

STATE OF NEW YORK

7748--C

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 -- again 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

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

LBD13527-06-4

1 vendor licensed pursuant to section two thousand one hundred thirty-one
2 of this chapter and the plan provides:

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

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

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

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

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

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

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

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

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

33 (3) A group policy of wireless communications equipment insurance may
34 be offered as part of a wireless communications equipment protection
35 plan, provided that the wireless communications equipment vendor at the
36 same time also offers the wireless communication equipment insurance
37 from the same insurer on a stand-alone basis. The stand-alone wireless
38 communication equipment insurance coverage may be issued either on a
39 group or individual basis.

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

44 (1) wholly by the group policyholder;

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

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

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

53 (e) (1) A group policy of wireless communications equipment insurance,
54 and certificates issued thereunder, [~~of wireless communications equip-~~
55 ment insurance] shall not be subject to the provisions of section three

1 thousand four hundred twenty-five or three thousand four hundred twenty-six of this article.

2
3 (2) An insurer shall not terminate or otherwise change the terms and
4 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,
5 except upon providing the policyholder and certificate holders
6 with at least sixty days notice. If the insurer changes the terms and
7 conditions, then the insurer shall provide the policyholder with a
8 revised policy or endorsement and each certificate holder with a revised
9 certificate or endorsement, an updated brochure or facsimile thereof and
10 an explanation of the changes.

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

13 (A) nonpayment of premium; or

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

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

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

20 (B) exhausts the aggregate limit of liability, if any, under the
21 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.

22 (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 shall give the wireless communications equipment protection plan member the option to purchase a policy of wireless communications insurance on a stand-alone basis.

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

30 ~~[(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
31 policyholder, the policyholder shall mail or deliver written notice to
32 each certificate holder advising the certificate holder of the termination of the group policy and the effective date of termination. The
33 written notice shall be mailed or delivered to the certificate holder at
34 least thirty days prior to the termination.

1 ~~[(e)]~~ (f) Whenever notice is required pursuant to this section, it
2 shall be in writing and mailed or delivered to the policyholder at the
3 policyholder's mailing address and to affected certificate holders at
4 the certificate holders' last known mailing addresses on file with the
5 insurer or delivered by electronic means pursuant to section three thou-
6 sand four hundred fifty-eight of this chapter. Every notice of termi-
7 nation shall specify the reason or reasons for termination.

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

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

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

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