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:

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

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

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

(2) "Wireless communications equipment" shall have the same meaning as described in section two thousand one hundred thirty-one of this chapter.

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

(4) "Wireless communications equipment protection plan" means an optional plan offered for sale by a wireless communications equipment vendor licensed pursuant to section two thousand one hundred thirty-one 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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(A) a policy of wireless communications equipment insurance covering the wireless communications equipment under a group policy subject to this section where the wireless communications equipment vendor is the group policyholder;

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

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

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

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

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

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

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

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

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

(c) Where a group policy of wireless communications equipment insurance is provided as part of a wireless communications equipment protection plan, the premium for the group policy, including certificates, may be paid by the group policyholder from funds contributed:

(1) wholly by the group policyholder;

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

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

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

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

(2) An insurer shall not terminate or otherwise change the terms and conditions of a group policy of wireless communications equipment insurance, and certificates issued thereunder, whether offered on a stand-alone basis or as part of a wireless communications equipment protection plan, except upon providing the policyholder and certificate holders

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

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

(A) nonpayment of premium; or

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

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

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

(B) exhausts the aggregate limit of liability, if any, under the certificate and the insurer sends notice of termination to the certificate holder within fifteen business days after exhaustion of the limit. However, if notice is not timely sent, coverage shall continue notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the certificate holder.

(5) **Notwithstanding paragraph two of this subsection, an insurer may terminate a certificate of wireless communications equipment insurance upon the termination of a wireless communications equipment protection plan by a wireless communications equipment protection plan member when the insurance is provided as part of such a plan program and the wireless communications equipment protection plan member had been provided clear and express notice in the plan documents when the plan was initially purchased that the certificate of wireless communications equipment insurance will cease upon termination of the wireless communications equipment protection plan program. The insurer may give the wireless communications equipment protection plan member the option to purchase a policy of wireless communications insurance on a stand-alone basis.**

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

[~~(6)~~] **(7)** Where the group policy **of a wireless communications equipment insurance, whether offered on a stand-alone basis or as part of a wireless communications protection equipment plan,** is terminated by the policyholder, the policyholder shall mail or deliver written notice to each certificate holder advising the certificate holder of the termination of the group policy and the effective date of termination. The written notice shall be mailed or delivered to the certificate holder at least thirty days prior to the termination.

[~~(c)~~] **(f)** Whenever notice is required pursuant to this section, it shall be in writing and mailed or delivered to the policyholder at the policyholder's mailing address and to affected certificate holders at the certificate holders' last known mailing addresses on file with the insurer **or delivered by electronic means pursuant to section three thousand four hundred fifty-eight of this chapter**. Every notice of termination shall specify the reason or reasons for termination.

[~~(d)~~] **(g)** (1) Notwithstanding subsection [~~(c)~~] **(f)** of this section, an insurer shall not be required to give notice of termination to the certificate holder if the insurer has been advised by either the policyholder or another insurer that substantially similar coverage has been obtained from the other insurer without lapse of coverage.

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

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

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