

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2135 Session of  
2012

INTRODUCED BY QUINN, BOYD, V. BROWN, CALTAGIRONE, CREIGHTON,  
DeLUCA, EVANKOVICH, GROVE, HARKINS, HORNAMAN, MILLARD, MOUL,  
MURT AND YOUNGBLOOD, JANUARY 20, 2012

REFERRED TO COMMITTEE ON INSURANCE, JANUARY 20, 2012

AN ACT

1 Providing for licensure of vendors, for requirements for sale of  
2 portable electronics insurance, for authority of vendors of  
3 portable electronics, for termination of portable electronics  
4 insurance, for licensing, for renewal of license, for  
5 injunctions and for appeals.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Portable  
10 Electronics Insurance Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall  
13 have the meanings given to them in this section unless the  
14 context clearly indicates otherwise:

15 "Applicant." A person as defined in section 601-A of the act  
16 of May 17, 1921 (P.L.789, No.285), known as The Insurance  
17 Department Act of 1921.

18 "Application." A form as defined in section 601-A of the act  
19 of May 17, 1921 (P.L.789, No.285), known as The Insurance

1 Department Act of 1921.

2 "Appointment." A written agreement between an insurer and  
3 insurance producer as defined in section 601-A of the act of May  
4 17, 1921 (P.L.789, No.285), known as The Insurance Department  
5 Act of 1921.

6 "Business entity." A person which is not an individual.

7 "Commissioner." The Insurance Commissioner of the  
8 Commonwealth.

9 "Customer." A person who purchases portable electronics or  
10 services.

11 "Department." The Insurance Department of the Commonwealth.

12 "Designated licensee." A licensed insurance producer as  
13 defined in section 601-A of the act of May 17, 1921 (P.L.789,  
14 No.285), known as The Insurance Department Act of 1921.

15 "Enrolled customer." A customer who elects coverage under a  
16 portable electronics insurance policy issued to a vendor of  
17 portable electronics.

18 "Insurance producer." A person licensed to sell, solicit or  
19 negotiate contracts of insurance.

20 "Insurer." As defined in section 601-A of the act of May 17,  
21 1921 (P.L.789, No.285), known as The Insurance Department Act of  
22 1921.

23 "Location." A physical location in this Commonwealth or an  
24 Internet website, call center site or similar location provided  
25 to residents of this Commonwealth.

26 "Portable electronics." Electronic devices that are portable  
27 in nature with accessories and services related to the use of  
28 the device.

29 "Portable electronics insurance." Insurance providing  
30 coverage for the repair or replacement of portable electronics

1 which may provide coverage for portable electronics against one  
2 or more of the following causes of loss: loss, theft,  
3 inoperability due to mechanical failure, malfunction, damage or  
4 other similar causes of loss. The term does not include:

5 (1) a service contract as defined in section 358(b) of  
6 the act of May 17, 1921 (P.L.682, No.284), known as The  
7 Insurance Company Law of 1921;

8 (2) a policy of insurance covering a seller's or a  
9 manufacturer's obligations under a warranty; or

10 (3) a homeowner's, renter's, private passenger  
11 automobile, commercial multiperil or similar policy.

12 "Portable electronics transaction." Either of the following:

13 (1) the sale or lease of portable electronics by a  
14 vendor 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 "Vendor." A person in the business of engaging in portable  
18 electronics transactions that is licensed as a business entity.

19 Section 3. Licensure of vendors.

20 (a) Requirement.--A vendor is required to hold a limited  
21 lines license to sell, solicit or negotiate coverage under a  
22 policy of portable electronics insurance.

23 (b) Limited lines license.--A limited lines license issued  
24 under this act shall authorize an employee or authorized  
25 representative of the vendor to sell, solicit or negotiate  
26 coverage under a policy of portable electronics insurance to a  
27 customer at each location where the vendor engages in portable  
28 electronics transactions.

29 (c) List of locations.--The vendor shall maintain a list of  
30 the locations in this Commonwealth where it offers coverage and

1 provide the list upon request to the department.

2 (d) License.--Notwithstanding any other provision of law, a  
3 license issued under this section shall authorize the licensee  
4 and its employees or authorized representatives to engage in  
5 those activities that are permitted in this section.

6 Section 4. Requirements for sale of portable electronics  
7 insurance.

8 (a) Written materials.--At every location where portable  
9 electronics insurance is offered to customers, brochures or  
10 other written materials shall be made available to a prospective  
11 customer that:

12 (1) Disclose that portable electronics insurance may  
13 provide a duplication of coverage already provided by a  
14 customer's homeowner's insurance policy, renter's insurance  
15 policy or other source of coverage.

16 (2) State that the enrollment by the customer in a  
17 portable electronics insurance program is not required in  
18 order to purchase or lease portable electronics or services.

19 (3) Summarize the material terms of the insurance  
20 coverage, including:

21 (i) The identity of the insurer.

22 (ii) The identity of the business entity.

23 (iii) The amount of any applicable deductible and  
24 how it is to be paid.

25 (iv) Benefits of the coverage.

26 (v) Key terms and conditions of coverage, such as  
27 whether portable electronics may be repaired or replaced  
28 with similar make and model reconditioned or nonoriginal  
29 manufacturer parts or equipment.

30 (4) Summarize the process for filing a claim, including

1 a description of how to return portable electronics and the  
2 maximum fee applicable in the event the customer fails to  
3 comply with any equipment return requirements.

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

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

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

17 Section 5. Authority of vendors of portable electronics.

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

23 (1) The vendor obtains a limited lines license to  
24 authorize its employees or authorized representatives to sell  
25 or offer portable electronics insurance under this section.

26 (2) The insurer issuing the portable electronics  
27 insurance either directly supervises or authorizes a  
28 designated licensee to supervise the administration of the  
29 program, including development of a training program for  
30 employees and authorized representatives of the vendors. The

1 training required by this paragraph shall comply with the  
2 following:

3 (i) The training shall be delivered to employees and  
4 authorized representatives of a vendor who is directly  
5 engaged in the activity of selling, soliciting or  
6 negotiating portable electronics insurance.

7 (ii) The training may be provided in electronic  
8 form. If conducted in an electronic form, the vendor  
9 shall implement a supplemental education program  
10 regarding portable electronics insurance that is  
11 conducted and overseen by the designated licensee.

12 (iii) Each employee and authorized representative  
13 shall receive basic instruction about the portable  
14 electronics insurance offered to customers and the  
15 disclosures required under section 4.

16 (3) No employee or authorized representative of a vendor  
17 of portable electronics shall advertise, represent or  
18 otherwise hold himself out as a licensed insurance producer.

19 (b) Charges.--The charges for portable electronics insurance  
20 coverage may be billed and collected by the vendor of portable  
21 electronics. A charge to the enrolled customer for coverage that  
22 is not included in the cost associated with the purchase or  
23 lease of portable electronics or related services shall be  
24 separately itemized on the enrolled customer's bill. If the  
25 portable electronics insurance coverage is included with the  
26 purchase or lease of portable electronics or related services  
27 the vendor shall clearly and conspicuously disclose to the  
28 enrolled customer that the portable electronics insurance  
29 coverage is included with the portable electronics or related  
30 services. Vendors billing and collecting the charges shall not

1 be required to maintain the funds in a segregated account  
2 provided that the vendor is authorized by the insurer to hold  
3 the funds in an alternative manner and remits the amounts to the  
4 supervising entity within 60 days of receipt. The funds received  
5 by a vendor from an enrolled customer for the sale of portable  
6 electronics insurance shall be considered funds held in trust by  
7 the vendor in a fiduciary capacity for the benefit of the  
8 insurer. Vendors may receive compensation for billing and  
9 collection services from the insurer.

10 Section 6. Termination of portable electronics insurance.

11 Notwithstanding any other provision of law:

12 (1) An insurer may terminate an enrolled customer's  
13 enrollment under a portable electronics insurance policy upon  
14 15 days' notice for discovery of fraud or material  
15 misrepresentation in obtaining coverage or in the  
16 presentation of a fraudulent claim.

17 (2) An insurer may immediately terminate an enrolled  
18 customer's enrollment under a portable electronics insurance  
19 policy:

20 (i) if the enrolled customer ceases to have an  
21 active service with the vendor of portable electronics;  
22 or

23 (ii) if an enrolled customer exhausts the aggregate  
24 annual limit of liability under the terms of the portable  
25 electronics insurance policy and the insurer sends notice  
26 of termination to the enrolled customer within 30  
27 calendar days after exhaustion of the limit. If notice is  
28 not timely sent, however, enrollment shall continue  
29 notwithstanding the annual aggregate limit of liability  
30 until the insurer sends notice of termination to the

1           enrolled customer.

2           (3) Where a portable electronics insurance policy is  
3           terminated by a policyholder, the policyholder shall mail or  
4           deliver written notice to each enrolled customer advising the  
5           enrolled customer of the termination of the policy and the  
6           effective date of termination. The written notice shall be  
7           mailed or delivered to the enrolled customer at least 30 days  
8           prior to the termination.

9           (4) Whenever notice is required under this section, it  
10          shall be in writing and may be mailed or delivered to the  
11          vendor of portable electronics at the vendor's mailing  
12          address and to its affected enrolled customers' last known  
13          mailing addresses on file with the insurer. If notice is  
14          mailed, the insurer or vendor of portable electronics shall  
15          maintain proof of mailing in a form authorized or accepted by  
16          the United States Postal Service or other commercial mail  
17          delivery service. Alternatively, an insurer or vendor  
18          policyholder may comply with a notice required by this  
19          section by providing electronic notice to a vendor or its  
20          affected enrolled customers by electronic means. If notice is  
21          accomplished through electronic means the insurer or vendor  
22          of portable electronics, as the case may be, shall maintain  
23          proof that the notice was sent.

24   Section 7.   Licensing.

25          Applications for license under this act shall be in  
26          accordance with section 606-A of the act of May 17, 1921  
27          (P.L.789, No.285), known as The Insurance Department Act of  
28          1921.

29   Section 8.   Renewal of license.

30          A license may be renewed in accordance with section 608-A of



1 the act of May 17, 1921 (P.L.789, No.285), known as The  
2 Insurance Department Act of 1921.

3 Section 9. Injunctions.

4 The commissioner may maintain an action for an injunction or  
5 other process against a person to restrain and prevent the  
6 person from engaging in an activity violating this act or  
7 regulations promulgated under this act.

8 Section 10. Appeals.

9 The person aggrieved by a decision of the commissioner that  
10 has a direct interest in the decision may appeal the decision of  
11 the commissioner in accordance with 2 Pa.C.S. Ch. 7 Subch. A  
12 (relating to judicial review of Commonwealth agency action).

13 Section 19. Repeals.

14 Section 5(a)(9) of the act of July 22, 1974 (P.L.589,  
15 No.205), known as the Unfair Insurance Practices Act, is  
16 repealed insofar as it is inconsistent with this act.

17 Section 20. Effective date.

18 This act shall take effect in 120 days.