

HOUSE BILL REPORT

HB 2457

As Reported by House Committee On:
Business & Financial Services

Title: An act relating to specialty producer licenses.

Brief Description: Addressing specialty producer licenses.

Sponsors: Representatives Kirby and Bailey.

Brief History:

Committee Activity:

Business & Financial Services: 1/24/12, 1/31/12 [DP].

Brief Summary of Bill

- Makes a number of changes to the regulatory framework for communications equipment insurance.
- Changes communication equipment to portable electronics.
- Changes standards for cancellation, nonrenewal, and changes in coverage.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: Do pass. Signed by 12 members: Representatives Kirby, Chair; Kelley, Vice Chair; Bailey, Ranking Minority Member; Buys, Assistant Ranking Minority Member; Blake, Condotta, Hudgins, Hurst, Kretz, Pedersen, Rivers and Ryu.

Staff: Jon Hedegard (786-7127).

Background:

Communications Equipment Insurance.

A retailer or "vendor" must be licensed by the Office of the Insurance Commissioner (OIC) as a specialty producer if the vendor wants to offer or sell insurance products related to communications equipment. "Communications equipment" includes cell phones, pagers, portable computers, and myriad other devices designed to originate or receive communications signals. A specialty producer license allows the vendor and the employees

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or authorized representatives of the vendor to sell or offer insurance related to the communications equipment. Before a license may be issued to a vendor, the vendor must be appointed as the agent of an authorized insurer. The vendor must affiliate with a licensed insurance agent who must supervise a training program for the vendor's employees. A vendor selling the communications equipment insurance must provide prospective customers with written materials disclosing the terms of the insurance.

The OIC may adopt rules regarding specialty producers including, but not limited to, rules regarding:

- the specialty producer license application process;
- the standards for approval and the required content of written materials;
- the approval and required content of training materials;
- license fees;
- requirements for the remittance of premium funds to the supervising agent under authority from the program insurer; and
- the applicability of other provisions of the Insurance Code.

Cancellation, Nonrenewal, and Changes in Terms.

There are notice standards for the cancellation of property and casualty policies. Generally, an insurer must provide written notice 45 days before the effective cancellation or nonrenewal. Cancellation due to nonpayment of premiums requires notice of 10 days. Generally, an insurer may not change the terms of a contract unless the change is filed with and approved by the Insurance Commissioner (Commissioner).

Summary of Bill:

The definition of communications equipment is replaced by "portable electronics." Portable electronics is defined as "personal, self-contained, easily carried by an individual, battery-operated electronic communication, viewing, listening, recording, gaming, computing or global positioning devices, including cell or satellite phones, pagers, personal global positioning satellite units, portable computers, portable audio listening, video viewing or recording devices, digital cameras, video camcorders, portable gaming systems, docking stations, automatic answering devices, and other similar devices and their accessories, and service related to the use of such devices."

Standards for an application for a specialty producer license are established. The application must include:

- the name, residence address, and other information required by the Commissioner. Information must be provided for all of the vendor's officers, directors, and shareholders of record having beneficial ownership of 10 percent or more of any class of securities registered under federal securities law if the vendor derives more than 50 percent of its revenue from the sale of portable electronics insurance;
- the location of the applicant's home office; and
- the required written disclosure materials.

Record-keeping.

A supervising entity must:

- maintain a registry of a vendor's locations in this state that are authorized to sell or solicit portable electronics insurance coverage; and
- provide the registry to the Commissioner within 10 days of a request.

Vendors.

An employee or authorized representative of a vendor may sell or offer portable electronics insurance to the vendor's customers without being individually licensed as an insurance producer if the vendor is licensed and is acting in compliance with the law and any OIC rules.

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

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

Vendors may receive compensation for billing and collection services.

Cancellation, Nonrenewal, and Policy Changes.

The cancellation provisions and the nonrenewal provisions that generally apply to property and casualty policies do not apply to portable electronics insurance policies.

An insurer may terminate or otherwise change the terms and conditions of a policy of portable electronics insurance after notice:

- of at least 30 days for the policyholder and enrolled customers; or
- of 15 days after discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim.

An insurer may immediately terminate an enrolled customer's enrollment under a portable electronics insurance policy:

- for nonpayment of premium;
- if the enrolled customer ceases to have an active service with the vendor of portable electronics; or
- if an enrolled customer exhausts an aggregate limit of liability under the terms of the portable electronics insurance policy and the insurer sends notice of termination to the enrolled customer within 30 calendar days after exhaustion of the limit. If notice is not timely, the enrollment continues until the insurer sends notice of termination to the enrolled customer.

If an insurer changes the terms and conditions, then the insurer must provide the vendor policyholder with a revised policy or endorsement and each enrolled customer 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.

When a portable electronics insurance policy is terminated by a policyholder, the policyholder must provide written notice to each enrolled customer advising the enrolled customer of the termination of the policy and the effective date of termination. The notice must be mailed or delivered to the enrolled customer at least 30 days prior to the termination. A notice and correspondence may be sent either by mail or by electronic means. If the notice or correspondence is mailed, it must be sent to the vendor of portable electronics at the vendor's mailing address specified for that purpose and to its affected enrolled customers' last known mailing addresses. The insurer or vendor of portable electronics, as the case may be, must maintain proof of mailing.

An enrolled customer consents to receive notices and correspondence by electronic mail if the customer provides an electronic mail address. An insurer or vendor of portable electronics must maintain proof that the notice or correspondence was sent. If a notice or correspondence is sent by electronic means, it must be sent to the vendor of portable electronics at the vendor's electronic mail address and to its affected enrolled customers' last known electronic mail address.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is an effort to update an outdated chapter in the Insurance Code. After a decade of use, this chapter has fallen out of date. Many common electronic devices do not fit within the existing statutes. Similar update legislation has been passed in about 20 states. The stakeholders and the OIC have been meeting on the subject and have resolved many of the issues. The work will continue, but it may be appropriate at some point to limit the scope of the bill and delay work on some issues that cannot be resolved in this short session.

(With concerns) The OIC is working with the stakeholders. The process has been delayed because the OIC did not receive a draft until a few weeks ago. The OIC will work to come to agreement on the issues. If action needs to be deferred in some areas, those will be identified and worked on over the interim.

(Opposed) None.

Persons Testifying: (In support) Representative Kirby, prime sponsor; and Mel Sorensen, Asurion.

(With concerns) John Hamje and Drew Bouton, Office of the Insurance Commissioner.

Persons Signed In To Testify But Not Testifying: None.