

# STATE OF NEW YORK

7748

2023-2024 Regular Sessions

## IN SENATE

November 13, 2023

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the insurance law, in relation to wireless communications equipment insurance

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 3449 of the insurance law, as added by chapter 426  
2 of the laws of 2005, is amended to read as follows:

3 § 3449. Wireless communications equipment insurance policies. (a) In  
4 this [~~section, the term "policy"~~] chapter:

5 (1) "Policy of wireless communications equipment insurance" means an  
6 insurance policy covering the kind of insurance described in [~~subsection~~  
7 (1)] paragraph two of subsection (d) of section two thousand one hundred  
8 thirty-one of this chapter.

9 (2) "Wireless communication equipment protection plan" means an  
10 optional plan offered for sale by a wireless communication equipment  
11 vendor licensed pursuant to section two thousand one hundred thirty-one  
12 of this chapter and the plan provides:

13 (A) wireless communications equipment insurance covering the wireless  
14 communication equipment under a group policy subject to this section  
15 where the wireless communication equipment vendor is the group policy-  
16 holder;

17 (B) a service contract subject to article seventy-nine of this chap-  
18 ter, provided that the service contract provider or its affiliate recy-  
19 cles, reuses, or disposes the wireless communications equipment in  
20 accordance with section 27-2303 of the environmental conservation law,  
21 as added by chapter seven hundred thirty of the laws of two thousand  
22 six; and

23 (C) may include one or more of the following:

24 (i) a wireless communications equipment upgrade program, provided that  
25 the program recycles, reuses, or disposes the wireless communications

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 equipment in accordance with section 27-2303 of the environmental  
2 conservation law as added by chapter seven hundred thirty of the laws of  
3 two thousand six;

4 (ii) technical support with respect to the wireless communication; and  
5 (iii) any other services related to the use of the wireless communi-  
6 cations equipment that the superintendent deems to be meaningful and  
7 appropriate, in accordance with subsection (g) of this section.

8 (3) "Wireless communication equipment vendor" means the retail seller,  
9 manufacturer or distributor of the wireless communication equipment or  
10 the entity providing the telecommunications service.

11 (b) (1) A group policy, and certificates issued thereunder, may be  
12 issued only by an authorized insurer.

13 (2) The group policy may only be issued to a wireless communications  
14 equipment vendor licensed pursuant to section two thousand one hundred  
15 thirty-one of this chapter that sold or manufactured the wireless commu-  
16 nication equipment or provides telecommunications service for the equip-  
17 ment.

18 (3) The group policy may be offered on a stand-alone basis or as part  
19 of a wireless communication equipment protection plan.

20 (c) Where the group policy is provided as part of a wireless communi-  
21 cation equipment protection plan, the premium for the group policy,  
22 including certificates, may be paid by the group policyholder from funds  
23 contributed:

24 (1) wholly by the group policyholder;

25 (2) wholly by the group members; or

26 (3) jointly by the group policyholder and group members.

27 (d) (1) A group policy, and certificates issued thereunder, of wire-  
28 less communications equipment insurance shall not be subject to the  
29 provisions of section three thousand four hundred twenty-five or three  
30 thousand four hundred twenty-six of this article.

31 (2) An insurer shall not terminate or otherwise change the terms and  
32 conditions of a group policy of wireless communications equipment insur-  
33 ance, and certificates issued thereunder, except upon providing the  
34 policyholder and certificate holders with at least sixty days notice. If  
35 the insurer changes the terms and conditions, then the insurer shall  
36 provide the policyholder with a revised policy or endorsement and each  
37 certificate holder with a revised certificate or endorsement, an updated  
38 brochure or facsimile thereof and an explanation of the changes.

39 (3) Notwithstanding paragraph two of this subsection, an insurer may  
40 terminate a certificate upon fifteen days notice for:

41 (A) nonpayment of premium; or

42 (B) discovery of fraud or material misrepresentation in obtaining the  
43 certificate or in the presentation of a claim thereunder.

44 (4) Notwithstanding paragraph two of this subsection, an insurer may  
45 automatically terminate a certificate if the certificate holder:

46 (A) ceases to have active telecommunications service with the wireless  
47 communications equipment vendor; or

48 (B) exhausts the aggregate limit of liability, if any, under the  
49 certificate and the insurer sends notice of termination to the certif-  
50 icate holder within fifteen business days after exhaustion of the limit.  
51 However, if notice is not timely sent, coverage shall continue notwith-  
52 standing the aggregate limit of liability until the insurer sends notice  
53 of termination to the certificate holder.

54 (5) Notwithstanding paragraph two of this subsection, an insurer may  
55 automatically terminate a certificate upon termination of a wireless  
56 communication equipment protection plan program when the insurance is

1 provided as part of such a plan program and the certificate holder had  
2 been provided clear and express notice in the plan documents when the  
3 plan was initially purchased that the insurance will cease upon termi-  
4 nation of the wireless communication equipment protection plan program;  
5 however, the insurer may give the certificate holder the option to  
6 continue the wireless communication insurance coverage on an individual  
7 basis.

8 (6) Notwithstanding the provisions of subparagraph (B) of paragraph  
9 four of this subsection, upon the request of a certificate holder, the  
10 certificate holder's coverage shall be eligible for reinstatement not  
11 more than twelve months following the date of exhaustion of the coverage  
12 limit in accordance with the terms of the policy and subject to the  
13 enrollment criteria then applicable to prospective certificate holders  
14 generally.

15 [~~(6)~~] (7) Where the group policy is terminated by the policyholder,  
16 the policyholder shall mail or deliver written notice to each certif-  
17 icate holder advising the certificate holder of the termination of the  
18 group policy and the effective date of termination. The written notice  
19 shall be mailed or delivered to the certificate holder at least thirty  
20 days prior to the termination.

21 [~~(e)~~] (e) Whenever notice is required pursuant to this section, it  
22 shall be in writing and mailed or delivered to the policyholder at the  
23 policyholder's mailing address and to affected certificate holders at  
24 the certificate holders' last known mailing addresses on file with the  
25 insurer. Every notice of termination shall specify the reason or reasons  
26 for termination.

27 [~~(d)~~] (f) (1) Notwithstanding subsection [~~(e)~~] (e) of this section, an  
28 insurer shall not be required to give notice of termination to the  
29 certificate holder if the insurer has been advised by either the policy-  
30 holder or another insurer that substantially similar coverage has been  
31 obtained from the other insurer without lapse of coverage.

32 (2) A policyholder shall not be required to give notice of termination  
33 to a certificate holder if substantially similar coverage has been  
34 obtained from another insurer without lapse of coverage.

35 [~~(e)~~] (g) The superintendent may promulgate regulations regarding  
36 policies of wireless communications equipment insurance, including, but  
37 not limited to, regulations governing policy terms and conditions,  
38 treatment of dividends, and may establish other reasonable limitations.

39 § 2. This act shall take effect on the one hundred eightieth day after  
40 it shall have become a law.