

STATE OF NEW YORK

7748--B

Cal. No. 883

2023-2024 Regular Sessions

IN SENATE

November 13, 2023

Introduced by Sens. BRESLIN, ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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"]:~~

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 communications equipment" shall have the same meaning as
10 described in section two thousand one hundred thirty-one of this chap-
11 ter.

12 (3) "Wireless communications equipment protection plan member" means
13 any individual who purchased a wireless communications equipment
14 protection plan and such wireless communications protection equipment
15 plan has not expired or been terminated.

16 (4) "Wireless communications equipment protection plan" means an
17 optional plan offered for sale by a wireless communications equipment
18 vendor licensed pursuant to section two thousand one hundred thirty-one
19 of this chapter and the plan provides:

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

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1 (A) a policy of wireless communications equipment insurance covering
2 the wireless communications equipment under a group policy subject to
3 this section where the wireless communications equipment vendor is the
4 group policyholder;

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

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

12 (i) a wireless communications equipment upgrade program, provided that
13 the program recycles, reuses, or disposes the wireless communications
14 equipment in accordance with section 27-2303 of the environmental
15 conservation law, as added by chapter seven hundred thirty of the laws
16 of two thousand six;

17 (ii) technical support with respect to the wireless communications
18 equipment; and

19 (iii) any other services related to the use of the wireless communi-
20 cations equipment that the superintendent deems to be meaningful and
21 appropriate, in accordance with subsection (h) of this section.

22 (5) "Wireless communications equipment vendor" means a retail seller,
23 manufacturer or distributor of the wireless communications equipment or
24 the entity providing the telecommunications service that is licensed
25 pursuant to section two thousand one hundred thirty-one of this chapter.

26 (b) (1) A group policy of wireless communications equipment insurance,
27 and certificates issued thereunder, may be issued only by an authorized
28 insurer.

29 (2) A group policy of wireless communications equipment insurance may
30 only be issued to a wireless communications equipment vendor.

31 (3) A group policy of wireless communications equipment insurance may
32 be offered on a stand-alone basis or as part of a wireless communi-
33 cations equipment protection plan.

34 (c) Where a group policy of wireless communications equipment insur-
35 ance is provided as part of a wireless communications equipment
36 protection plan, the premium for the group policy, including certif-
37 icates, may be paid by the group policyholder from funds contributed:

38 (1) wholly by the group policyholder;

39 (2) wholly by the wireless communications equipment protection plan
40 members; or

41 (3) jointly by the group policyholder and wireless communications
42 equipment protection plan members.

43 (d) For the purposes of this section, a wireless communications equip-
44 ment protection plan member shall be a certificate holder of wireless
45 communications insurance and a service contract holder as defined in
46 section seven thousand nine hundred two of this chapter.

47 (e) (1) A group policy of wireless communications equipment insurance,
48 and certificates issued thereunder, [~~of wireless communications equip-~~
49 ~~ment insurance~~] shall not be subject to the provisions of section three
50 thousand four hundred twenty-five or three thousand four hundred twen-
51 ty-six of this article.

52 (2) An insurer shall not terminate or otherwise change the terms and
53 conditions of a group policy of wireless communications equipment insur-
54 ance, and certificates issued thereunder, whether offered on a stand-al-
55 one basis or as part of a wireless communications equipment protection
56 plan, except upon providing the policyholder and certificate holders

1 with at least sixty days notice. If the insurer changes the terms and
2 conditions, then the insurer shall provide the policyholder with a
3 revised policy or endorsement and each certificate holder with a revised
4 certificate or endorsement, an updated brochure or facsimile thereof and
5 an explanation of the changes.

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

8 (A) nonpayment of premium; or

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

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

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

15 (B) exhausts the aggregate limit of liability, if any, under the
16 certificate and the insurer sends notice of termination to the certifi-
17 cate holder within fifteen business days after exhaustion of the limit.
18 However, if notice is not timely sent, coverage shall continue notwith-
19 standing the aggregate limit of liability until the insurer sends notice
20 of termination to the certificate holder.

21 (5) Notwithstanding paragraph two of this subsection, an insurer may
22 terminate a certificate of wireless communications equipment insurance
23 upon the termination of a wireless communications equipment protection
24 plan by a wireless communications equipment protection plan member when
25 the insurance is provided as part of such a plan program and the wire-
26 less communications equipment protection plan member had been provided
27 clear and express notice in the plan documents when the plan was
28 initially purchased that the certificate of wireless communications
29 equipment insurance will cease upon termination of the wireless communi-
30 cations equipment protection plan program. The insurer may give the
31 wireless communications equipment protection plan member the option to
32 purchase a policy of wireless communications insurance on a stand-alone
33 basis.

34 (6) Notwithstanding the provisions of subparagraph (B) of paragraph
35 four of this subsection, upon the request of a certificate holder, the
36 certificate holder's coverage shall be eligible for reinstatement not
37 more than twelve months following the date of exhaustion of the coverage
38 limit in accordance with the terms of the policy and subject to the
39 enrollment criteria then applicable to prospective certificate holders
40 generally.

41 ~~(6)~~ (7) Where the group policy of a wireless communications equip-
42 ment insurance, whether offered on a stand-alone basis or as part of a
43 wireless communications protection equipment plan, is terminated by the
44 policyholder, the policyholder shall mail or deliver written notice to
45 each certificate holder advising the certificate holder of the termi-
46 nation of the group policy and the effective date of termination. The
47 written notice shall be mailed or delivered to the certificate holder at
48 least thirty days prior to the termination.

49 ~~(e)~~ (f) Whenever notice is required pursuant to this section, it
50 shall be in writing and mailed or delivered to the policyholder at the
51 policyholder's mailing address and to affected certificate holders at
52 the certificate holders' last known mailing addresses on file with the
53 insurer or delivered by electronic means pursuant to section three thou-
54 sand four hundred fifty-eight of this chapter. Every notice of termi-
55 nation shall specify the reason or reasons for termination.

1 ~~(d)~~ (g) (1) Notwithstanding subsection ~~(e)~~ (f) of this section, an
2 insurer shall not be required to give notice of termination to the
3 certificate holder if the insurer has been advised by either the policy-
4 holder or another insurer that substantially similar coverage has been
5 obtained from the other insurer without lapse of coverage.

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

9 ~~(e)~~ (h) The superintendent may promulgate regulations regarding
10 policies of wireless communications equipment insurance, including, but
11 not limited to, regulations governing policy terms and conditions, the
12 inclusion of such policies in wireless communications equipment
13 protection plans, treatment of dividends, and may establish other
14 reasonable limitations.

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