Authorization: The license authorizes the vendor or the vendor's authorized representative to sell a portable electronics insurance policy if:

- the policies have been filed with and approved by the Commissioner;
- the vendor holds an appointment with each authorized insurer that the vendor intends to represent;
- the vendor provides disclosures approved by the Commissioner at each sale location (1) summarizing the material terms of the coverage; (2) stating that the portable electronics insurance may duplicate existing coverage; (3) stating that the portable electronics insurance would become primary to other coverage; (4) stating that purchase of coverage is not required to enter into the portable electronics transaction; (5) describing claim filing procedures and requirements; (6) stating that the customer may cancel coverage at any time, with a return of unearned premium; and (7) providing the toll-free MIA hotline number; and
- the vendor provides an approved training program for its employees and authorized representatives.

Coverage under a policy of portable electronics insurance sold in connection with a portable electronics transaction is primary to other valid and collectible coverage, such as homeowner's, renter's, and private passenger automobile policies.

Discipline: The Commissioner may suspend, revoke, or refuse to renew a limited lines license issued to a vendor after notice and hearing if the vendor or an employee or authorized representative of the vendor has committed any of a list of violations or prohibited omissions. Instead of or in addition to taking action against the licensee, the Commissioner may impose fines of up to \$2,500 per violation and require restitution to any person who has suffered financial injury because of the violation.

Coverage: Portable electronics insurance may be offered on a month-to-month or other periodic basis as a group or master commercial inland marine policy issued to a vendor under which individual customers may elect to purchase coverage. In this case, each policy must have established eligibility and underwriting standards.

Except as otherwise specified, an insurer may not terminate or change the terms and conditions of a portable electronics insurance policy without providing the policyholder and covered customers with at least 60 days' notice. An insurer can terminate coverage after 45 days' notice if the vendor discovers fraud or a material misrepresentation in obtaining coverage or in the presentation of a claim, or after 10 days' notice for

nonpayment of premium. An insurer may automatically terminate coverage under a portable electronics insurance policy if the covered customer ceases to have active service related to the use of portable electronics with the vendor; or if the covered customer exhausts the aggregate limit of liability under the policy, and the insurer sends notice of termination within 15 business days after exhaustion of the limit.

If a covered customer requests a reinstatement of portable electronics insurance coverage, the customer is eligible for reinstatement up to 12 months after the date of exhaustion of the coverage limit. If a vendor terminates a policy, the vendor must give a covered customer written notice by certificate of mail at least 45 days before the termination date. A vendor does not have to provide such notice if the vendor is informed that the covered customer has obtained substantially similar alternative coverage from another insurer.

Current Law: Except as otherwise specified, an insurance producer may not sell, solicit, or negotiate any insurance without a license in the kind of insurance for which the person intends to act as an insurance producer. No specific State law currently governs portable electronics insurance policies and the sale, solicitation, or negotiation thereof.

MIA issues limited lines licenses for certain restricted kinds of insurance, including automobile, credit products, health maintenance organization, motor vehicle rental car, and travel insurance. For rental car insurance, MIA issues a two-year limited lines license to the rental company or its franchisee. MIA also issues limited lines licenses to individuals selling a common carrier's transportation tickets for the sale of travel-related life insurance, accident insurance, or baggage insurance.

Background: The bill creates a regulatory framework for insurance policies that provide for the replacement of portable electronic devices that are lost or stolen. Typically wireless telephone service providers have offered, either directly or through third parties, service plans. To the extent these service plans currently cover the replacement of lost or stolen devices, these "service plans" are the functional equivalent of portable electronics insurance policies.

Under the bill, as amended, portable electronics devices would be regulated in a similar manner to the rental vehicle industry. For insurance offered by a rental vehicle company, the vendor holds a limited lines license, and the vendor's employees and authorized representatives act under the direct supervision of the licensee.

Small Business Effect: The bill requires all persons in the business of leasing, selling, or providing portable electronics or related services to customers in the State to hold a limited lines license and provide (1) certain written disclosures to customers at each sale location; and (2) a training program for employees and authorized sales representatives who sell coverage under a policy of portable electronics insurance. The Insurance

Commissioner may impose fines of up to \$2,500 per violation upon a vendor who fails to comply with the bill's requirements, and may require restitution to any person who has suffered financial injury because of the violation.

Additional Information

Prior Introductions: None.

Cross File: SB 792 (Senator Klausmeier) - Finance.

Information Source(s): Maryland Insurance Administration, Department of Legislative Services

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