

---

# 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 engaging in  
22 portable electronics transactions directly or indirectly.



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 other provision of law to the  
17 contrary, a license issued pursuant to this section shall  
18 authorize the licensee and its employees or authorized  
19 representatives to engage in the activities that are permitted  
20 in this section.

21           **§431: -103 Requirements for sale of portable electronics**  
22 **insurance.** (a) At every location where portable electronics



1 insurance is offered to customers, brochures or other written  
2 materials shall be made available to prospective customers. The  
3 brochures or other written materials shall:

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

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

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

13 (A) The identity of the insurer;

14 (B) The identity of the supervising entity;

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

17 (D) The benefits of the coverage; and

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

18 (a) The employees and authorized representatives of vendors may  
19 sell or offer portable electronics insurance to customers and  
20 shall not be subject to licensure as an insurance producer under  
21 this chapter, provided 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 portable electronics or related services. Vendors billing and  
21 collecting the charges shall not be required to maintain the  
22 funds in a segregated account; provided that the vendor is



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

8       **§431: -105 Sanctions for violations.** The vendor or its  
9 employee or authorized representative is subject to sanctions  
10 pursuant to chapter 431 for the violation of any provision of  
11 this chapter.

12       **§431: -106 Termination or modification of portable**  
13 **electronics insurance.** (a) An insurer with the consent of the  
14 vendor policyholder and the enrolled customer may terminate or  
15 otherwise change the terms and conditions of a policy of  
16 portable electronics insurance. The vendor policyholder and  
17 enrolled customers shall be provided at least thirty days'  
18 notice before the agreed change becomes effective.

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





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

3 (c) Notwithstanding subsection (a), an insurer may  
4 terminate an enrolled customer's enrollment under a portable  
5 electronics insurance policy upon fifteen days' notice for  
6 discovery of fraud or material misrepresentation in obtaining  
7 coverage or in the presentation of a claim thereunder.

8 (d) Notwithstanding subsection (a), an insurer may  
9 immediately terminate an enrolled customer's enrollment under a  
10 portable electronics insurance policy:

- 11 (1) For nonpayment of a premium;
- 12 (2) If the enrolled customer ceases to have an active  
13 service with the vendor; or
- 14 (3) If an enrolled customer exhausts the aggregate limit  
15 of liability, if any, under the terms of the portable  
16 electronics insurance policy and the insurer sends  
17 notice of termination to the enrolled customer within  
18 thirty calendar days after exhaustion of the limit;  
19 provided that, if notice is not timely sent,  
20 enrollment shall continue notwithstanding the  
21 aggregate limit of liability until the insurer sends  
22 notice of termination to the enrolled customer.



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

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



1 correspondence is sent by electronic means, it shall be sent to  
2 the vendor at the vendor's electronic mail address specified for  
3 such purpose and to its affected enrolled customers' last known  
4 electronic mail addresses as provided by each enrolled customer  
5 to the insurer or vendor, as the case may be. For purposes of  
6 this subsection, an enrolled customer's provision of an  
7 electronic mail address to the insurer or vendor, as the case  
8 may be, shall be deemed consent to receive notices and  
9 correspondence by electronic means. The insurer or vendor, as  
10 the case may be, shall maintain proof that the notice or  
11 correspondence was sent.

12 (g) Notice or correspondence required by this section or  
13 otherwise required by law may be sent on behalf of an insurer or  
14 vendor, as the case may be, by the supervising entity appointed  
15 by the insurer.

16 **§431: -107 Application for license and fees.** (a) A  
17 sworn application for a license under this article shall be  
18 filed with the commissioner on forms prescribed and furnished by  
19 the commissioner.

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

21 (1) Name, residence address, electronic mail address, and  
22 other information required by the commissioner for an



1 employee or officer of the vendor that is designated  
2 by the applicant as the person responsible for the  
3 vendor's compliance with the requirements of this  
4 article; provided that, if the vendor derives more  
5 than fifty per cent of its revenue from the sale of  
6 portable electronics insurance, the information in  
7 this paragraph shall be provided for all officers,  
8 directors, and shareholders of record having  
9 beneficial ownership of ten per cent or more of any  
10 class of securities registered under the federal  
11 securities law; and

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

13 (c) Any vendor engaging in portable electronics insurance  
14 transactions on or before the effective date of this Act shall  
15 apply for licensure within ninety days of the application being  
16 made available by the commissioner. Any applicant commencing  
17 operations after the effective date of this Act shall obtain a  
18 license prior to offering portable electronics insurance.

19 (d) Initial licenses issued pursuant to this article shall  
20 be valid for a period of not less than twenty-four months.  
21 Renewal shall be for a period of twenty-four months.



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

7 **§431: -108 Portable electronics insurance claims.** No  
 8 licensed independent adjuster or licensed vendor shall supervise  
 9 more than twenty-five employees; provided that a licensed vendor  
 10 who supervises employees or adjusts claims shall not be required  
 11 to be licensed as an adjuster.

12 For purposes of this section:

13 "Automated claims adjudication system" means a  
 14 preprogrammed computer system designed for the collection, data  
 15 entry, calculation, and final resolution of portable electronics  
 16 insurance claims, which:

- 17 (1) Shall be utilized only by a licensed independent  
 18 adjuster, a licensed vendor, or supervised employees;  
 19 and
- 20 (2) Shall comply with all claims payment requirements of  
 21 the insurance code.



1 "Employee" means an individual who collects claim  
2 information for portable electronics insurance claims from, or  
3 furnishes claim information to, insureds or claimants, and who  
4 conducts data entry, including entering data into an automated  
5 claims adjudication system."

6 SECTION 2. This Act does not affect rights and duties that  
7 matured, penalties that were incurred, and proceedings that were  
8 begun before its effective date.

9 SECTION 3. This Act shall take effect upon its approval.



**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. (SD2)

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

