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# A BILL FOR AN ACT

RELATING TO PORTABLE ELECTRONICS INSURANCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 431, Hawaii Revised Statutes, is  
2 amended by adding a new article to be appropriately designated  
3 and to read as follows:

4   **"ARTICLE**

5                                   **PORTABLE ELECTRONICS INSURANCE**

6           **§431: -101 Definitions.** For purposes of this article:

7           "Customer" means a person who purchases portable  
8 electronics or services.

9           "Enrolled customer" means a customer who elects coverage  
10 under a portable electronics insurance policy issued to a vendor  
11 of portable electronics.

12           "Location" means any physical location in the State or any  
13 website, call-center site, or similar location directed to  
14 residents of the State.

15           "Portable electronics" means electronic devices that are  
16 portable in nature, and the accessories and services related to  
17 the use of the device.



1 "Portable electronics insurance" means insurance providing  
2 coverage for the repair or replacement of portable electronics,  
3 which may provide coverage for portable electronics against any  
4 one or more of the following: loss, theft, inoperability due to  
5 mechanical failure, malfunction, damage, or other similar  
6 causes. The term does not include:

- 7 (1) A service contract, as defined by section 481X-2;  
8 (2) A policy of insurance covering a seller's or  
9 manufacturer's obligations under a warranty; or  
10 (3) A homeowner's, renter's, private passenger automobile,  
11 commercial multi-peril, or similar insurance policy.

12 "Portable electronics transaction" means:

- 13 (1) The sale or lease of portable electronics by a vendor  
14 to a customer; or  
15 (2) The sale of a service related to the use of portable  
16 electronics by a vendor to a customer.

17 "Supervising entity" means a business entity that is a  
18 licensed insurer or insurance producer that is appointed or  
19 authorized by an insurer to supervise the administration of a  
20 portable electronics insurance program.

21 "Vendor" means a person in the business of directly or  
22 indirectly engaging in portable electronics transactions.



1           **§431: -102 Licensure of vendors.** (a) A vendor shall  
2 hold a limited lines license to sell or offer coverage under a  
3 policy of portable electronics insurance.

4           (b) A limited lines license issued under this section  
5 shall authorize any employee or authorized representative of the  
6 vendor to sell or offer coverage under a policy of portable  
7 electronics insurance to a customer at each location at which  
8 the vendor engages in portable electronics transactions.

9           (c) The supervising entity shall maintain a registry of  
10 vendor locations that are authorized to sell or solicit portable  
11 electronics insurance coverage in the State. Upon request by  
12 the commissioner and with ten days' notice to the supervising  
13 entity, the registry shall be open to inspection and examination  
14 by the commissioner during regular business hours of the  
15 supervising entity.

16           (d) Notwithstanding any law to the contrary, a license  
17 issued pursuant to this section shall authorize the licensee and  
18 its employees or authorized representatives to engage in the  
19 activities that are permitted in this section.

20           **§431: -103 Requirements for sale of portable electronics**  
21 **insurance.** (a) At every location at which portable electronics  
22 insurance is offered to customers, brochures or other written



1 materials shall be made available to prospective customers. The  
2 brochures or other written materials shall:

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

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

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

12 (A) The identity of the insurer;

13 (B) The identity of the supervising entity;

14 (C) The amount of any applicable deductible and how  
15 it is to be paid;

16 (D) The benefits of the coverage; and

17 (E) The key terms and conditions of coverage, such as  
18 whether portable electronics may be repaired or  
19 replaced with a similar make and model  
20 reconditioned, or with non-original manufacturer  
21 parts or equipment;



1 (4) Summarize the process for filing a claim, including a  
2 description of how to return portable electronics and  
3 the maximum fee applicable if the customer fails to  
4 comply with any equipment-return requirements; and

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

10 (b) Portable electronics insurance may be offered on a  
11 month-to-month or other periodic basis as a group or master  
12 commercial inland marine policy issued to a vendor for its  
13 enrolled customers.

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

17 §431: -104 Authority of vendors. (a) The employees and  
18 authorized representatives of vendors may sell or offer portable  
19 electronics insurance to customers and shall not be subject to  
20 licensure as an insurance producer under this chapter, provided  
21 that:



- 1           (1) The vendor obtains a limited lines license to  
2           authorize its employees or authorized representatives  
3           to sell or offer portable electronics insurance  
4           pursuant to this section;
- 5           (2) The insurer issuing the portable electronics insurance  
6           either directly supervises or appoints a supervising  
7           entity to supervise the administration of a portable  
8           electronics insurance program, including development  
9           of a training program for employees and authorized  
10          representatives of the vendors. The training shall  
11          comply with the following:
- 12          (A) The training shall be delivered to employees and  
13          authorized representatives of a vendor who are  
14          directly engaged in the activity of selling or  
15          offering portable electronics insurance;
- 16          (B) The training may be provided in electronic form;  
17          provided that, if the training is conducted in an  
18          electronic form, the supervising entity shall  
19          implement a supplemental education program  
20          regarding the portable electronics insurance  
21          product that is conducted and overseen by a  
22          licensed employee of the supervising entity; and



1           (C) Each employee and authorized representative shall  
2           receive basic instruction about the portable  
3           electronics insurance offered to customers and  
4           the disclosures required under section 431: -  
5           103; and

6           (3) No employee or authorized representative of a vendor  
7           shall advertise, represent, or otherwise portray the  
8           employee or representative as a non-limited lines  
9           licensed insurance producer.

10          (b) The charges for portable electronics insurance  
11 coverage may be billed and collected by the vendor. Any charge  
12 to the enrolled customer for coverage that is not included in  
13 the cost associated with the purchase or lease of portable  
14 electronics or related services shall be separately itemized on  
15 the enrolled customer's bill. If the portable electronics  
16 insurance coverage is included with the purchase or lease of  
17 portable electronics or related services, the vendor shall  
18 clearly and conspicuously disclose to the enrolled customer that  
19 the portable electronics insurance coverage is included with the  
20 purchase or lease of portable electronics or related services.  
21 Vendors billing and collecting the charges shall not be required  
22 to maintain the funds in a segregated account; provided that the



1 vendor is authorized by the insurer to hold the funds in an  
2 alternative manner and remits the amounts to the supervising  
3 entity within sixty days of receipt. All funds received by a  
4 vendor from an enrolled customer for the sale of portable  
5 electronics insurance shall be considered funds held in trust by  
6 the vendor in a fiduciary capacity for the benefit of the  
7 insurer. Vendors may receive compensation for billing and  
8 collection services.

9 §431: -105 Sanctions for violations. The vendor or its  
10 employee or authorized representative shall be subject to  
11 sanctions pursuant to this chapter for the violation of any  
12 provision of this chapter.

13 §431: -106 Termination or modification of portable  
14 electronics insurance. (a) An insurer, with the consent of the  
15 vendor and enrolled customer, may terminate or otherwise change  
16 the terms and conditions of a policy of portable electronics  
17 insurance. The vendor and enrolled customers shall be provided  
18 at least sixty days' notice before the change becomes effective.

19 (b) If the insurer changes the terms and conditions of a  
20 policy of portable electronics insurance, the insurer shall  
21 provide the vendor with a revised policy or endorsement and each  
22 enrolled customer with a revised certificate, endorsement,





1 updated brochure, or other evidence indicating that a change in  
2 the terms and conditions has occurred, and a summary of material  
3 changes.

4 (c) If an insurer terminates or otherwise changes the  
5 terms and conditions of a policy of portable electronics  
6 insurance, the insurer shall pay to the enrolled customer at  
7 least ten percent of the monthly insurance policy premium paid  
8 by the enrolled customer.

9 (d) Notwithstanding subsection (a), an insurer may  
10 terminate an enrolled customer's enrollment under a policy of  
11 portable electronics insurance upon fifteen days' notice for  
12 discovery of fraud or material misrepresentation in obtaining  
13 coverage or in the presentation of a claim thereunder.

14 (e) Notwithstanding subsection (a), an insurer may  
15 immediately terminate an enrolled customer's enrollment under a  
16 policy of portable electronics insurance:

- 17 (1) For nonpayment of an insurance policy premium;
- 18 (2) If the enrolled customer ceases to have an active  
19 service with the vendor; or
- 20 (3) If an enrolled customer exhausts the aggregate limit  
21 of liability, if any, under the terms of the policy of  
22 portable electronics insurance and the insurer sends



1 notice of termination to the enrolled customer within  
2 thirty calendar days after exhaustion of the limit;  
3 provided that, if notice is not timely sent,  
4 enrollment shall continue notwithstanding the  
5 aggregate limit of liability, until the insurer sends  
6 notice of termination to the enrolled customer.

7 (f) If a policy of portable electronics insurance is  
8 terminated by a vendor, the vendor shall mail or deliver written  
9 notice to the enrolled customer informing the enrolled customer  
10 of the termination of the policy and the effective date of  
11 termination. The written notice shall be mailed or delivered to  
12 the enrolled customer at least thirty days prior to the  
13 termination.

14 (g) Whenever notice or correspondence with respect to a  
15 policy of portable electronics insurance is required pursuant to  
16 this section, or is otherwise required by law, the notice or  
17 correspondence shall be in writing and sent within the notice  
18 period, if any, specified within the law requiring the notice or  
19 correspondence. Notwithstanding any law to the contrary, notice  
20 and correspondence may be sent either by mail or by electronic  
21 means as set forth in this subsection. If the notice or  
22 correspondence is mailed, it shall be sent to the vendor at the



1 vendor's mailing address specified for such purpose and to its  
2 affected enrolled customers' last known mailing addresses on  
3 file with the insurer. The insurer or vendor, as applicable,  
4 shall maintain proof of mailing in a form authorized or accepted  
5 by the United States Postal Service or other commercial mail  
6 delivery service. If the notice or correspondence is sent by  
7 electronic means, it shall be sent to the vendor at the vendor's  
8 electronic-mail address specified for such purpose and to its  
9 affected enrolled customers' last known electronic-mail  
10 addresses as provided by each enrolled customer to the insurer  
11 or vendor, as applicable.

12 For purposes of this subsection, an enrolled customer's  
13 provision of an electronic-mail address to the insurer or  
14 vendor, as applicable, shall be deemed consent to receive  
15 notices and correspondence by electronic means. The insurer or  
16 vendor, as applicable, shall maintain proof that the notice or  
17 correspondence was sent.

18 (h) Notice or correspondence required by this section or  
19 otherwise required by law may be sent on behalf of an insurer or  
20 vendor, as applicable, by the supervising entity appointed by  
21 the insurer.



1           §431: -107 Application for license and fees. (a) A  
2 sworn application for a license under this article shall be  
3 filed with the commissioner on forms prescribed and furnished by  
4 the commissioner.

5           (b) The application for a license shall provide the:

6           (1) Name, residence address, electronic-mail address, and  
7 other information required by the commissioner for an  
8 employee or officer of the vendor that is designated  
9 by the applicant as the person responsible for the  
10 vendor's compliance with the requirements of this  
11 article; provided that, if the vendor derives more  
12 than fifty per cent of its revenue from the sale of  
13 portable electronics insurance, the information in  
14 this paragraph shall be provided for all officers,  
15 directors, and shareholders of record having  
16 beneficial ownership of ten per cent or more of any  
17 class of securities registered under the federal  
18 securities law; and

19           (2) Location of the applicant's home office.

20           (c) Any vendor engaging in portable electronics insurance  
21 transactions on or before the effective date of Act           ,  
22 Session Laws of Hawaii 2012, shall apply for licensure within



1 ninety days of the application's being made available by the  
2 commissioner. Any applicant commencing operations after the  
3 effective date of Act , Session Laws of Hawaii 2012, shall  
4 obtain a license prior to offering portable electronics  
5 insurance.

6 (d) Initial licenses issued pursuant to this article shall  
7 be valid for a period of not less than twenty-four months.  
8 Renewed licenses shall be valid for a period of twenty-four  
9 months.

10 (e) Each vendor licensed under this article shall pay to  
11 the commissioner a fee of \$2,000 for the issuance of the initial  
12 portable electronics limited lines license, plus a license fee  
13 of \$1,200 per year for the initial or renewal term. A pro rata  
14 portion of the license fee may be applied for a partial year of  
15 the initial term.

16 §431: -108 Portable electronics insurance claims. No  
17 licensed independent adjuster or licensed vendor shall supervise  
18 more than twenty-five employees; provided that a licensed vendor  
19 who supervises employees or adjusts claims shall not be required  
20 to be licensed as an adjuster.

21 For purposes of this section:



1 "Automated claims adjudication system" means a  
2 preprogrammed computer system designed for the collection, data  
3 entry, calculation, and final resolution of portable electronics  
4 insurance claims, which:

- 5 (1) Shall be used only by a licensed independent adjuster,  
6 a licensed vendor, or supervised employees; and
- 7 (2) Shall comply with all claims-payment requirements of  
8 the insurance code.

9 "Employee" means an individual who collects claim  
10 information for portable electronics insurance claims from, or  
11 furnishes claim information to, insureds or claimants, and who  
12 conducts data entry, including entering data into an automated  
13 claims adjudication system."

14 SECTION 2. This Act does not affect rights and duties that  
15 matured, penalties that were incurred, and proceedings that were  
16 begun before its effective date.

17 SECTION 3. The revisor of statutes shall insert the  
18 effective date of this Act in the appropriate places in section  
19 1 of this Act.

20 SECTION 4. This Act shall take effect on January 1, 3000.



**Report Title:**

Portable Electronics Insurance; Vendors; License

**Description:**

Establishes provisions for the sale of portable electronics insurance; requires vendors to hold a limited lines license to sell or offer coverage under a policy; establishes sanctions for violations; establishes requirements for termination of insurance; establishes fees for licensing. Effective on January 1, 3000. (SB2655 HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

