

House Bill 1067 (COMMITTEE SUBSTITUTE)

By: Representatives Rogers of the 26th, Smith of the 131st, and Lindsey of the 54th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 33-23-12 of the Official Code of Georgia Annotated, relating to the
2 limited licenses for insurance agents, agencies, subagents, counselors, and adjustors, so as
3 to provide for the comprehensive revision of provisions regarding the issuance and regulation
4 of limited licenses to sell portable electronics insurance; to provide for related matters; to
5 repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 33-23-12 of the Official Code of Georgia Annotated, relating to limited
9 licenses for insurance agents, agencies, subagents, counselors, and adjustors, is amended by
10 revising subsection (a) as follows:

11 "(a) Except as provided in subsection (b) of this Code section for credit insurance licenses,
12 subsection (c) of this Code section for rental companies, and subsection (d) of this Code
13 section for ~~communications equipment~~ portable electronics, the Commissioner may
14 provide by rule or regulation for licenses which are limited in scope to specific lines or
15 sublines of insurance."

16 **SECTION 2.**

17 Said Code section is further amended by revising subsection (d) as follows:

18 "(d)(1) As used in this subsection, the term:

19 (A) 'Customer' means a person who purchases portable electronics or services.

20 (B) 'Enrolled customer' means a customer who elects coverage under a portable
21 electronics insurance policy issued to a vendor of portable electronics.

22 (C) 'Location' means any physical location in the State of Georgia or any website, call
23 center site, or similar location directed to residents of the State of Georgia.

24 (D) 'Portable electronics' ~~'communications equipment'~~ means handsets, pagers,
 25 personal digital assistants, portable computers, automatic answering devices, cellular
 26 telephones, batteries, and other similar devices ~~or and their accessories used to originate~~
 27 ~~or receive communications signals or service for individual customer use only~~ and
 28 includes services related to the use of such devices, including, but not limited to,
 29 individual customer access to a wireless network.

30 (E) 'Portable electronics insurance' means insurance providing coverage for the repair
 31 or replacement of portable electronics which may provide coverage for portable
 32 electronics against any one or more of the following causes of loss: loss, theft,
 33 inoperability due to mechanical failure, malfunction, damage, or other similar causes
 34 of loss. Such term shall not include a service contract or extended warranty providing
 35 coverage limited to the repair, replacement, or maintenance of property in cases of
 36 operational or structural failure due to a defect in materials, workmanship, accidental
 37 damage from handling power surges, or normal wear and tear.

38 (F) 'Portable electronics transaction' means the sale or lease of portable electronics by
 39 a vendor to a customer or the sale of a service related to the use of portable electronics
 40 by a vendor to a customer.

41 (G) 'Supervising entity' means a business entity that is a licensed insurer, or insurance
 42 producer that is authorized by licensed insurer, to supervise the administration of a
 43 portable electronics insurance program.

44 (H) 'Vendor' means a person in the business of engaging in portable electronics
 45 transactions directly or indirectly.

46 (2) The Commissioner may issue to a retail vendor of ~~communications equipment~~
 47 portable electronics that has complied with the requirements of this subsection a limited
 48 license authorizing the limited licensee to offer or sell ~~insurance policies covering only~~
 49 ~~the loss, theft, mechanical failure, or malfunction of or damage to communications~~
 50 equipment portable electronics insurance policies.

51 (3) A limited license issued under this subsection shall authorize any employee or
 52 authorized representative of the vendor to sell or offer coverage under a policy of portable
 53 electronics insurance to customers at each location where the vendor engages in portable
 54 electronics transactions.

55 (4) The supervising entity shall maintain a registry of vendor locations are authorized to
 56 sell or solicit portable electronics insurance coverage in this state. Upon request by the
 57 director and with ten days notice to the supervising entity, the registry shall be open to
 58 inspection and examination by the director during regular business hours of the
 59 supervising entity.

60 ~~(3)~~(5) The sale of such insurance policies shall be limited to sales in connection with the
 61 sale of or provision of service for ~~communications equipment~~ portable electronics by the
 62 retail vendor.

63 (6) At every location where portable electronics insurance is offered to customers,
 64 brochures or other written materials shall be made available to a prospective customer
 65 which:

66 (A) State that the enrollment by the customer in a portable electronics insurance
 67 program is not required in order to purchase or lease portable electronics or services;

68 (B) Summarize the material terms of the insurance coverage, including:

69 (i) The identity of the insurer;

70 (ii) The identity of the supervising entity;

71 (iii) The amount of any applicable deductible and how it is to be paid;

72 (iv) Benefits of the coverage; and

73 (v) Key terms and conditions of coverage such as whether portable electronics may
 74 be repaired or replaced with a similar make and model or with reconditioned or
 75 nonoriginal manufacturer parts or equipment;

76 (C) Summarize the process for filing a claim, including a description of how to return
 77 portable electronics and the maximum fee applicable in the event the customer fails to
 78 comply with any equipment return requirements; and

79 (D) State that an enrolled customer may cancel enrollment for coverage under a
 80 portable electronics insurance policy at any time and the person paying the premium
 81 shall receive a refund of any applicable unearned premium.

82 (7) Portable electronics insurance may be offered on a month-to-month or other periodic
 83 basis as a group or master commercial inland marine policy issued to a vendor of portable
 84 electronics for its enrolled customers. Coverage under portable electronics insurance
 85 shall be primary to any other insurance.

86 (8) Eligibility and underwriting standards for customers electing to enroll in coverage
 87 shall be established for each portable electronics insurance program.

88 (9) Notwithstanding any other provision of law, employees or authorized representatives
 89 of a vendor of portable electronics shall not be compensated based primarily on the
 90 number of customers enrolled for portable electronics insurance coverage but may
 91 receive compensation for activities under the limited license which are incidental to their
 92 overall compensation.

93 (10) The charges for portable electronics insurance coverage may be billed and collected
 94 by the vendor of portable electronics. Any charge to the enrolled customer for coverage
 95 that is not included in the cost associated with the purchase or lease of portable
 96 electronics or related services, shall be separately itemized on the enrolled customer's bill.

97 If the portable electronics insurance coverage is included with the purchase or lease of
 98 portable electronics or related services, the vendor shall clearly and conspicuously
 99 disclose to the enrolled customer that the portable electronics insurance coverage is
 100 included with the portable electronics or related services. Vendors billing and collecting
 101 such charges shall not be required to maintain such funds in a segregated account,
 102 provided that the vendor is authorized by the insurer to hold such funds in an alternative
 103 manner and remits such amounts to the supervising entity within 60 days of receipt. All
 104 funds received by a vendor from an enrolled customer for the sale of portable electronics
 105 insurance shall be considered funds held in trust by the vendor in a fiduciary capacity for
 106 the benefit of the insurer. Vendors may receive compensation for billing and collection
 107 services.

108 ~~(4)~~(11) As a prerequisite for issuance of a limited license under this subsection, there
 109 shall be filed with the Commissioner an application for such limited license or licenses
 110 in a form and manner prescribed by the Commissioner. The application shall provide:

111 (A) The name, residence address, and other information required by the Commissioner
 112 of an employee or officer of the vendor that is designated by the applicant as the person
 113 responsible for the vendor's compliance with the requirements of this subsection;

114 (B) If the vendor derives more than 50 percent of its revenue from the sale of portable
 115 electronics insurance, the information required by subparagraph (A) of this paragraph
 116 for all officers, directors, and shareholders of record having beneficial ownership of 10
 117 percent or more of any class of securities registered under the federal securities law;
 118 and

119 (C) The location of the applicant's home office.

120 (12) The employees and authorized representatives of vendors may sell or offer portable
 121 electronics insurance to customers and shall not be subject to licensure as an insurance
 122 producer under this Code section, provided that the supervising entity supervises the
 123 administration of ~~(5) Each retail vendor licensed pursuant to this subsection shall provide~~
 124 a training program in which employees and authorized representatives of such retail a
 125 vendor shall be trained by a licensed instructor and receive basic insurance instruction
 126 about the kind of coverage authorized in this subsection and offered for purchase by
 127 prospective purchasers of communications equipment or service. The training required
 128 by this subsection may be provided in electronic form. However, if provided in
 129 electronic form, the supervising entity shall implement a supplemental education program
 130 regarding the portable electronics insurance that is conducted and overseen by a licensed
 131 instructor.

132 ~~(6)~~(13) No prelicensing examination shall be required for issuance of such license.

- 133 (14) If a vendor or its employee or authorized representative violates any provision of
134 this subsection, the commissioner may impose any of the following penalties:
- 135 (A) After notice and hearing, fines not to exceed \$500.00 per violation or \$5,000.00 in
136 the aggregate for such conduct;
- 137 (B) After notice and hearing, other penalties that the commissioner deems necessary
138 and reasonable to carry out the purpose of this article, including:
- 139 (i) Suspending the privilege of transacting portable electronics insurance pursuant to
140 this subsection at specific business locations where violations have occurred; and
- 141 (ii) Suspending or revoking the ability of individual employees or authorized
142 representatives to act under the license;
- 143 (15) Notwithstanding any other provision of law:
- 144 (A) An insurer may terminate or otherwise change the terms and conditions of a policy
145 of portable electronics insurance only upon providing the policyholder and enrolled
146 customers with at least 60 days notice;
- 147 (B) If the insurer changes the terms and conditions, then the insurer shall provide the
148 vendor with a revised policy or endorsement and each enrolled customer with a revised
149 certificate, endorsement, updated brochure, or other evidence indicating a change in the
150 terms and conditions has occurred and a summary of material changes;
- 151 (C) Notwithstanding paragraph (15) of subsection (a) of this Code section, an insurer
152 may terminate an enrolled customer's enrollment under a portable electronics insurance
153 policy upon 15 days notice for discovery of fraud or material misrepresentation in
154 obtaining coverage or in the presentation of a claim;
- 155 (D) Notwithstanding paragraph (15) of subsection (a) of this Code section, an insurer
156 may immediately terminate an enrolled customer's enrollment under a portable
157 electronics insurance policy:
- 158 (i) For nonpayment of premium;
- 159 (ii) If the enrolled customer ceases to have an active service with the vendor of
160 portable electronics; or
- 161 (iii) If the enrolled customer exhausts the aggregate limit of liability, if any, under the
162 terms of the portable electronics insurance policy and the insurer sends notice of
163 termination to the enrolled customer within 30 calendar days after exhaustion of the
164 limit. However, if notice is not timely sent, enrollment shall continue notwithstanding
165 the aggregate limit of liability until the insurer sends notice of termination to the
166 enrolled customer; and
- 167 (E) Where a portable electronics insurance policy is terminated by a policyholder, the
168 vendor shall mail or deliver written notice to each enrolled customer advising the
169 enrolled customer of the termination of the policy and the effective date of termination.

170 The written notice shall be mailed or delivered to the enrolled customer at least 30 days
171 prior to the termination.

172 (16) Whenever notice or correspondence with respect to a policy of portable electronics
173 insurance is required pursuant to this subsection or is otherwise required by law, it shall
174 be in writing and sent within the notice period, if any, specified within the statute or
175 regulation requiring the notice or correspondence. Notwithstanding any other provision
176 of law, notices and correspondence may be sent either by mail or by electronic means as
177 set forth in this subparagraph. If the notice or correspondence is mailed, it shall be sent
178 to the vendor of portable electronics at the vendor's mailing address specified for such
179 purpose and to its affected enrolled customers' last known mailing addresses on file with
180 the insurer. The insurer or vendor of portable electronics, as the case may be, shall
181 maintain proof of mailing in a form authorized or accepted by the United States Postal
182 Service or other commercial mail delivery service. If the notice or correspondence is
183 sent by electronic means, it shall be sent to the vendor of portable electronics at the
184 vendor's electronic mail address specified for such purpose and to its affected enrolled
185 customers' last known electronic mail address as provided by each enrolled customer to
186 the insurer or vendor of portable electronics, as the case may be. For purposes of this
187 paragraph, an enrolled customer's provision of an electronic mail address to the insurer
188 or vendor of portable electronics, as the case may be, shall be deemed as consent to
189 receive notices and correspondence by electronic means. The insurer or vendor of
190 portable electronics, as the case may be, shall maintain proof that the notice or
191 correspondence was sent.

192 (17) Notice or correspondence required by this subsection or otherwise required by law
193 may be sent on behalf of an insurer or vendor, as the case may be, by the supervising
194 entity appointed by the insurer."

195 **SECTION 3.**

196 All laws and parts of laws in conflict with this Act are repealed.