

JAN 25 2012

A BILL FOR AN ACT

RELATING TO PORTABLE ELECTRONICS INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 431, Hawaii Revised Statutes, is
2 amended by adding a new article to be appropriately designated
3 and to read as follows:

4 **"ARTICLE**

5 **PORTABLE ELECTRONICS INSURANCE**

6 **§431: -101 Definitions.** For purposes of this article:

7 "Customer" means a person who purchases portable
8 electronics or services.

9 "Enrolled customer" means a customer who elects coverage
10 under a portable electronics insurance policy issued to a vendor
11 of portable electronics.

12 "Location" means any physical location in the State or any
13 website, call center site, or similar location directed to
14 residents of the State.

15 "Portable electronics" means electronic devices that are
16 portable in nature, and the accessories and services related to
17 the use of the device.



1 "Portable electronics insurance" means insurance providing
2 coverage for the repair or replacement of portable electronics,
3 which may provide coverage for portable electronics against any
4 one or more of the following: loss, theft, inoperability due to
5 mechanical failure, malfunction, damage, or other similar
6 causes. The term does not include:

- 7 (1) A service contract, as defined by section 481X-2;
- 8 (2) A policy of insurance covering a seller's or
9 manufacturer's obligations under a warranty; or
- 10 (3) A homeowner's, renter's, private passenger automobile,
11 commercial multi-peril, or similar insurance policy.

12 "Portable electronics transaction" means:

- 13 (1) The sale or lease of portable electronics by a vendor
14 to a customer; or
- 15 (2) The sale of a service related to the use of portable
16 electronics by a vendor to a customer.

17 "Supervising entity" means a business entity that is a
18 licensed insurer or insurance producer that is appointed or
19 authorized by an insurer to supervise the administration of a
20 portable electronics insurance program.

21 "Vendor" means a person in the business of engaging in
22 portable electronics transactions directly or indirectly.



1 **§431: -102 Licensure of vendors.** (a) A vendor shall
2 hold a limited lines license to sell or offer coverage under a
3 policy of portable electronics insurance.

4 (b) A limited lines license issued under this section
5 shall authorize any employee or authorized representative of the
6 vendor to sell or offer coverage under a policy of portable
7 electronics insurance to a customer at each location at which
8 the vendor engages in portable electronics transactions.

9 (c) The supervising entity shall maintain a registry of
10 vendor locations that are authorized to sell or solicit portable
11 electronics insurance coverage in the State. Upon request by
12 the director and with ten days notice to the supervising entity,
13 the registry shall be open to inspection and examination by the
14 director during regular business hours of the supervising
15 entity.

16 (d) Notwithstanding any other provision of law to the
17 contrary, a license issued pursuant to this section shall
18 authorize the licensee and its employees or authorized
19 representatives to engage in the activities that are permitted
20 in this section.

21 **§431: -103 Requirements for sale of portable electronics**
22 **insurance.** (a) At every location where portable electronics



1 insurance is offered to customers, brochures or other written
2 materials shall be made available to prospective customers. The
3 brochures or other written materials shall:

4 (1) Disclose that portable electronics insurance may
5 provide a duplication of coverage already provided by
6 a customer's homeowner's insurance policy, renter's
7 insurance policy, or other source of coverage;

8 (2) State that enrollment by the customer in a portable
9 electronics insurance program is not required in order
10 to purchase or lease portable electronics or services;

11 (3) Summarize the material terms of the insurance
12 coverage, including:

13 (A) The identity of the insurer;

14 (B) The identity of the supervising entity;

15 (C) The amount of any applicable deductible and how
16 it is to be paid;

17 (D) The benefits of the coverage; and

18 (E) The key terms and conditions of coverage, such as
19 whether portable electronics may be repaired or
20 replaced with a similar make and model

21 reconditioned, or non-original manufacturer parts
22 or equipment;



1 (4) Summarize the process for filing a claim, including a
2 description of how to return portable electronics and
3 the maximum fee applicable if the customer fails to
4 comply with any equipment return requirements; and

5 (5) State that an enrolled customer may cancel enrollment
6 for coverage under a portable electronics insurance
7 policy at any time and the person paying the premium
8 shall receive a refund of any applicable unearned
9 premium.

10 (b) Portable electronics insurance may be offered on a
11 month-to-month or other periodic basis as a group or master
12 commercial inland marine policy issued to a vendor of portable
13 electronics for its enrolled customers.

14 (c) Eligibility and underwriting standards for customers
15 electing to enroll in coverage shall be established for each
16 portable electronics insurance program.

17 **§431: -104 Authority of vendors of portable electronics.**

18 (a) The employees and authorized representatives of vendors may
19 sell or offer portable electronics insurance to customers and
20 shall not be subject to licensure as an insurance producer under
21 this chapter, provided that:



- 1 (1) The vendor obtains a limited lines license to
2 authorize its employees or authorized representatives
3 to sell or offer portable electronics insurance
4 pursuant to this section;
- 5 (2) The insurer issuing the portable electronics insurance
6 either directly supervises or appoints a supervising
7 entity to supervise the administration of the program,
8 including development of a training program for
9 employees and authorized representatives of the
10 vendors. The training shall comply with the
11 following:
- 12 (A) The training shall be delivered to employees and
13 authorized representatives of a vendor who are
14 directly engaged in the activity of selling or
15 offering portable electronics insurance;
- 16 (B) The training may be provided in electronic form;
17 provided that, if the training is conducted in an
18 electronic form, the supervising entity shall
19 implement a supplemental education program
20 regarding the portable electronics insurance
21 product that is conducted and overseen by a
22 licensed employee of the supervising entity; and



1 (C) Each employee and authorized representative shall
2 receive basic instruction about the portable
3 electronics insurance offered to customers and
4 the disclosures required under section 431: -
5 103; and

6 (3) No employee or authorized representative of a vendor
7 of portable electronics shall advertise, represent, or
8 otherwise portray the employee or representative as a
9 non-limited lines licensed insurance producer.

10 (b) The charges for portable electronics insurance
11 coverage may be billed and collected by the vendor of portable
12 electronics. Any charge to the enrolled customer for coverage
13 that is not included in the cost associated with the purchase or
14 lease of portable electronics or related services shall be
15 separately itemized on the enrolled customer's bill. If the
16 portable electronics insurance coverage is included with the
17 purchase or lease of portable electronics or related services,
18 the vendor shall clearly and conspicuously disclose to the
19 enrolled customer that the portable electronics insurance
20 coverage is included with the portable electronics or related
21 services. Vendors billing and collecting the charges shall not
22 be required to maintain the funds in a segregated account;



1 provided that the vendor is authorized by the insurer to hold
2 the funds in an alternative manner and remits the amounts to the
3 supervising entity within sixty days of receipt. All funds
4 received by a vendor from an enrolled customer for the sale of
5 portable electronics insurance shall be considered funds held in
6 trust by the vendor in a fiduciary capacity for the benefit of
7 the insurer. Vendors may receive compensation for billing and
8 collection services.

9 **§431: -105 Suspension or revocation of license.** If a
10 vendor of portable electronics or its employee or authorized
11 representative violates any provision of this article, the
12 commissioner, after notice and hearing, may impose:

13 (1) A fine of not more than \$500 per violation or \$5,000
14 in the aggregate for the violation; and

15 (2) Other penalties that the commissioner deems necessary
16 and reasonable to carry out the purposes of this
17 article, including:

18 (A) Suspending the privilege of transacting portable
19 electronics insurance pursuant to this section at
20 specific business locations where violations have
21 occurred; and



1 (B) Suspending or revoking the ability of individual
2 employees or authorized representatives to act
3 under the license.

4 **§431: -106 Termination of portable electronics insurance.**

5 (a) An insurer may terminate or otherwise change the terms and
6 conditions of a policy of portable electronics insurance only
7 upon providing the policyholder and enrolled customers with at
8 least thirty days notice.

9 (b) If the insurer changes the terms and conditions of a
10 policy, the insurer shall provide the vendor policyholder with a
11 revised policy or endorsement and each enrolled customer with a
12 revised certificate, endorsement, updated brochure, or other
13 evidence indicating that a change in the terms and conditions
14 has occurred, and a summary of material changes.

15 (c) Notwithstanding subsection (a), an insurer may
16 terminate an enrolled customer's enrollment under a portable
17 electronics insurance policy upon fifteen days notice for
18 discovery of fraud or material misrepresentation in obtaining
19 coverage or in the presentation of a claim thereunder.

20 (d) Notwithstanding subsection (a), an insurer may
21 immediately terminate an enrolled customer's enrollment under a
22 portable electronics insurance policy:



- 1 (1) For nonpayment of a premium;
- 2 (2) If the enrolled customer ceases to have an active
- 3 service with the vendor of portable electronics; or
- 4 (3) If an enrolled customer exhausts the aggregate limit
- 5 of liability, if any, under the terms of the portable
- 6 electronics insurance policy and the insurer sends
- 7 notice of termination to the enrolled customer within
- 8 thirty calendar days after exhaustion of the limit;
- 9 provided that, if notice is not timely sent,
- 10 enrollment shall continue notwithstanding the
- 11 aggregate limit of liability until the insurer sends
- 12 notice of termination to the enrolled customer.

13 (e) If a portable electronics insurance policy is

14 terminated by a policyholder, the policyholder shall mail or

15 deliver written notice to each enrolled customer advising the

16 enrolled customer of the termination of the policy and the

17 effective date of termination. The written notice shall be

18 mailed or delivered to the enrolled customer at least thirty

19 days prior to the termination.

20 (f) Whenever notice or correspondence with respect to a

21 policy of portable electronics insurance is required pursuant to

22 this section, or is otherwise required by law, the notice or



1 correspondence shall be in writing and sent within the notice
2 period, if any, specified within the law requiring the notice or
3 correspondence. Notwithstanding any other provision of law to
4 the contrary, notice and correspondence may be sent either by
5 mail or by electronic means as set forth in this subsection. If
6 the notice or correspondence is mailed, it shall be sent to the
7 vendor of portable electronics at the vendor's mailing address
8 specified for such purpose and to its affected enrolled
9 customers' last known mailing addresses on file with the
10 insurer. The insurer or vendor of portable electronics, as the
11 case may be, shall maintain proof of mailing in a form
12 authorized or accepted by the United States Postal Service or
13 other commercial mail delivery service. If the notice or
14 correspondence is sent by electronic means, it shall be sent to
15 the vendor of portable electronics at the vendor's electronic
16 mail address specified for such purpose and to its affected
17 enrolled customer's last known electronic mail address as
18 provided by each enrolled customer to the insurer or vendor of
19 portable electronics, as the case may be. For purposes of this
20 subsection, an enrolled customer's provision of an electronic
21 mail address to the insurer or vendor of portable electronics,
22 as the case may be, shall be deemed consent to receive notices



1 and correspondence by electronic means. The insurer or vendor
2 of portable electronics, as the case may be, shall maintain
3 proof that the notice or correspondence was sent.

4 (g) Notice or correspondence required by this section or
5 otherwise required by law may be sent on behalf of an insurer or
6 vendor, as the case may be, by the supervising entity appointed
7 by the insurer.

8 **§431: -107 Application for license and fees.** (a) A
9 sworn application for a license under this article shall be
10 filed with the commissioner on forms prescribed and furnished by
11 the commissioner.

12 (b) The application for a license shall provide the:

13 (1) Name, residence address, and other information
14 required by the commissioner for an employee or
15 officer of the vendor that is designated by the
16 applicant as the person responsible for the vendor's
17 compliance with the requirements of this article;
18 provided that, if the vendor derives more than fifty
19 per cent of its revenue from the sale of portable
20 electronics insurance, the information in this
21 paragraph shall be provided for all officers,
22 directors, and shareholder of record having beneficial



1 ownership of ten per cent or more of any class of
2 securities registered under the federal securities
3 law; and

4 (2) Location of the applicant's home office.

5 (c) Any vendor engaging in portable electronics insurance
6 transactions on or before the effective date of this Act shall
7 apply for licensure within ninety days of the application being
8 made available by the commissioner. Any applicant commencing
9 operations after the effective date of this Act shall obtain a
10 license prior to offering portable electronics insurance.

11 (d) Initial licenses issued pursuant to this article shall
12 be valid for a period of twenty-four months.

13 (e) Each vendor of portable electronics licensed under
14 this article shall pay to the commissioner a fee as prescribed
15 by the commissioner; provided that the fee shall not exceed
16 \$1,000 for an initial portable electronics limited lines license
17 and \$500 for each renewal thereof; provided further that, for a
18 vendor that is engaged in portable electronics transactions at
19 ten or fewer locations in the State, the fee shall not exceed
20 \$100 for an initial license and for each renewal thereof.

21 §431: -108 Portable electronics insurance claims. No
22 licensed independent adjuster or licensed agent shall supervise



1 more than twenty-five employees; provided that a licensed agent
2 who supervises employees or adjusts claims shall not be required
3 to be licensed as an adjuster.

4 For purposes of this section:

5 "Automated claims adjudication system" means a
6 preprogrammed computer system designed for the collection, data
7 entry, calculation, and final resolution of portable electronics
8 insurance claims, which:

9 (1) Shall be utilized only by a licensed independent
10 adjuster, a licensed agent, or supervised employees;
11 and

12 (2) Shall comply with all claims payment requirements of
13 the insurance code.

14 "Employee" means an individual who collects claim
15 information for portable electronics insurance claims from, or
16 furnishes claim information to, insureds or claimants, and who
17 conducts data entry, including entering data into an automated
18 claims adjudication system."

19 SECTION 2. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



1 SECTION 3. This Act shall take effect upon its approval.

2

INTRODUCED BY:

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S.B. NO. 2655

Report Title:

Portable Electronics Insurance; Vendors; License

Description:

Establishes provisions for the sale of portable electronics insurance. Requires vendors to hold a limited lines license to sell or offer coverage under a policy.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

