

EHB 2457 - S COMM AMD

By Committee on Financial Institutions, Housing & Insurance

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 48.120.005 and 2008 c 217 s 94 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

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

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

19 (3) (~~"Communications service" means the service necessary to send,~~
20 ~~receive, or originate communications signals)) "Portable electronics
21 transaction" means the sale or lease of portable electronics or the
22 sale of a service related to the use of portable electronics by a
23 vendor to a customer.~~

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

27 (5) "Specialty producer license" means a license issued under RCW
28 48.120.010 that authorizes a vendor to offer or sell insurance as
29 provided in RCW 48.120.015.

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

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

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

12 (9) "Federal securities law" means the securities act of 1933, the
13 securities exchange act of 1934, and the investment company act of
14 1940.

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

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

20 (1) A vendor that intends to offer insurance under RCW 48.120.015
21 must file a specialty producer license application with the
22 commissioner. Before the commissioner issues such a license, the
23 vendor must be appointed as the insurance producer of one or more
24 authorized appointing insurers under a vendor's specialty producer
25 license.

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

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

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

3 (1) A specialty producer license authorizes a vendor and its
4 employees and authorized representatives to offer and sell to, enroll
5 in, and bill and collect premiums from customers for insurance covering
6 ((communications—equipment)) portable electronics on a master,
7 corporate, group, or on an individual policy basis at each location at
8 which the vendor engages in portable electronics transactions.
9 However:

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

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

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

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

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

25 (b) Remits the funds to the supervising person within sixty days of
26 receipt.

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

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

35 (6) If portable electronics insurance coverage is included with the
36 purchase or lease of portable electronics or related services, the
37 vendor must clearly and conspicuously disclose to the enrolled customer

1 that the portable electronics insurance coverage is included with the
2 portable electronics or related services.

3 (7) Vendors may receive compensation for billing and collection
4 services.

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

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

9 (a) At every location where customers are enrolled in
10 ((communications equipment)) portable electronics insurance programs,
11 written material regarding the program is made available to prospective
12 customers that:

13 (i) Discloses that portable electronics insurance may provide a
14 duplication of coverage already provided by a customer's homeowner's
15 insurance policy, renter's insurance policy, or other source of
16 coverage;

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

20 (iii) Summarizes the material terms of the insurance coverage,
21 including the identity of the insurer, the identity of the supervising
22 person, the amount of any applicable deductible and how it is to be
23 paid, benefits of the coverage, and key terms and conditions of
24 coverage, such as whether portable electronics may be replaced with a
25 similar make and model or reconditioned make and model or repaired with
26 nonoriginal manufacturer parts or equipment;

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

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

35 (b) The ((communications equipment)) portable electronics insurance
36 program is operated with the participation of a supervising ((agent))

1 person who, with authorization and approval from the appointing
2 insurer, supervises a training program for employees of the licensed
3 vendor. The training must comply with the following:

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

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

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

15 (2) No employee or authorized representative of a vendor of
16 portable electronics may advertise, represent, or otherwise hold
17 himself or herself out as a nonlimited lines licensed insurance
18 producer.

19 ~~((+2))~~ (3) Employees and authorized representatives of a vendor
20 issued a specialty producer license may only act on behalf of the
21 vendor in the offer, sale, solicitation, or enrollment of customers in
22 a ~~((communications equipment)) portable electronics~~ insurance program.
23 The conduct of these employees and authorized representatives within
24 the scope of their employment or agency is the same as conduct of the
25 vendor for purposes of this title.

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

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

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

36 (b) "Disability," which is insurance coverage for accident, health,

1 and disability or sickness, bodily injury, or accidental death, and may
2 include benefits for disability income;

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

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

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

12 (f) "Personal lines," which is property and casualty insurance
13 coverage sold to individuals and families for primarily noncommercial
14 purposes;

15 (g) Limited lines:

16 (i) Surety;

17 (ii) Limited line credit insurance;

18 (iii) Travel;

19 (h) Specialty lines:

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

21 (ii) Rental car;

22 (iii) Self-service storage; or

23 (i) Any other line of insurance permitted under state laws or
24 rules.

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

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

32 (4) Subject to the right of the commissioner to suspend, revoke, or
33 refuse to renew any insurance producer's, title insurance agent's, or
34 adjuster's license as provided in this title, the license may be
35 renewed into another like period by filing with the commissioner by any
36 means acceptable to the commissioner on or before the expiration date
37 a request, by or on behalf of the licensee, for such renewal

1 accompanied by payment of the renewal fee as specified in RCW
2 48.14.010.

3 (5) If the request and fee for renewal of an insurance producer's,
4 title insurance agent's, or adjuster's license are filed with the
5 commissioner prior to expiration of the existing license, the licensee
6 may continue to act under such license, unless sooner revoked or
7 suspended, until the issuance of a renewal license, or until the
8 expiration of fifteen days after the commissioner has refused to renew
9 the license and has mailed notification of such refusal to the
10 licensee. If the request and fee for the license renewal are not
11 received by the expiration date, the authority conferred by the license
12 ends on the expiration date.

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

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

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

22 (7) If the request for renewal of an insurance producer's, title
23 insurance agent's, or adjuster's license and fee for the renewal are
24 received by the commissioner after sixty days but prior to twelve
25 months after the expiration date, the application is for reinstatement
26 of the license and the applicant for reinstatement must pay to the
27 commissioner the license fee and a surcharge of two hundred percent of
28 the license fee.

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

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

36 (10) A licensed insurance producer who is unable to comply with
37 license renewal procedures due to military service or some other
38 extenuating circumstance such as a long-term medical disability, may

1 request a waiver of those procedures. The producer may also request a
2 waiver of any examination requirement or any other fine or sanction
3 imposed for failure to comply with renewal procedures.

4 (11) The license shall contain the licensee's name, address,
5 personal identification number, and the date of issuance, lines of
6 authority, expiration date, and any other information the commissioner
7 deems necessary.

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

13 NEW SECTION. **Sec. 6.** A new section is added to chapter 48.17 RCW
14 to read as follows:

15 (1) An individual who collects claim information from, or furnishes
16 claim information to, insureds or claimants, and who enters data is not
17 an "adjuster" for the purpose of this chapter if both of the following
18 are satisfied:

19 (a) The individual's claim-related activity is limited exclusively
20 to claims originating from policies of insurance issued through a
21 portable electronics insurance program as defined in RCW 48.120.005(2);
22 and

23 (b) The individual is an employee of, and is supervised by, a
24 person that is licensed as an independent adjuster. For purposes of
25 this section, "employee" includes employees of entities under common
26 ownership with the licensed person.

27 (2) The person that is licensed as an independent adjuster must
28 maintain complete records of its employees engaged in the activity
29 described in subsection (1) of this section and must comply with either
30 (a) or (b) of this subsection:

31 (a) The person must submit a list of the names of all such
32 employees to the commissioner on forms prescribed by the commissioner
33 annually and must keep the list current by reporting all changes,
34 deletions, or additions within thirty days after the change, deletion,
35 or addition occurred. Each list must be retained by the licensed
36 independent adjuster for a period of three years from submission; or

1 (b) The person must maintain a system to track and document in the
2 claim records each employee engaged in the activity described in
3 subsection (1) of this section and, upon request of the commissioner,
4 must identify the employee who has engaged in the activity.

5 (3) The person licensed as an independent adjuster must provide a
6 training and education program for each employee engaged in the
7 activity described in subsection (1) of this section prior to allowing
8 the employee to engage in the activity. The training must include a
9 section on compliance with applicable insurance laws for which a
10 syllabus outlining the content of this section must be submitted to the
11 commissioner for approval prior to use, and resubmitted for approval of
12 any changes prior to use.

13 (4) The licensed independent adjuster that supervises the persons
14 engaged in the activity described in subsection (1) of this section is
15 responsible for their conduct. The commissioner may place on
16 probation, revoke, suspend, or refuse to renew the adjuster's license
17 of the independent adjuster, levy a civil penalty in accordance with
18 RCW 48.17.560, or any combination of actions for any of the causes for
19 which an adjuster's license may be revoked under this chapter for the
20 violation of any insurance laws, or any rule, subpoena, or order of the
21 commissioner by a person engaged in the activity described in
22 subsection (1) of this section who is employed by the licensed
23 adjuster."

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24 On page 1, line 1 of the title, after "licenses;" strike the
25 remainder of the title and insert "amending RCW 48.120.005, 48.120.010,
26 48.120.015, and 48.120.020; reenacting and amending RCW 48.17.170; and
27 adding a new section to chapter 48.17 RCW."

EFFECT: (1) Provides a licensing exemption for individuals

employed by a licensed independent adjuster to collect claim information for portable electronics equipment;

(2) Requires the licensed adjuster to keep and maintain records of employees engaged in such services;

(3) Requires the licensed adjuster to provide approved training to employees engaged in these services; and

(4) Holds the licensed adjuster liable for any unlawful conduct its employees engage in while providing these services.

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