



1 mechanical failure, malfunction, damage or other similar causes of loss;  
2 (ii) “Portable electronics insurance” does not include:  
3 (A) A service contract or extended warranty providing coverage limited to the repair,  
4 replacement or maintenance of property for the operational or structural failure of property due to  
5 a defect in materials, workmanship, accidental damage from handling, power surges, or normal  
6 wear and tear;  
7 (B) A policy of insurance covering a seller’s or a manufacturer’s obligations under a  
8 warranty; or  
9 (C) A homeowner’s, renter’s, private passenger automobile, commercial multi-peril, or  
10 similar policy;  
11 (8) “Portable electronics transaction” means:  
12 (i) The sale or lease of portable electronics by a vendor to a customer; or  
13 (ii) The sale of a service related to the use of portable electronics by a vendor to a  
14 customer;  
15 (9) “Supervising entity” means a business entity that is a licensed insurer or insurance  
16 producer that is authorized by an insurer to supervise the administration of a portable electronics  
17 insurance program;  
18 (10) “Vendor” means a person in the business of engaging in portable electronics  
19 transactions directly or indirectly.  
20 **27-2.7-2. Licensure of vendors. --** (a) A vendor is required to hold a portable electronics  
21 insurance vendor license to sell or offer coverage under a policy of portable electronics insurance.  
22 (b) A portable electronics insurance vendor license issued under this chapter shall  
23 authorize any employee or authorized representative of the vendor to sell or offer coverage under  
24 a policy of portable electronics insurance to a customer at each location at which the entity  
25 engages in portable electronics transactions.  
26 (c) The supervising entity shall maintain a registry of vendor locations which are  
27 authorized to sell or solicit portable electronics insurance coverage in this state. Upon request by  
28 the insurance commissioner and with ten (10) days notice to the supervising entity, the registry  
29 shall be open to inspection and examination by the insurance commissioner during regular  
30 business hours of the supervising entity.  
31 (d) Notwithstanding any other provision of law, a license issued pursuant to this section  
32 shall authorize the licensee and its employees or authorized representatives to engage in those  
33 activities that are permitted in this section.  
34 **27-2.7-3. Requirements for sale of portable electronics insurance. --** (a) At every

1 location where portable electronics insurance is offered to customers, brochures or other written  
2 materials must be made available to a prospective customer which:

3 (1) Disclose that portable electronics insurance may provide a duplication of coverage  
4 already provided by a customer's homeowner's insurance policy, renter's insurance policy or  
5 other source of coverage;

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

8 (3) Summarize the material terms of the insurance coverage, including:

9 (i) The identity of the insurer;

10 (ii) The identity of the supervising entity;

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

12 (iv) Benefits of the coverage; and

13 (v) Key terms and conditions of coverage such as whether portable electronics may be  
14 repaired or replaced with similar make and model reconditioned or non-original manufacturer  
15 parts or equipment;

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

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

22 (b) Portable electronics insurance may be offered on a month to month or other periodic  
23 basis as a group or master commercial inland marine policy issued to a vendor of portable  
24 electronics for its enrolled customers.

25 (c) Eligibility and underwriting standards for customers electing to enroll in coverage  
26 shall be established for each portable electronics insurance program.

27 **27-2.7-4. Authority of vendors of portable electronics. --** (a) The employees and  
28 authorized representatives of vendors may sell or offer portable electronics insurance to  
29 customers and shall not be subject to licensure as an insurance producer under this title provided  
30 that:

31 (1) The vendor obtains a portable electronics insurance vendor license to authorize its  
32 employees or authorized representatives to sell or offer portable electronics insurance pursuant to  
33 this section;

34 (2) The insurer issuing the portable electronics insurance either directly supervises or

1 appoints a supervising entity to supervise the administration of the program including  
2 development of a training program for employees and authorized representatives of the vendors.  
3 The training required by this subdivision shall comply with the following:

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

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

11 (iii) Each employee and authorized representative shall receive basic instruction about the  
12 portable electronics insurance offered to customers and the disclosures required under section 27-  
13 2.7-3; and

14 (3) No employee or authorized representative of a vendor of portable electronics shall  
15 advertise, represent or otherwise hold himself or herself out as a licensed insurance producer.

16 (b) Notwithstanding any other provision of law, employees or authorized representatives  
17 of a vendor of portable electronics shall not be compensated based primarily on the number of  
18 customers enrolled for portable electronics insurance coverage but may receive compensation for  
19 activities under the limited lines license which is incidental to their overall compensation.

20 (c) The charges for portable electronics insurance coverage may be billed and collected  
21 by the vendor of portable electronics. Any charge to the enrolled customer for coverage that is not  
22 included in the cost associated with the purchase or lease of portable electronics or related  
23 services shall be separately itemized on the enrolled customer's bill. If the portable electronics  
24 insurance coverage is included with the purchase or lease of portable electronics or related  
25 services the vendor shall clearly and conspicuously disclose to the enrolled customer that the  
26 portable electronics insurance coverage is included with the portable electronics or related  
27 services. Vendors billing and collecting such charges shall not be required to maintain such funds  
28 in a segregated account provided that the vendor is authorized by the insurer to hold such funds in  
29 an alternative manner and remits such amounts to the supervising entity within sixty (60) days of  
30 receipt. All funds received by a vendor from an enrolled customer for the sale of portable  
31 electronics insurance shall be considered funds held in trust by the vendor in a fiduciary capacity  
32 for the benefit of the insurer. Vendors may receive compensation for billing and collection  
33 services.

34 **27-2.7-5. Suspension or Revocation of License. -- If a portable electronics insurance**

1 vendor or its employee or authorized representative violates any provision of this section, the  
2 insurance commissioner may do any of the following:

3 (1) After notice and hearing, impose fines not to exceed five hundred dollars (\$500) per  
4 violation or five thousand dollars (\$5,000) in the aggregate for such conduct.

5 (2) After notice and hearing, impose other penalties that the commissioner deems  
6 necessary and reasonable to carry out the purposes of this chapter, including:

7 (i) Suspending the privilege of transacting portable electronics insurance pursuant to this  
8 section at specific business locations where violations have occurred; and

9 (ii) Suspending or revoking the ability of individual employees or authorized  
10 representatives to act under the license; and

11 (3) Any other penalties appropriate under section 42-14-16.

12 **27-2.7-6. Termination of Portable Electronics Insurance.** -- Notwithstanding any other  
13 provision of law:

14 (1) An insurer may terminate or otherwise change the terms and conditions of a policy of  
15 portable electronics insurance only upon providing the vendor and its enrolled customers with at  
16 least thirty (30) days notice. An insurer may not change the terms and conditions of a policy of  
17 portable electronics insurance more than once in any six (6) month period.

18 (2) If the insurer changes the terms and conditions, then the insurer shall provide the  
19 vendor with a revised policy or endorsement and each enrolled customer with a revised  
20 certificate, endorsement, updated brochure, or other evidence indicating a change in the terms and  
21 conditions has occurred and a summary of material changes.

22 (3) Notwithstanding subdivision (1) of this section, an insurer may terminate an enrolled  
23 customer's enrollment under a portable electronics insurance policy upon fifteen (15) days notice  
24 for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation  
25 of a claim thereunder.

26 (4) Notwithstanding subdivision (1) of this section, an insurer may immediately terminate  
27 an enrolled customer's enrollment under a portable electronics insurance policy:

28 (i) For nonpayment of premium;

29 (ii) If the enrolled customer ceases to have an active service with the vendor of portable  
30 electronics; or

31 (5) If an enrolled customer exhausts the aggregate limit of liability, if any, under the  
32 terms of the portable electronics insurance policy and the insurer sends notice of termination to  
33 the enrolled customer within thirty (30) calendar days after exhaustion of the limit. However, if  
34 notice is not timely sent, enrollment shall continue notwithstanding the aggregate limit of liability

1 until the insurer sends notice of termination to the enrolled customer.

2 (6) Where a portable electronics insurance policy is terminated by a vendor, the vendor  
3 shall mail or deliver written notice to each enrolled customer advising the enrolled customer of  
4 the termination of the policy and the effective date of termination. The written notice shall be  
5 mailed or delivered to the enrolled customer at least thirty (30) days prior to the termination.

6 (7) Whenever notice or correspondence with respect to a policy of portable electronics  
7 insurance is required pursuant to this section or is otherwise required by law, it shall be in writing  
8 and sent within the notice period, if any, specified within the statute or regulation requiring the  
9 notice or correspondence. Notwithstanding any other provision of law, notices and  
10 correspondence may be sent either by mail or by electronic means as set forth in this subdivision.  
11 If the notice or correspondence is mailed, it shall be sent to the vendor of portable electronics at  
12 the vendor's mailing address specified for such purpose and to its affected enrolled customers'  
13 last known mailing addresses on file with the insurer. The insurer or vendor of portable  
14 electronics, as the case may be, shall maintain proof of mailing in a form authorized or accepted  
15 by the United States postal service or other commercial mail delivery service. If the notice or  
16 correspondence is sent by electronic means, it shall be sent to the vendor of portable electronics at  
17 the vendor's electronic mail address specified for such purpose and to its affected enrolled  
18 customers' last known electronic mail address as provided by each enrolled customer to the  
19 insurer or vendor of portable electronics, as the case may be. For purposes of this subdivision, an  
20 enrolled customer's provision of an electronic mail address to the insurer or vendor of portable  
21 electronics, as the case may be, shall be deemed consent to receive notices and correspondence by  
22 electronic means. The insurer or vendor of portable electronics, as the case may be, shall maintain  
23 proof that the notice or correspondence was sent.

24 (8) Notice or correspondence required by this section or otherwise required by law may  
25 be sent on behalf of an insurer or vendor, as the case may be, by the supervising entity appointed  
26 by the insurer.

27 **27-2.7-7. Application for License and Fees.** -- (a) A sworn application for a license  
28 under this chapter shall be made to and filed with the department on forms prescribed and  
29 furnished by the department in accordance with the provisions of subdivision 27-2.4-9(a)(8).

30 (b) The application shall:

31 (1) Provide the name, residence address, and other information required by the  
32 department for an employee or officer of the vendor that is designated by the applicant as the  
33 person responsible for the vendor's compliance with the requirements of this chapter. However, if  
34 the vendor derives more than fifty percent (50%) of its revenue from the sale of portable

1 electronics insurance the information noted above shall be provided for all officers, directors, and  
2 shareholder of record having beneficial ownership of ten percent (10%) or more of any class of  
3 securities registered under the federal securities law; and

4 (c) The location of the applicant's home office.

5 (d) Any license under this chapter is subject to all applicable provisions of chapter 27-2.4  
6 of this title, including, but not limited to, notification of change of address, lapse of license,  
7 notification of administrative actions, assumed names and basis for suspension or revocation of  
8 license; provided however, in the event there is a conflict between the provisions of this chapter  
9 and chapter 27-2.4, this chapter shall prevail.

10 (e) Any vendor engaging in portable electronics insurance transactions on or before the  
11 effective date of this chapter must apply for licensure within ninety (90) days of the application  
12 being made available by the department. Any applicant commencing operations after the effective  
13 date of this chapter must obtain a license prior to offering portable electronics insurance.

14 (f) Initial licenses issued pursuant to this chapter shall be valid for a period of two (2)  
15 calendar years expiring on May 31 of the second (2<sup>nd</sup>) renewal year. Applicants for an initial  
16 license shall pay the full two (2) year fee regardless of the number of months of the initial  
17 licensure. Renewal licenses shall be effective for twenty-four (24) months effective and expiring  
18 on May 31.

19 (g) Each vendor of portable electronics licensed under this chapter shall pay to the  
20 department a fee of two hundred dollars (\$200) for an initial license and for each renewal thereof.  
21 The department is authorized to institute miscellaneous fees for this license type in accordance  
22 with section 27-2.4-4.

23 SECTION 2. This act shall take effect on July 1, 2012.

=====  
LC01595  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO INSURANCE - PORTABLE ELECTRONICS INSURANCE

\*\*\*

1           This act would create regulations for portable electronics insurance including requiring  
2 licenses for vendors of portable electronics insurance, mandating disclosures to customers  
3 regarding portable electronics insurance, requiring training for employees and authorized  
4 representatives of vendors of portable electronics regarding portable electronics insurance and  
5 providing provisions for termination of portable electronics insurance.

6           This act would take effect July 1, 2012.

=====  
LC01595  
=====