CHAPTER 25

HOUSE BILL 2048

AN ACT

AMENDING SECTIONS 20-288, 20-321, 20-321.01, 20-1693.02, 20-1693.03 AND 20-1693.05, ARIZONA REVISED STATUTES; RELATING TO PORTABLE ELECTRONICS INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 20-288, Arizona Revised Statutes, is amended to read:

20-288. Exemption from examination

A. An individual who applies for an insurance producer license in this state and who was previously licensed for the same lines of authority in another state is not required to take an examination if either:

1. The applicant is currently licensed in the other state.
2. The application is received within ninety days after the cancellation of the applicant's previous license and the other state issues a certification that, at the time of cancellation, the applicant was in good standing in that state, or other reliable information available to the director indicates that the applicant is or was licensed in good standing for the line of authority requested.

B. The following applicants are not required to take an examination:

1. An applicant for timely renewal of a license.
2. An applicant for the same type of license that covers the same lines of authority for which the applicant was licensed in this state, other than under a temporary license, within the twelve months preceding the date of application.
3. An applicant who is a ticket selling agent or any other representative of a common carrier for a limited line license that covers the sale of travel accident ticket policies or baggage insurance.
4. An applicant for a license as a nonresident insurance producer who meets the requirements of section 20-287, subsection A.
5. An applicant for a rental car agent license that is issued pursuant to section 20-331.
6. An applicant for a self-service storage agent license that is issued pursuant to section 20-332.
7. An applicant who resides in a state that does not license adjusters and who will be only adjusting portable electronic insurance policy claims in this state.

Sec. 2. Section 20-321, Arizona Revised Statutes, is amended to read:

20-321. Definitions

In this article, unless the context otherwise requires:

1. "Adjuster":

   (a) Means any person who for compensation, fee or commission either:

      (i) Adjusts, investigates or negotiates settlement of claims arising under property and casualty insurance contracts on behalf of either the insurer or the insured.

      (ii) Holds oneself out to perform a service listed in item (i) of this subdivision.

   (b) Does not include:

      (i) A licensed attorney-at-law who is qualified to practice law in this state.
(ii) A salaried employee of an insurer or of a managing general agent.
For the purposes of this item, "salaried employee" means an employee whose
compensation is not contingent on the outcome of a claim determination.
(iii) A licensed insurance producer who adjusts or assists in
adjustment of losses arising under policies procured through the insurance
producer.
(iv) An employee of a political subdivision who adjusts or assists in
the adjustment of losses arising under policies covering the political
subdivision or persons indemnified by the political subdivision.
(v) An independent contractor retained by a licensed adjuster or a
person listed in items (i) through (iv) of this subdivision for the sole
purpose of providing technical assistance in connection with a claim.
Independent contractors may include photographers, estimators, engineers,
private detectives or handwriting experts.
(vi) An individual who collects claim information from or furnishes
claim information to insureds or claimants and who conducts data entry,
including entering data into an automated claims adjudication system, if no
more than twenty-five persons, as described in this item, are under the
supervision of a single licensed adjuster or licensed producer. A licensed
insurance producer who is supervising or adjusting claims pursuant to this
item is not required to be licensed as an adjuster.
(vii) REGISTERED THIRD-PARTY ADMINISTRATORS AND THEIR EMPLOYEES WHO
ARE ENGAGED IN ADMINISTERING ACCIDENT AND HEALTH OR LIFE INSURANCE CLAIMS.
2. "Automated claims adjudication system" means a preprogrammed
computer system that is designed for the collection, data entry, calculation
and final resolution of portable consumer electronic products insurance
claims and that:
(a) May be used only by a licensed adjuster. A licensed producer or
supervised individuals operating pursuant to this paragraph.
(b) Must comply with all claims payment requirements under this title
and be certified as compliant by a licensed adjuster.
3. "Portable consumer electronic products" means electronic devices
and related accessories that are portable in nature.
Sec. 3. Section 20-321.01, Arizona Revised Statutes, is amended to
read:
20-321.01. Licensing of adjusters; qualifications; exemption
A. A person shall not act as or claim to be an adjuster unless the
person is licensed under this article.
B. To obtain a license as an adjuster a person shall apply to the
director for the license and use the forms prescribed and provided by the
director. The director shall issue the license to qualified persons on
payment of the license fee prescribed in section 20-167.
C. To be licensed as an adjuster the applicant shall meet all of the
following qualifications:
1. Be a person who is at least eighteen years of age.
2. Be a resident of this state, or a resident of another state that allows residents of this state to act as adjusters in the other state.
3. Take and pass an examination that is given by or under the supervision of the director and that reasonably tests the applicant's knowledge of insurance and legal responsibilities as an adjuster and otherwise comply with section 20-321.02.

D. An adjuster who is licensed or permitted to act as an adjuster in the state of the adjuster's domicile is not required to be licensed pursuant to this section or meet the qualifications prescribed in this section if the adjuster is sent to this state on behalf of an insurer for the purpose of investigating or making adjustment of a particular loss under an insurance policy or a series of losses resulting from a catastrophe common to all those losses.

E. To determine license eligibility, the director may require fingerprints of applicants and submit THE SUBMISSION OF the fee and the fingerprints as required by section 20-285, subsection E, paragraph 2.

F. The director may contract with nongovernmental entities to perform any ministerial functions, including collection of fees and data related to licensing, that the director deems appropriate.

G. A resident of Canada may not be licensed as a nonresident adjuster unless APPLY FOR A LICENSE THAT GRANTS THE APPLICANT THE AUTHORITY ONLY TO ADJUST PORTABLE ELECTRONICS INSURANCE CLAIMS IN THIS STATE IF the person has obtained a resident AN adjuster license in another state and designated THAT PERMITS THAT PERSON TO ADJUST PORTABLE ELECTRONICS INSURANCE CLAIMS IN that state as the person's home state. A Canadian resident who qualifies for licensure as an adjuster under this subsection need not comply with IS NOT SUBJECT TO section 25-320, subsection P.

H. AN APPLICANT WHO RESIDES IN A STATE THAT DOES NOT ISSUE LICENSES TO ADJUSTERS AND WHO IS OTHERWISE PERMITTED TO ADJUST PORTABLE ELECTRONICS INSURANCE CLAIMS IN THE APPLICANT'S RESIDENT STATE MAY APPLY FOR A LICENSE THAT GRANTS THE APPLICANT THE AUTHORITY ONLY TO ADJUST PORTABLE ELECTRONICS INSURANCE CLAIMS IN THIS STATE.

Sec. 4. Section 20-1693.02, Arizona Revised Statutes, is amended to read:

20-1693.02. Portable electronics insurance; requirements; disclosures

A. At every location where portable electronics insurance is offered to customers, brochures or other written materials must be made available to a prospective customer that:

1. Disclose that portable electronics insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy or other source of coverage.

2. State that the enrollment by the customer in a portable electronics insurance policy is not required in order to purchase or lease portable electronics or services.
3. Summarize the material terms of the insurance coverage, including:
   (a) The identity of the insurer.
   (b) The identity of the supervising entity.
   (c) The amount of any applicable deductible and how it is to be paid.
   (d) Benefits of the coverage.
   (e) Key terms and conditions of the coverage, including whether portable electronics may be repaired or replaced with similar make and model reconditioned or nonoriginal manufacturer parts or equipment.

4. Summarize the process for filing a claim, including a description of how to return portable electronics and the maximum fee applicable in the event the customer fails to comply with any equipment return requirements.

5. State that an enrolled customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and the person paying the premium shall receive a refund or credit of any applicable unearned premium within sixty days.

B. Portable electronics insurance may be offered on a month to month or other periodic basis as a group or master commercial inland marine policy issued to a vendor of portable electronics for its enrolled customers.

C. Eligibility and underwriting standards for customers electing to enroll in coverage shall be established for each portable electronics insurance program.

Sec. 5. Section 20-1693.03, Arizona Revised Statutes, is amended to read:

20-1693.03. Portable electronics vendors; authority; charges for portable electronics insurance; accounting

A. The employees and authorized representatives of vendors may sell or offer portable electronics insurance to customers and shall not be subject to licensure as an insurance producer under this title or be subject to the continuing education requirements of this title if:

1. The vendor obtains a license to authorize its employees or authorized representatives to sell or offer portable electronics insurance pursuant to this article.

2. Each vendor or its designee provides a training program that gives the vendor’s employees and authorized representatives basic instruction about coverage under a portable electronics insurance policy and the requirements of this article.

B. Notwithstanding any other law, a vendor of portable electronics or its employees or authorized representatives shall not—

1. Offer or sell insurance except in conjunction with and incidental to portable electronics transactions.

2. Advertise, represent or otherwise be portrayed as licensed insurers or insurance producers unless so licensed.

C. The vendor may bill and collect the charges for portable electronics insurance coverage. Any charge to the enrolled customer for coverage that is not included in the cost associated with the purchase or lease of portable electronics or related services shall be separately
itemized on the enrolled customer's bill. If the portable electronics insurance coverage is included with the purchase or lease of portable electronics or related services, the vendor shall clearly and conspicuously disclose to the enrolled customer that the portable electronics insurance coverage is included with the portable electronics or related services. A vendor that bills and collects charges for insurance coverage included with the purchase or lease of portable electronics or related services is not required to maintain those monies in a segregated account if the vendor is authorized by the insurer to hold those monies in an alternative manner and remits these monies to the supervising entity within sixty days of receipt. All monies received by a vendor from an enrolled customer for the sale of portable electronics insurance shall be considered monies held in trust by the vendor in a fiduciary capacity for the benefit of the insurer.

D. Vendors may receive compensation for billing and collection services.

Sec. 6. Section 20-1693.05, Arizona Revised Statutes, is amended to read:

20-1693.05. Termination of portable electronics insurance; notice

A. Notwithstanding any other law:

1. An insurer may terminate or otherwise change the terms and conditions of a portable electronics insurance policy only on providing the policyholder and enrolled customers with at least thirty days' notice.

2. If the insurer changes the terms and conditions of a policy, the insurer shall provide the vendor policyholder with a revised policy or endorsement and each enrolled customer with a revised certificate, endorsement, updated brochure or other evidence indicating that a change in the terms and conditions has occurred and that includes a summary of the material changes.

B. Notwithstanding subsection A, paragraph 1 of this section:

1. An insurer may terminate a customer's enrollment under a portable electronics insurance policy with fifteen days' notice for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim.

2. An insurer may immediately terminate a customer's enrollment under a portable electronics insurance policy for any of the following reasons:

   (a) Nonpayment of premium.

   (b) If the enrolled customer ceases to have an active service with the vendor.

   (c) If an enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the portable electronics insurance policy and the insurer sends notice of termination to the enrolled customer within thirty calendar days after exhaustion of the limit. If notice is not timely sent, enrollment shall continue notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the enrolled customer.
C. If a vendor terminates a portable electronics insurance policy, the vendor shall mail or deliver written notice to each enrolled customer advising the enrolled customer of the termination of the policy and the effective date of termination. The written notice shall be mailed or delivered to the enrolled customer at least thirty days before the termination.

D. If notice or correspondence with respect to a policy of portable electronics insurance is required pursuant to this section or is otherwise required by law, it shall be in writing and sent within the notice period, if any, specified in the statute or rule requiring the notice or correspondence. Notwithstanding any other law, notices and correspondence may be sent either by mail or by electronic means. If the notice or correspondence is mailed, it shall be sent to the vendor at the vendor's mailing address specified for such purpose and to its affected enrolled customers' last known mailing addresses on file with the insurer. The insurer or vendor shall maintain proof of mailing in a form authorized or accepted by the United States postal service or other commercial mail delivery service. If the notice or correspondence is sent by electronic means, it shall be sent to the vendor at the vendor's electronic mail address specified for such purpose and to its affected enrolled customers' last known electronic mail addresses as provided by each enrolled customer to the insurer or vendor, as applicable. For the purposes of this section, an enrolled customer's provision of an electronic mail address to the insurer or vendor is deemed to constitute consent to receive notices and correspondence by electronic means. The insurer or vendor, as applicable, shall maintain proof that the notice or correspondence was sent.

E. The supervising entity appointed by the insurer may send notice or correspondence that is required by this section, or that is otherwise required by law, on behalf of an insurer or vendor.

F. An enrolled customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and the person paying the premium shall receive a pro rata refund or credit of any applicable unearned premium within sixty days after the insurer or vendor receives the notice of cancellation from the enrolled customer.

APPROVED BY THE GOVERNOR APRIL 15, 2014.