

House Bill 1198

By: Representatives Gullett of the 19th and Lumsden of the 12th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 23 of Title 33 of the Official Code of Georgia Annotated,
2 relating to agents, agencies, subagents, counselors, and adjusters relative to insurance
3 licensing, so as to provide for a limited license to offer or sell portable electronics and
4 consumer goods insurance; to revise definitions; to provide for conforming changes; to
5 provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 23 of Title 33 of the Official Code of Georgia Annotated, relating to
9 agents, agencies, subagents, counselors, and adjusters relative to insurance licensing, is
10 amended in Code Section 33-23-1, relating to definitions, by revising paragraph (3.1) of
11 subsection (a) of as follows:

12 "(3.1) 'Automated claims adjudication system' means a preprogrammed computer system
13 designed for the collection, data entry, calculation, and final resolution of property
14 insurance claims used only for portable electronics and consumer goods as defined in
15 paragraph (1) of subsection (d) of Code Section 33-23-12 which:

- 16 (A) May only be utilized by a licensed independent adjuster, licensed agent, or
 17 supervised individuals operating pursuant to this paragraph;
 18 (B) Shall comply with all claims payment requirements of the Georgia Insurance Code;
 19 and
 20 (C) Shall be certified as compliant with this Code section by a licensed independent
 21 adjuster that is an officer of a business entity licensed under this chapter."

22 **SECTION 2.**

23 Said article is further amended in Code Section 33-23-12, relating to limited licenses, by
 24 revising subsections (a) and (d) as follows:

25 "(a) Except as provided in ~~subsection~~ subsections (b) and (b.1) of this Code section for
 26 credit insurance licenses, ~~subsection (b.1) of this Code section~~, subsection (c) of this Code
 27 section for rental companies, subsection (d) of this Code section for portable electronics
 28 and consumer goods, subsection (e) of this Code section for self-service storage facilities,
 29 and subsection (f) of this Code section for travel insurance, the Commissioner may provide
 30 by rule or regulation for licenses which are limited in scope to specific lines or sublines of
 31 insurance."

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

33 (A) 'Consumer goods' means goods that are used or bought for use primarily for
 34 personal, family, or household purposes.

35 (B) 'Customer' means a person who purchases portable electronics and consumer goods
 36 or related services.

37 ~~(B)~~(C) 'Enrolled customer' means a customer who elects coverage under a portable
 38 electronics and consumer goods insurance policy issued to a vendor of portable
 39 electronics and consumer goods.

40 ~~(C)~~(D) 'Location' means any physical location in this state or any website, call center
 41 site, or similar location directed to residents of this state.

42 ~~(D)~~(E) 'Portable electronics' means equipment that is not permanently affixed; is
43 capable of being moved; has electrical, digital, magnetic, wireless, optical,
44 electromagnetic, or similar capabilities; operates using batteries, rechargeable power
45 sources, or other energy sources; and may incorporate features responsive to user input
46 or environmental conditions. ~~handsets, pagers, personal digital assistants, portable~~
47 ~~computers, automatic answering devices, cellular telephones, batteries, and other~~
48 ~~similar devices and their accessories and includes services related to the use of such~~
49 ~~devices, including, but not limited to, individual customer access to a wireless network.~~
50 (E)(F) 'Portable electronics and consumer goods insurance' means insurance providing
51 coverage for the repair or replacement of portable electronics and consumer goods
52 which may provide coverage for portable electronics and consumer goods against any
53 one or more of the following: loss, theft, inoperability due to mechanical failure,
54 malfunction, damage, or other similar causes of loss. Such term shall not include a
55 service contract or extended warranty providing coverage limited to the repair,
56 replacement, or maintenance of property in cases of operational or structural failure due
57 to a defect in materials, workmanship, accidental damage from handling power surges,
58 or normal wear and tear.
59 (F)(G) 'Portable electronics and consumer goods transaction' means the sale or lease
60 of portable electronics and consumer goods by a vendor to a customer or the sale of a
61 service related to the use of portable electronics and consumer goods by a vendor to a
62 customer.
63 (G)(H) 'Supervising entity' means a business entity that is a licensed insurer, or
64 insurance producer that is authorized by a licensed insurer, to supervise the
65 administration of a portable electronics and consumer goods insurance program.
66 (H)(I) 'Vendor' means a person in the business of engaging in portable electronics and
67 consumer goods transactions directly or indirectly.

68 (2) The Commissioner may issue to a retail vendor of portable electronics and consumer
69 goods that has complied with the requirements of this subsection a limited license
70 authorizing the limited licensee to offer or sell portable electronics and consumer goods
71 insurance policies.

72 (3) A limited license issued under this subsection shall authorize any employee or
73 authorized representative of the vendor to sell or offer coverage under a policy of portable
74 electronics and consumer goods insurance to customers at each location where the vendor
75 engages in portable electronics and consumer goods transactions.

76 (4) The supervising entity shall maintain a registry of vendor locations that are
77 authorized to sell or solicit portable electronics and consumer goods insurance coverage
78 in this state. Upon request by the Commissioner and with ten days' notice to the
79 supervising entity, the registry shall be open to inspection and examination by the
80 Commissioner during regular business hours of the supervising entity.

81 (5) The sale of such insurance policies shall be limited to sales in connection with the
82 sale of or provision of service for portable electronics and consumer goods by the retail
83 vendor.

84 (6) At every location where portable electronics and consumer goods insurance is offered
85 to customers, brochures or other written materials shall be made available to a
86 prospective customer which:

87 (A) State that the enrollment by the customer in a portable electronics and consumer
88 goods insurance program is not required in order to purchase or lease portable
89 electronics and consumer goods or related services;

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

91 (i) The identity of the insurer;

92 (ii) The identity of the supervising entity;

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

94 (iv) Benefits of the coverage; and

- 95 (v) Key terms and conditions of coverage such as whether portable electronics and
96 consumer goods may be repaired or replaced with a similar make and model or with
97 reconditioned or nonoriginal manufacturer parts or equipment;
- 98 (C) Summarize the process for filing a claim, including a description of how to return
99 portable electronics and consumer goods and the maximum fee applicable in the event
100 the customer fails to comply with any equipment return requirements; and
- 101 (D) State that an enrolled customer may cancel enrollment for coverage under a
102 portable electronics and consumer goods insurance policy at any time and the person
103 paying the premium shall receive a refund of any applicable unearned premium.
- 104 (7) Portable electronics and consumer goods insurance may be offered on a
105 month-to-month or other periodic basis as a group or master commercial inland marine
106 policy issued to a vendor of portable electronics and consumer goods for its enrolled
107 customers. Coverage under portable electronics and consumer goods insurance shall be
108 primary to any other insurance.
- 109 (8) Eligibility and underwriting standards for customers electing to enroll in coverage
110 shall be established for each portable electronics and consumer goods insurance program.
- 111 (9) Notwithstanding any other provision of law, employees or authorized representatives
112 of a vendor of portable electronics and consumer goods shall not be compensated based
113 primarily on the number of customers enrolled for portable electronics and consumer
114 goods insurance coverage but may receive compensation for activities under the limited
115 license which are incidental to their overall compensation.
- 116 (10) The charges for portable electronics and consumer goods insurance coverage may
117 be billed and collected by the vendor of portable electronics and consumer goods. Any
118 charge to the enrolled customer for coverage that is not included in the cost associated
119 with the purchase or lease of portable electronics and consumer goods or related services,
120 shall be separately itemized on the enrolled customer's bill. If the portable electronics
121 and consumer goods insurance coverage is included with the purchase or lease of portable

122 electronics and consumer goods or related services, the vendor shall clearly and
123 conspicuously disclose to the enrolled customer that the portable electronics and
124 consumer goods insurance coverage is included with the portable electronics and
125 consumer goods or related services. Vendors billing and collecting such charges shall not
126 be required to maintain such funds in a segregated account, provided that the vendor is
127 authorized by the insurer to hold such funds in an alternative manner and remits such
128 amounts to the supervising entity within 60 days of receipt. All funds received by a
129 vendor from an enrolled customer for the sale of portable electronics and consumer goods
130 insurance shall be considered funds held in trust by the vendor in a fiduciary capacity for
131 the benefit of the insurer. Vendors may receive compensation for billing and collection
132 services.

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

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

139 (B) If the vendor derives more than 50 percent of its revenue from the sale of portable
140 electronics and consumer goods insurance, the information required by subparagraph
141 (A) of this paragraph for all officers, directors, and shareholders of record having
142 beneficial ownership of 10 percent or more of any class of securities registered under
143 the federal securities law; and

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

145 (12) The employees and authorized representatives of vendors may sell or offer portable
146 electronics and consumer goods insurance to customers and shall not be subject to
147 licensure as an insurance producer under this Code section, provided that the supervising
148 entity supervises the administration of a training program in which employees and

149 authorized representatives of a vendor shall be trained and receive basic insurance
150 instruction about the kind of coverage authorized in this subsection and offered for
151 purchase by prospective purchasers. The training required by this subsection may be
152 provided in electronic form. However, if provided in electronic form, the supervising
153 entity shall implement a supplemental education program regarding the portable
154 electronics and consumer goods insurance that is conducted and overseen by an instructor
155 licensed under this article.

156 (13) No prelicensing examination shall be required for issuance of such license.

157 (14) If a vendor or its employee or authorized representative violates any provision of
158 this subsection, the Commissioner may impose any of the following penalties:

159 (A) After notice and hearing, fines not to exceed \$500.00 per violation or \$5,000.00
160 in the aggregate for such conduct;

161 (B) After notice and hearing, other penalties that the Commissioner deems necessary
162 and reasonable to carry out the purpose of this article, including:

163 (i) Suspending the privilege of transacting portable electronics and consumer goods
164 insurance pursuant to this subsection at specific business locations where violations
165 have occurred; and

166 (ii) Suspending or revoking the ability of individual employees or authorized
167 representatives to act under the license;

168 (15) Notwithstanding any other provision of law:

169 (A) An insurer may terminate or otherwise change the terms and conditions of a policy
170 of portable electronics and consumer goods insurance only upon providing the
171 policyholder and enrolled customers with at least 60 days' notice;

172 (B) If the insurer changes the terms and conditions, then such insurer shall provide the
173 vendor with a revised policy or endorsement and each enrolled customer with a revised
174 certificate, endorsement, updated brochure, or other evidence indicating a change in the
175 terms and conditions has occurred and a summary of such changes;

176 (C) Notwithstanding subparagraph (A) of this paragraph, an insurer may terminate an
177 enrolled customer's enrollment under a portable electronics and consumer goods
178 insurance policy upon 15 days' notice for discovery of fraud or material
179 misrepresentation in obtaining coverage or in the presentation of a claim;

180 (D) Notwithstanding subparagraph (A) of this paragraph, an insurer may immediately
181 terminate an enrolled customer's enrollment under a portable electronics and consumer
182 goods insurance policy:

183 (i) For nonpayment of premium;

184 (ii) If the enrolled customer ceases to have an active service with the vendor of
185 portable electronics and consumer goods; or

186 (iii) If the enrolled customer exhausts the aggregate limit of liability, if any, under the
187 terms of the portable electronics and consumer goods insurance policy and the insurer
188 sends notice of termination to the enrolled customer within 30 calendar days after
189 exhaustion of the limit. However, if notice is not timely sent, enrollment shall
190 continue notwithstanding the aggregate limit of liability until the insurer sends notice
191 of termination to the enrolled customer; and

192 (E) When a portable electronics and consumer goods insurance policy is terminated by
193 a policyholder, the vendor shall mail or deliver written notice to each enrolled customer
194 advising the enrolled customer of the termination of the policy and the effective date
195 of termination. The written notice shall be mailed or delivered to the enrolled customer
196 at least 30 days prior to the termination.

197 (16) Whenever notice or correspondence with respect to a policy of portable electronics
198 and consumer goods insurance is required pursuant to this subsection or is otherwise
199 required by law, it shall be in writing and sent within the notice period, if any, specified
200 within the statute or regulation requiring the notice or correspondence. Notwithstanding
201 any other provision of law, notices and correspondence may be sent either by mail or by
202 electronic means as set forth in this paragraph. If the notice or correspondence is mailed,

203 it shall be sent to the vendor of portable electronics and consumer goods at the vendor's
204 mailing address specified for such purpose and to its affected enrolled customers' last
205 known mailing addresses on file with the insurer. The insurer or vendor of portable
206 electronics and consumer goods, as the case may be, shall maintain proof of mailing in
207 a form authorized or accepted by the United States Postal Service or other commercial
208 mail delivery service. If the notice or correspondence is sent by electronic means, it shall
209 be sent to the vendor of portable electronics and consumer goods at the vendor's email
210 address specified for such purpose and to its affected enrolled customers' last known
211 email address as provided by each enrolled customer to the insurer or vendor of portable
212 electronics and consumer goods, as the case may be. For purposes of this paragraph, an
213 enrolled customer's provision of an email address to the insurer or vendor of portable
214 electronics and consumer goods, as the case may be, shall be deemed as consent to
215 receive notices and correspondence by electronic means. The insurer or vendor of
216 portable electronics and consumer goods, as the case may be, shall maintain proof that
217 the notice or correspondence was sent.

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

221

SECTION 3.

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