

CHAPTER 56

AN ACT concerning portable electronics insurance and supplementing Title 17 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.17:22A-49 Definitions relative to portable electronics insurance.

1. As used in this act:

“Commissioner” means the Commissioner of Banking and Insurance.

“Consumer” means a person who purchases portable electronics or related services.

“Department” means the Department of Banking and Insurance.

“Enrolled consumer” means a consumer who elects coverage under a portable electronics insurance policy issued to a vendor of portable electronics.

“Location” means any physical location in the State of New Jersey or any website, call center site, or similar location directed to residents of the State of New Jersey.

“Portable electronics” means electronic devices that are portable in nature, and accessories and services related to the use of the devices.

“Portable electronics insurance” means insurance providing coverage for the repair or replacement of portable electronics which may provide coverage for portable electronics against any one or more of the following causes of loss: loss; theft; inoperability due to mechanical failure; malfunction; damage; or other similar causes of loss.

“Portable electronics insurance” shall not include:

(1) A service contract or extended warranty providing coverage limited to the repair, replacement or maintenance of property for the operational or structural failure of property due to a defect in materials, workmanship, accidental damage from handling, power surges or normal wear and tear;

(2) A policy of insurance covering a seller’s or a manufacturer’s obligations under a warranty; or

(3) A homeowner’s, renter’s, private passenger automobile, commercial multi-peril, or similar policy of insurance.

“Portable electronics transaction” means:

(1) the sale or lease of portable electronics by a vendor to a consumer; or

(2) the sale of a service related to the use of portable electronics by a vendor to a consumer.

“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 portable electronics insurance program.

“Vendor” means a person engaged, directly or indirectly, in the business of portable electronics transactions.

C.17:22A-50 License required to sell coverage.

2. a. A vendor shall not sell, or offer to sell, coverage under a policy of portable electronics insurance unless licensed as a limited lines insurance producer pursuant to the provisions of the “New Jersey Insurance Producer Licensing Act of 2001,” P.L.2001, c.210 (C.17:22A-26 et seq.) and this act. To hold a limited lines insurance producer license pursuant to this section, a vendor shall meet all the requirements to be a business entity producer pursuant to P.L.2001, c.210 (C.17:22A-26 et seq.), unless a provision of this act conflicts with a provision of P.L.2001, c.210 (C.17:22A-26 et seq.) in which case the provision of this act shall control.

b. Notwithstanding any other provision of law, a limited lines insurance producer license issued to a vendor shall authorize the licensee and its employees or authorized representatives to engage in those activities permitted pursuant to that license and the provisions of this act.

c. An employee or authorized representative of a vendor of portable electronics shall not advertise, represent or otherwise hold himself out as an insurance producer for any purposes other than as a licensed limited lines insurance producer.

C.17:22A-51 Vendor may offer insurance to consumers.

3. The employees and authorized representatives of a vendor holding a limited lines insurance producer license may sell or offer to sell portable electronics insurance to consumers as permitted by section 2 of this act and shall not be subject to individual licensure as an insurance producer under P.L.2001, c.210 (C.17:22A-26 et seq.) or this act as a result of those activities so long as:

a. The vendor obtains a limited lines license to authorize its employees or authorized representatives to sell or offer portable electronics insurance pursuant to this act; and

b. The insurer issuing the portable electronics insurance either directly supervises or appoints a supervising entity to supervise the administration of the program, including development of a training program for employees and authorized representatives of the vendors. The training required by this subsection:

(1) shall be delivered to employees and authorized representatives of a vendor who are directly engaged in the activity of selling or offering portable electronics insurance;

(2) may be provided in electronic form; however, if conducted in electronic form the supervising entity shall implement a supplemental education program regarding the portable electronics insurance that is conducted and overseen by licensed employees of the supervising entity; and

(3) shall include basic instruction about the portable electronics insurance offered to consumers and the disclosures required under section 6 of this act.

C.17:22A-52 Application for limited lines insurance producer; renewal, fee.

4. Notwithstanding the provisions of the "New Jersey Insurance Producer Licensing Act of 2001," P.L.2001, c.210 (C.17:22A-26 et seq.):

a. A sworn application for a limited lines insurance producer license under this act shall be made to and filed with the department on forms prescribed and furnished by the commissioner.

b. The application shall provide:

(1) the name, residence address, and other information required by the commissioner for an employee or officer of the vendor that is designated by the applicant as the person responsible for the vendor's compliance with the requirements of this act. However, if the vendor derives more than 50% of its revenue from the sale of portable electronics insurance, the information required shall be provided for all officers, directors, and shareholders of record having beneficial ownership of 10% or more of any class of securities registered under the federal securities law; and

(2) the location of the applicant's home office.

c. Any vendor engaging in portable electronics insurance transactions on or before the effective date of this act shall apply for a limited lines insurance producer license within 90 days of the application being made available by the commissioner. Any vendor wishing to

commence operations after the effective date of this act shall obtain a limited lines insurance producer license prior to offering portable electronics insurance.

d. Limited lines insurance producer licenses issued pursuant to this act shall renew biennially in accordance with regulations promulgated by the commissioner.

e. Each vendor of portable electronics licensed under this act shall pay to the commissioner a fee as prescribed by the commissioner but in no event shall the fee exceed \$1,000 for an initial portable electronics insurance limited lines producer license and \$500 for each renewal thereof. However, for a vendor that is engaged in portable electronics transactions at 10 or fewer locations in the State, the fee shall not exceed \$100 for an initial license and for each renewal thereof.

C.17:22A-53 Insurance offered on periodic basis; eligibility, underwriting standards.

5. a. 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 of portable electronics for its enrolled consumers.

b. Eligibility and underwriting standards for consumers electing to enroll in coverage shall be established for each portable electronics insurance program.

C.17:22A-54 Availability of information to consumers.

6. At every location at which portable electronics insurance is offered to consumers, the limited lines insurance producer licensed to sell that insurance shall make available to prospective consumers brochures or other written materials which:

a. disclose that portable electronics insurance may provide a duplication of coverage already provided by a consumer's homeowner's insurance policy, renter's insurance policy or other source of coverage;

b. state that enrollment by the consumer in a portable electronics insurance program is not required in order to purchase or lease portable electronics or services;

c. summarize the material terms of the insurance coverage, including:

(1) the identity of the insurer;

(2) the identity of the supervising entity;

(3) the amount of any applicable deductible and how it is to be paid;

(4) benefits of the coverage; and

(5) key terms and conditions of coverage, such as whether portable electronics may be repaired or replaced with similar make and model reconditioned or non-original manufacturer parts or equipment;

d. summarize the process for filing a claim, including a description of how to return portable electronics and the maximum fee applicable in the event that the enrolled consumer fails to comply with any equipment return requirements; and

e. state that an enrolled consumer may cancel enrollment for coverage under a portable electronics insurance policy at any time and the person paying the premium shall receive a refund or credit of any applicable unearned premium.

C.17:22A-55 Billing, collection of charges.

7. a. The charges for portable electronics insurance coverage may be billed and collected by the vendor of portable electronics. Any charge to the enrolled consumer for coverage that is not included in the cost associated with the purchase or lease of portable electronics or related services shall be separately itemized on the enrolled consumer's bill. If the portable electronics insurance coverage is included with the purchase or lease of portable electronics

or related services, the vendor shall clearly and conspicuously disclose to the enrolled consumer that the portable electronics insurance coverage is included with the purchase or lease of portable electronics or related services.

b. A vendor that bills and collects charges for portable electronics insurance coverage shall not be required to maintain funds received in a segregated account, provided that the vendor is authorized by the insurer to hold those funds in an alternative manner and remits those amounts to the supervising entity within 60 days of receipt.

c. All funds received by a vendor from an enrolled consumer for the sale of portable electronics insurance shall be considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. A vendor may receive compensation for billing and collection services.

C.17:22A-56 Rights, responsibilities of insurers.

8. Notwithstanding any other provision of law:

a. An insurer may terminate or otherwise change the terms and conditions of a policy of portable electronics insurance only upon providing the policyholder and enrolled consumers with at least 30 days' notice.

b. If the insurer changes the terms and conditions, then the insurer shall provide the vendor policyholder with a revised policy or endorsement and each enrolled consumer with a revised certificate, endorsement, updated brochure, or other evidence indicating a change in the terms and conditions has occurred and a summary of material changes.

c. Notwithstanding subsection a. of this section, an insurer may terminate an enrolled consumer's enrollment under a portable electronics insurance policy upon 15 days' notice if the insurer discovers fraud or material misrepresentation in obtaining coverage or in the presentation of a claim thereunder.

d. Notwithstanding subsection a. of this section, an insurer may immediately terminate an enrolled consumer's enrollment under a portable electronics insurance policy:

(1) For nonpayment of premium;

(2) If the enrolled consumer ceases to have an active service with the vendor for one or more portable electronics covered under the policy, if applicable; or

(3) If an enrolled consumer exhausts the aggregate limit of liability, if any, under the terms of the portable electronics insurance policy and the insurer sends notice of termination to the enrolled consumer within 30 calendar days after exhaustion of the limit. However, if notice is not timely sent, enrollment shall continue notwithstanding the aggregate limit of liability, until the insurer sends notice of termination to the enrolled consumer.

e. If a policyholder terminates a portable electronics insurance policy, the policyholder shall mail or deliver written notice to each enrolled consumer advising the enrolled consumer of the termination of the policy and the effective date of termination. The written notice shall be mailed or delivered to the enrolled consumer at least 30 days prior to the termination.

f. Whenever notice or correspondence with respect to a policy of portable electronics insurance is required pursuant to this section or is otherwise required by law, it shall be in writing and sent within the notice period, if any, specified within the statute or regulation requiring the notice or correspondence. The notice or correspondence shall be sent to the vendor at the vendor's mailing address specified for that purpose and to its affected enrolled consumers' last known mailing addresses on file with the insurer. The insurer or vendor, as the case may be, shall maintain proof of mailing in a form authorized or accepted by the United States Postal Service or other commercial mail delivery service.

g. Notice or correspondence required pursuant to this section or otherwise required by law may be sent on behalf of an insurer or vendor, as the case may be, by the supervising entity appointed by the insurer.

C.17:22A-57 Violations, penalties.

9. If a vendor of portable electronics or its employee or authorized representative violates any provision of this act or any provision of P.L.2001, c.210 (C.17:22A-26 et seq.), the commissioner may do any of the following:

a. Impose fines in accordance with P.L.2001, c.210 (C.17:22A-26 et seq.). However, fines assessed against a vendor licensed under this act shall not exceed \$50,000 in the aggregate for multiple violations that involve the same conduct, action, or practice.

b. Impose other penalties that the commissioner deems necessary and reasonable to carry out the purposes of this act, including:

(1) suspending the privilege of transacting portable electronics insurance pursuant to this section at specific business locations where violations have occurred; and

(2) suspending or revoking the ability of individual employees or authorized representatives to act under the license.

10. This act shall take effect immediately.

Approved September 19, 2012.