

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
Revised

House Bill 1093
Economic Matters

(Delegates Love and Jameson)

Finance

Portable Electronics Insurance

This bill amends several provisions of Maryland’s law relating to a vendor of portable electronics.

The bill applies to all policies of portable electronics insurance issued, delivered, or renewed in the State on or after October 1, 2012.

Fiscal Summary

State Effect: Enforcement can be handled with existing resources. No impact on revenues.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Definitions: The bill defines “location” as a physical location in the State or a website, call center site, or similar location where coverage under a policy of portable electronics insurance is offered or sold to residents of the State. The bill defines “supervising entity” as a business entity that is an authorized insurer or a licensed insurance producer that is appointed by an insurer to supervise the administration of a portable electronics insurance program.

The bill also alters the definition of “portable electronics” to mean an electronic device, including its accessories, that is easily or conveniently transported by hand by an individual and is used for communication, viewing, listening, recording, gaming, computing, or global positioning.

Selling Coverage under Portable Electronics Insurance Policy: The bill authorizes a vendor of portable electronics that bills and collects a premium from a covered customer for coverage under a policy of portable electronics insurance to maintain the premium in an integrated account if, along with other specified requirements, the funds received by the vendor from a covered customer for the sale of portable electronics insurance are held in trust by the vendor in a fiduciary capacity for the benefit of the vendor’s appointing insurer.

In the event that portable electronics insurance coverage is included in the price of the purchase or lease of portable electronics or related services, the bill requires the vendor to provide clear and conspicuous written notice to the customer that the coverage is included in the price.

Limited Lines License: The bill requires a vendor to provide the Insurance Commissioner with a sworn application for a limited lines license in order to sell or offer to sell coverage under a policy of portable electronics insurance to a customer.

A vendor must also provide the contact information and any other information requested by the Commissioner for an officer or employee of the vendor who is designated by the vendor as the person responsible for the vendor’s compliance with the law. However, if the vendor derived more than 25% of its total revenue in the preceding year from the sale of portable electronics insurance, the vendor must also provide the same information for all officers, directors, and shareholders of record under the federal securities law.

The bill requires the supervising entity to maintain a registry of all vendor locations that are authorized to sell or offer portable electronics insurance coverage in the State. The registry must be open for inspection and examination within 10 days of a request by the Commissioner.

Scope of Authorization: The bill also requires that specified disclosures provided to customers at vendor locations must state that, in the event of a cancellation of coverage, any unearned premium will be refunded *to the person paying the premium* in accordance with applicable law.

If any required training program the vendor provides for an employee or authorized representative who sells coverage to customers is conducted in electronic form, the bill requires the supervising entity to implement a supplemental education program about the portable electronics insurance product. The supplemental education program must be

conducted and overseen by licensed insurance producers employed by the supervising entity.

Coverage Terms: The bill alters the notice requirements related to an insurer or vendor terminating or changing the terms of a policy. If the insurer or vendor provides the notice by mail, the notice must be mailed to the vendor and covered customer at the last known address of each. The insurer or vendor responsible for mailing the notice must maintain proof of mailing. An insurer responsible for providing notice to a vendor or covered customer must meet specified requirements before the insurer may provide notice by electronic means.

Current Law:

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 excludes service contracts under Title 14, Subtitle 4 of the Commercial Law Article that do not include coverage of loss by disappearance or theft; insurance covering a seller’s or manufacturer’s obligations under a warranty; or a homeowner’s, renter’s, private passenger automobile, or similar policy covering loss 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.

Selling Coverage under Portable Electronics Insurance Policy: 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 for portable electronics insurance 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 specified requirements.

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 or the appointing insurer in accordance with written permission of the insurer. Generally, a commission, fee, reward, rebate, or other consideration for selling, soliciting, or negotiating insurance may not be paid directly or indirectly, to a person, including the vendor’s employees and authorized representative other than a licensed insurance provider. The vendor, however, may be compensated for billing and collection services.

Limited Lines License: The 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 authorization requirements under current law;
- 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 for portable electronics insurance 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 Maryland Insurance Administration (MIA) hotline number; and
- the vendor provides an approved training program for its employees and authorized representatives.

Coverage Terms: 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.

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 (1) the covered customer ceases to have active service related to the use of portable electronics with the vendor; or (2) 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.

Enforcement Actions: 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.

Background: Chapters 316 and 317 of 2009 created a regulatory framework for portable electronics insurance coverage – 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 plans are the functional equivalent of portable electronics insurance policies.

MIA currently licenses 10 vendors as limited lines licensees.

Additional Information

Prior Introductions: None.

Cross File: SB 861 (Senator Klausmeier) - Finance.

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

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