STATE OF NEW YORK

8304

2023-2024 Regular Sessions

IN ASSEMBLY

November 27, 2023

Introduced by M. of A. WEPRIN -- read once and referred to the Committee on Insurance

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~~] **chapter:**

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

(A) wireless communications equipment insurance covering the wireless communication equipment under a group policy subject to this section where the wireless communication 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

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

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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 communication; 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 (g) of this section.

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

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

(2) The group policy may only be issued to a wireless communications equipment vendor licensed pursuant to section two thousand one hundred thirty-one of this chapter that sold or manufactured the wireless communication equipment or provides telecommunications service for the equipment.

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

(c) Where the group policy is provided as part of a wireless communication 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 group members; or

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

(d) (1) A group policy, 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, 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 automatically terminate a certificate upon termination of a wireless communication equipment protection plan program when the insurance is

provided as part of such a plan program and the certificate holder had been provided clear and express notice in the plan documents when the plan was initially purchased that the insurance will cease upon termination of the wireless communication equipment protection plan program; however, the insurer may give the certificate holder the option to continue the wireless communication insurance coverage on an individual 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 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)~~] (e) 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. Every notice of termination shall specify the reason or reasons for termination.

[~~(d)~~] (f) (1) Notwithstanding subsection [~~(c)~~] (e) 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)~~] (g) The superintendent may promulgate regulations regarding policies of wireless communications equipment insurance, including, but not limited to, regulations governing policy terms and conditions, 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.