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**SUBSTITUTE SENATE BILL 6242**

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**State of Washington**

**62nd Legislature**

**2012 Regular Session**

**By** Senate Financial Institutions, Housing & Insurance (originally sponsored by Senators Hobbs and Litzow)

READ FIRST TIME 02/02/12.

1 AN ACT Relating to specialty producer licenses; amending RCW  
2 48.120.005, 48.120.010, 48.120.015, and 48.120.020; and reenacting and  
3 amending RCW 48.17.170.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 48.120.005 and 2008 c 217 s 94 are each amended to  
6 read as follows:

7 The definitions in this section apply throughout this chapter  
8 unless the context clearly requires otherwise.

9 (1) (~~"Communications equipment" means handsets, pagers, personal~~  
10 ~~digital assistants, portable computers, automatic answering devices,~~  
11 ~~batteries, and their accessories or other devices used to originate or~~  
12 ~~receive communications signals or service approved for coverage by rule~~  
13 ~~of the commissioner, and also includes services related to the use of~~  
14 ~~the devices.)) "Portable electronics" means personal, self-contained,  
15 easily carried by an individual, battery-operated electronic  
16 communication, viewing, listening, recording, gaming, computing or  
17 global positioning devices and other similar devices and their  
18 accessories, and service related to the use of such devices.~~

1           (2) "~~((Communications equipment))~~ Portable electronics insurance  
2 program" means an insurance program as described in RCW 48.120.015.

3           (3) ("~~Communications service" means the service necessary to send,~~  
4 ~~receive, or originate communications signals)~~) "Portable electronics  
5 transaction" means the sale or lease of portable electronics or the  
6 sale of a service related to the use of portable electronics by a  
7 vendor to a customer.

8           (4) "Customer" means a person (~~(or entity purchasing or leasing~~  
9 ~~communications equipment or communications services from)) that enters  
10 into a portable electronics transaction with a vendor.~~

11           (5) "Specialty producer license" means a license issued under RCW  
12 48.120.010 that authorizes a vendor to offer or sell insurance as  
13 provided in RCW 48.120.015.

14           (6) "Supervising (~~agent~~) person" means a licensed insurer or an  
15 appointed insurance producer licensed under RCW 48.17.090 who provides  
16 training as described in RCW 48.120.020 and is (~~affiliated to a~~  
17 ~~licensed vendor~~) appointed by an insurer to supervise the  
18 administration of a portable electronics insurance program.

19           (7) "Vendor" means a person (~~(or entity resident or with offices in~~  
20 ~~this state)~~) in the business of (~~(leasing, selling, or providing~~  
21 ~~communications equipment or communications service to customers)~~),  
22 directly or indirectly, engaging in portable electronics transactions.

23           (8) "Appointing insurer" means the insurer appointing the vendor as  
24 its agent under a specialty producer license.

25           (9) "Federal securities law" means the securities act of 1933, the  
26 securities exchange act of 1934, and the investment company act of  
27 1940.

28           (10) "Location" means any physical locale in this state and any web  
29 site, call center site, or similar site directed to residents of this  
30 state.

31           **Sec. 2.** RCW 48.120.010 and 2008 c 217 s 95 are each amended to  
32 read as follows:

33           (1) A vendor that intends to offer insurance under RCW 48.120.015  
34 must file a specialty producer license application with the  
35 commissioner. Before the commissioner issues such a license, the  
36 vendor must be appointed as the insurance producer of one or more

1 authorized appointing insurers under a vendor's specialty producer  
2 license.

3 (2) Upon receipt of an application, if the commissioner is  
4 satisfied that the application is complete, the commissioner may issue  
5 a specialty producer license to the vendor.

6 (3) An application for licensure pursuant to this section must  
7 conform to the requirements of chapter 48.17 RCW. However, information  
8 with respect to an applicant's officers, directors, and shareholders of  
9 record having beneficial ownership of ten percent or more of any class  
10 of securities registered under federal securities law may only be  
11 required if the vendor derives more than fifty percent of its revenue  
12 from the sale of portable electronics insurance.

13 **Sec. 3.** RCW 48.120.015 and 2002 c 357 s 3 are each amended to read  
14 as follows:

15 (1) A specialty producer license authorizes a vendor and its  
16 employees and authorized representatives to offer and sell to, enroll  
17 in, and bill and collect premiums from customers for insurance covering  
18 ((communications—equipment)) portable electronics on a master,  
19 corporate, group, or on an individual policy basis at each location at  
20 which the vendor engages in portable electronics transactions.  
21 However:

22 (a) The supervising person must maintain a list of a vendor's  
23 locations that are authorized to sell or solicit portable electronics  
24 insurance coverage; and

25 (b) The list under (a) of this subsection must be provided to the  
26 commissioner within ten days of a request by the commissioner.

27 (2) An employee or authorized representative of a vendor may sell  
28 or offer portable electronics insurance to the vendor's customers  
29 without being individually licensed as an insurance producer if the  
30 vendor is licensed under this chapter and is acting in compliance with  
31 this chapter and any rules adopted by the commissioner.

32 (3) A vendor billing and collecting premiums from customers for  
33 portable electronics insurance coverage is not required to maintain  
34 these funds in a segregated account if the vendor:

35 (a) Is authorized by the insurer to hold the funds in an  
36 alternative manner; and

1 (b) Remits the funds to the supervising person within sixty days of  
2 receipt.

3 (4) All funds received by a vendor from an enrolled customer for  
4 the sale of portable electronics insurance are considered funds held in  
5 trust by the vendor in a fiduciary capacity for the benefit of the  
6 insurer.

7 (5) Any charge to the enrolled customer for coverage that is not  
8 included in the cost associated with the purchase or lease of portable  
9 electronics or related services must be separately itemized on the  
10 enrolled customer's bill.

11 (6) If portable electronics insurance coverage is included with the  
12 purchase or lease of portable electronics or related services, the  
13 vendor must clearly and conspicuously disclose to the enrolled customer  
14 that the portable electronics insurance coverage is included with the  
15 portable electronics or related services.

16 (7) Vendors may receive compensation for billing and collection  
17 services.

18 **Sec. 4.** RCW 48.120.020 and 2002 c 357 s 4 are each amended to read  
19 as follows:

20 (1) A vendor issued a specialty producer license may not issue  
21 insurance under RCW 48.120.015 unless:

22 (a) At every location where customers are enrolled in  
23 (~~communications equipment~~) portable electronics insurance programs,  
24 written material regarding the program is made available to prospective  
25 customers that:

26 (i) Discloses that portable electronics insurance may provide a  
27 duplication of coverage already provided by a customer's homeowner's  
28 insurance policy, renter's insurance policy, or other source of  
29 coverage;

30 (ii) States that the enrollment by the customer in a portable  
31 electronics insurance program is not required in order to purchase or  
32 lease portable electronics or services;

33 (iii) Summarizes the material terms of the insurance coverage,  
34 including the identity of the insurer, the identity of the supervising  
35 person, the amount of any applicable deductible and how it is to be  
36 paid, benefits of the coverage, and key terms and conditions of

1 coverage, such as whether portable electronics may be replaced with a  
2 similar make and model or reconditioned make and model or repaired with  
3 nonoriginal manufacturer parts or equipment;

4 (iv) Summarizes the process for filing a claim, including a  
5 description of how to return portable electronics and the maximum fee  
6 applicable in the event the customer fails to comply with any equipment  
7 return requirements; and

8 (v) States that an enrolled customer may cancel enrollment for  
9 coverage under a portable electronics insurance policy at any time and  
10 the person paying the premium will receive a refund of any applicable  
11 unearned premium; and

12 (b) The (~~communications equipment~~) portable electronics insurance  
13 program is operated with the participation of a supervising ((agent))  
14 person who, with authorization and approval from the appointing  
15 insurer, supervises a training program for employees of the licensed  
16 vendor. The training must comply with the following:

17 (i) The training must be delivered to employees and authorized  
18 representatives of vendors who are directly engaged in the activity of  
19 selling or offering portable electronics insurance;

20 (ii) The training may be provided in electronic form. However, if  
21 conducted in an electronic form, the supervising person must implement  
22 a supplemental education program regarding the portable electronics  
23 insurance product that is conducted and overseen by licensed employees  
24 of the supervising person; and

25 (iii) Each employee and authorized representative must receive  
26 basic instruction about the portable electronics insurance offered to  
27 customers and the disclosures required under this section.

28 (2) No employee or authorized representative of a vendor of  
29 portable electronics may advertise, represent, or otherwise hold  
30 himself or herself out as a nonlimited lines licensed insurance  
31 producer.

32 ((+2)) (3) Employees and authorized representatives of a vendor  
33 issued a specialty producer license may only act on behalf of the  
34 vendor in the offer, sale, solicitation, or enrollment of customers in  
35 a (~~communications equipment~~) portable electronics insurance program.  
36 The conduct of these employees and authorized representatives within  
37 the scope of their employment or agency is the same as conduct of the  
38 vendor for purposes of this title.

1       **Sec. 5.** RCW 48.17.170 and 2009 c 162 s 19 and 2009 c 119 s 11 are  
2 each reenacted and amended to read as follows:

3       (1) Unless denied licensure under RCW 48.17.530, persons who have  
4 met the requirements of RCW 48.17.090 and 48.17.110 shall be issued an  
5 insurance producer license. An insurance producer may receive a  
6 license in one or more of the following lines of authority:

7       (a) "Life," which is insurance coverage on human lives, including  
8 benefits of endowment and annuities, and may include benefits in the  
9 event of death or dismemberment by accident and benefits for disability  
10 income;

11       (b) "Disability," which is insurance coverage for accident, health,  
12 and disability or sickness, bodily injury, or accidental death, and may  
13 include benefits for disability income;

14       (c) "Property," which is insurance coverage for the direct or  
15 consequential loss or damage to property of every kind;

16       (d) "Casualty," which is insurance coverage against legal  
17 liability, including that for death, injury, or disability or damage to  
18 real or personal property;

19       (e) "Variable life and variable annuity products," which is  
20 insurance coverage provided under variable life insurance contracts,  
21 variable annuities, or any other life insurance or annuity product that  
22 reflects the investment experience of a separate account;

23       (f) "Personal lines," which is property and casualty insurance  
24 coverage sold to individuals and families for primarily noncommercial  
25 purposes;

26       (g) Limited lines:

27       (i) Surety;

28       (ii) Limited line credit insurance;

29       (iii) Travel;

30       (h) Specialty lines:

31       (i) (~~Communications equipment or services~~) Portable electronics;

32       (ii) Rental car;

33       (iii) Self-service storage; or

34       (i) Any other line of insurance permitted under state laws or  
35 rules.

36       (2) Unless denied licensure under RCW 48.17.530, persons who have  
37 met the requirements of RCW 48.17.090(4) shall be issued a title  
38 insurance agent license.

1 (3) All insurance producers', title insurance agents', and  
2 adjusters' licenses issued by the commissioner shall be valid for the  
3 time period established by the commissioner unless suspended or revoked  
4 at an earlier date.

5 (4) Subject to the right of the commissioner to suspend, revoke, or  
6 refuse to renew any insurance producer's, title insurance agent's, or  
7 adjuster's license as provided in this title, the license may be  
8 renewed into another like period by filing with the commissioner by any  
9 means acceptable to the commissioner on or before the expiration date  
10 a request, by or on behalf of the licensee, for such renewal  
11 accompanied by payment of the renewal fee as specified in RCW  
12 48.14.010.

13 (5) If the request and fee for renewal of an insurance producer's,  
14 title insurance agent's, or adjuster's license are filed with the  
15 commissioner prior to expiration of the existing license, the licensee  
16 may continue to act under such license, unless sooner revoked or  
17 suspended, until the issuance of a renewal license, or until the  
18 expiration of fifteen days after the commissioner has refused to renew  
19 the license and has mailed notification of such refusal to the  
20 licensee. If the request and fee for the license renewal are not  
21 received by the expiration date, the authority conferred by the license  
22 ends on the expiration date.

23 (6) If the request for renewal of an insurance producer's, title  
24 insurance agent's, or adjuster's license and payment of the fee are not  
25 received by the commissioner prior to the expiration date, the  
26 applicant for renewal shall pay to the commissioner, in addition to the  
27 renewal fee, a surcharge as follows:

28 (a) For the first thirty days or part thereof of delinquency, the  
29 surcharge is fifty percent of the renewal fee;

30 (b) For the next thirty days or part thereof of delinquency, the  
31 surcharge is one hundred percent of the renewal fee.

32 (7) If the request for renewal of an insurance producer's, title  
33 insurance agent's, or adjuster's license and fee for the renewal are  
34 received by the commissioner after sixty days but prior to twelve  
35 months after the expiration date, the application is for reinstatement  
36 of the license and the applicant for reinstatement must pay to the  
37 commissioner the license fee and a surcharge of two hundred percent of  
38 the license fee.

1 (8) Subsections (6) and (7) of this section do not exempt any  
2 person from any penalty provided by law for transacting business  
3 without a valid and subsisting license or appointment.

4 (9) An individual insurance producer, title insurance agent, or  
5 adjuster who allows his or her license to lapse may, within twelve  
6 months after the expiration date, reinstate the same license without  
7 the necessity of passing a written examination.

8 (10) A licensed insurance producer who is unable to comply with  
9 license renewal procedures due to military service or some other  
10 extenuating circumstance such as a long-term medical disability, may  
11 request a waiver of those procedures. The producer may also request a  
12 waiver of any examination requirement or any other fine or sanction  
13 imposed for failure to comply with renewal procedures.

14 (11) The license shall contain the licensee's name, address,  
15 personal identification number, and the date of issuance, lines of  
16 authority, expiration date, and any other information the commissioner  
17 deems necessary.

18 (12) Licensees shall inform the commissioner by any means  
19 acceptable to the commissioner of a change of address within thirty  
20 days of the change. Failure to timely inform the commissioner of a  
21 change in legal name or address may result in a penalty under either  
22 RCW 48.17.530 or 48.17.560, or both.

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