CHAPTER 89

PORTABLE ELECTRONIC DEVICE INSURANCE

§7001. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2011, c. 297, §5 (NEW).]

1. Customer. "Customer" means a person who purchases a portable electronic device or service. [PL 2011, c. 297, §5 (NEW).]

2. Enrolled customer. "Enrolled customer" means a customer who elects coverage under a portable electronic device insurance policy issued to a vendor.
[PL 2011, c. 297, §5 (NEW).]

3. Limited lines license. "Limited lines license" means a license to sell or offer a policy for portable electronic device insurance.
[PL 2011, c. 297, §5 (NEW).]

4. Location. "Location" means any physical location in the State or any publicly accessible website, call center or similar operation directed to residents of the State.
[PL 2011, c. 297, §5 (NEW).]

5. Portable electronic device. "Portable electronic device" means an electronic device that is portable in nature, its accessories and services related to the use of the device.
[PL 2011, c. 297, §5 (NEW).]

6. Portable electronic device insurance. "Portable electronic device insurance" means insurance authorized under section 705 providing coverage for the repair or replacement of a portable electronic device that may cover a portable electronic device 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 electronic device insurance" does not include:

A. 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 or normal wear and tear; [PL 2011, c. 297, §5 (NEW).]

B. A policy of insurance covering a seller's or a manufacturer's obligations under a warranty; or [PL 2011, c. 297, §5 (NEW).]

C. Homeowner's or renter's insurance, private passenger automobile insurance, commercial multiple peril insurance or any similar policy. [PL 2011, c. 297, §5 (NEW).]
[PL 2011, c. 297, §5 (NEW).]

7. Portable electronic device transaction. "Portable electronic device transaction" means:

A. The sale or lease of a portable electronic device by a vendor to a customer; or [PL 2011, c. 297, §5 (NEW).]

B. The sale of a service related to the use of a portable electronic device by a vendor to a customer. [PL 2011, c. 297, §5 (NEW).]
[PL 2011, c. 297, §5 (NEW).]

8. Supervising entity. "Supervising entity" means a business entity that is a licensed insurance producer or insurer.
[PL 2011, c. 297, §5 (NEW).]

9. Vendor. "Vendor" means a person in the business of engaging in portable electronic device transactions directly or indirectly.
[PL 2011, c. 297, §5 (NEW).]

SECTION HISTORY

PL 2011, c. 297, §5 (NEW).

§7002. Licensure of vendors

1. License required. A vendor is required to hold a limited lines license under this chapter to sell or offer coverage under a policy of portable electronic device insurance.
[PL 2011, c. 297, §5 (NEW).]

2. Authority provided by license. A limited lines license issued under this chapter authorizes any employee or authorized representative of a vendor to sell or offer coverage under a policy of portable electronic device insurance to a customer at each location at which the vendor engages in portable electronic device transactions.
[PL 2011, c. 297, §5 (NEW).]

3. List of locations. In connection with a vendor's application for licensure and upon request by the superintendent, the vendor shall provide a list to the superintendent of all locations in this State at which the vendor offers coverage.
[PL 2011, c. 297, §5 (NEW).]

4. Activities authorized by license. Notwithstanding any other provision of law, a license issued pursuant to this chapter authorizes the licensee and its employees or authorized representatives to engage only in those activities that are expressly permitted in this chapter.
[PL 2011, c. 297, §5 (NEW).]

SECTION HISTORY

PL 2011, c. 297, §5 (NEW).

§7003. Requirements for sale of portable electronic device insurance

1. Brochures. At every location where portable electronic device insurance is offered to customers, brochures or other written materials must be made available to a prospective customer that:

A. Disclose that portable electronic device insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy or other source of coverage; [PL 2011, c. 297, §5 (NEW).]

B. State that the enrollment by the customer in a portable electronic device insurance policy is not required in order to purchase or lease a portable electronic device or service; [PL 2011, c. 297, §5 (NEW).]

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 the portable electronic device may be replaced with a similar make and model or repaired using reconditioned or nonoriginal manufacturer parts or equipment; [PL 2011, c. 297, §5 (NEW).]

D. Summarize the process for filing a claim, including a description of any requirements to return the portable electronic device and the maximum fee applicable if the customer fails to comply with any equipment return requirements; and [PL 2011, c. 297, §5 (NEW).]

E. State that the customer may cancel enrollment for coverage under a portable electronic device insurance policy at any time and the person paying the premium must receive a refund of any applicable unearned premium. [PL 2011, c. 297, §5 (NEW).]

[PL 2011, c. 297, §5 (NEW).]

2. Periodic basis of coverage. Portable electronic device 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 enroll for coverage.

[PL 2011, c. 297, §5 (NEW).]

3. Eligibility and underwriting standards. Eligibility and underwriting standards for customers electing to enroll in coverage must be established by an insurer for each portable electronic device insurance program.

[PL 2011, c. 297, §5 (NEW).]

SECTION HISTORY

PL 2011, c. 297, §5 (NEW).

§7004. Authority of vendors

1. Requirements for employees and authorized representatives of vendors. An employee or authorized representative of a vendor may sell or offer portable electronic device insurance to a customer and is not subject to licensure as an insurance producer under this chapter if:

A. The vendor obtains a limited lines license to authorize its employees or authorized representatives to sell or offer portable electronic device insurance pursuant to this section; [PL 2011, c. 297, §5 (NEW).]

B. The insurer issuing the portable electronic device insurance either directly supervises or appoints a supervising entity to supervise the administration of the sale of insurance, including development of a training program for employees and authorized representatives of the vendors. The training required by this paragraph must comply with the following:

(1) The training must be delivered to all employees and authorized representatives of the vendor who are directly engaged in the activity of selling or offering portable electronic device insurance. The training may be provided in electronic form. If conducted in electronic form the supervising entity shall implement a supplemental education program that is conducted and overseen by licensed employees of the supervising entity to supplement the electronic training; and

(2) Each employee and authorized representative must receive basic instruction about the portable electronic device insurance offered to customers and the disclosures required under section 7003, subsection 1; and [PL 2011, c. 297, §5 (NEW).]

C. The employee or authorized representative of the vendor does not advertise, represent or otherwise hold that employee or authorized representative out as a nonlimited lines licensed insurance producer. [PL 2011, c. 297, §5 (NEW).]

[PL 2011, c. 297, §5 (NEW).]

2. Charges. The charges for portable electronic device insurance coverage may be billed and collected by the vendor. Any charge to the customer for coverage that is not included in the cost associated with the purchase or lease of a portable electronic device or related services must be separately itemized on the customer's bill. If the portable electronic device insurance coverage is included with the purchase or lease of a portable electronic device or related services, the vendor shall

clearly and conspicuously disclose to the customer that the portable electronic device insurance coverage is included with the portable electronic device or related services. A vendor billing and collecting charges for coverage is not required to maintain those funds in a segregated account as long as the vendor is authorized by the insurer to hold such funds in an alternative manner and remits the funds to the supervising entity within 60 days of receipt. All funds received by a vendor from a customer for the sale of portable electronic device insurance are 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.
[PL 2011, c. 297, §5 (NEW).]

SECTION HISTORY

PL 2011, c. 297, §5 (NEW).

§7005. Violations

1. Penalties. If a vendor or its employee or authorized representative violates any provision of this chapter, the superintendent may enforce this chapter in accordance with section 12-A except the superintendent may not impose a fine exceeding $15,000 for aggregate conduct in violation of this chapter.
[PL 2011, c. 297, §5 (NEW).]

2. Suspension or revocation. In addition to any other penalties authorized by law, the superintendent may:

A. Suspend the authority of a vendor to transact portable electronic device insurance; [PL 2011, c. 297, §5 (NEW).]

B. Suspend the authority of a vendor to transact portable electronic device insurance pursuant to this chapter at specific business locations where violations have occurred; and [PL 2011, c. 297, §5 (NEW).]

C. Suspend or revoke the authority of an individual employee or authorized representative of a vendor to act under a limited lines license under section 7002, subsection 2. [PL 2011, c. 297, §5 (NEW).]

[PL 2011, c. 297, §5 (NEW).]

SECTION HISTORY

PL 2011, c. 297, §5 (NEW).

§7006. Termination of portable electronic device insurance

1. Notice. Notwithstanding any other provision of law, an insurer may terminate or otherwise change the terms and conditions of a policy of portable electronic device insurance only upon providing the vendor policyholder and enrolled customers with at least 30 days' notice.
[PL 2011, c. 297, §5 (NEW).]

2. Revised documents. Notwithstanding any other provision of law, if the insurer changes the terms and conditions of a policy of portable electronic device insurance, the insurer shall provide the vendor policyholder with a revised policy or endorsement and each enrolled customer with a revised certificate or endorsement, an updated brochure or other evidence indicating that a change in the terms and conditions has occurred and a summary of material changes.
[PL 2011, c. 297, §5 (NEW).]

3. Notice in case of fraud or material misrepresentation. Notwithstanding subsection 1 or any other provision of law, an insurer may upon 15 days' notice terminate an enrolled customer's enrollment under a portable electronic device insurance policy for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim thereunder.

[PL 2011, c. 297, §5 (NEW).]

4. Immediate termination of enrollment allowed. Notwithstanding subsection 1 or any other provision of law, an insurer may immediately terminate an enrolled customer's enrollment under a portable electronic device insurance policy:

A. For nonpayment of premium; [PL 2011, c. 297, §5 (NEW).]

B. If the enrolled customer ceases to have an active service with the vendor; or [PL 2011, c. 297, §5 (NEW).]

C. If an enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the portable electronic device insurance policy and the insurer sends notice of termination to the customer within 30 calendar days after exhaustion of the limit. If this notice is not timely sent, enrollment must continue notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the enrolled customer. [PL 2011, c. 297, §5 (NEW).]

[PL 2011, c. 297, §5 (NEW).]

5. Policy terminated by vendor policyholder. Notwithstanding any other provision of law, when a portable electronic device insurance policy is terminated by a vendor policyholder, the vendor policyholder shall mail or deliver written notice to each enrolled customer advising the customer of the termination of the policy and the effective date of termination. The written notice must be mailed or delivered to the customer at least 30 days prior to the termination.

[PL 2011, c. 297, §5 (NEW).]

6. Method of notice. Notwithstanding any other provision of law, whenever notice is required pursuant to this section, it must be in writing and may be mailed or delivered to the vendor at the vendor's mailing address and to the vendor's affected enrolled customers at the last known mailing addresses on file with the insurer. If notice is mailed, 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. Alternatively, an insurer or vendor policyholder may comply with any notice required by this section by providing notice to a vendor or its affected enrolled customers, as the case may be, by electronic means. If notice is accomplished through electronic means, the insurer or vendor, as the case may be, shall maintain proof that the notice was sent.

[PL 2011, c. 297, §5 (NEW).]

SECTION HISTORY

PL 2011, c. 297, §5 (NEW).

§7007. Application for license and fees

1. Application for license to be filed with superintendent. A sworn application for a license under this chapter must be made to and filed with the superintendent on forms prescribed and furnished by the superintendent.

[PL 2011, c. 297, §5 (NEW).]

2. Contents of application. In addition to other information required by the superintendent, the application must:

A. Provide the name, residence address and other information required by the superintendent 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 chapter. If the vendor derives more than 50% of its revenue from the sale of portable electronic device insurance, the information specified in this paragraph must 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 laws; [PL 2011, c. 297, §5 (NEW).]

B. Appoint the superintendent as the applicant's attorney to receive service of all legal process issued against it in any civil action or proceeding in this State and agree that process so served is valid and binding against the applicant. The appointment is irrevocable, binds the company and any successor in interest as well as the assets or liabilities of the applicant and must remain in effect as long as the applicant's license remains in force in this State; and [PL 2011, c. 297, §5 (NEW).]

C. Provide the location of the applicant's home office. [PL 2011, c. 297, §5 (NEW).]

[PL 2011, c. 297, §5 (NEW).]

3. Time of application. An application for licensure under this chapter must be made within 90 days of the application being made available by the superintendent.

[PL 2011, c. 297, §5 (NEW).]

4. Initial license valid for 24 months. An initial license issued pursuant to this chapter is valid for 24 months and expires on the last day of the 24th month.

[PL 2011, c. 297, §5 (NEW).]

5. Fee. Each vendor licensed under this chapter shall pay to the superintendent a fee as prescribed by section 601, subsection 29.

[PL 2011, c. 297, §5 (NEW).]

SECTION HISTORY

PL 2011, c. 297, §5 (NEW).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Regular Session of the 129th Maine Legislature and is current through October 1, 2019. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.