

BILL ANALYSIS

C.S.S.B. 839
By: Hancock
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Portable electronics insurance can protect consumers against loss, theft, mechanical failure, damage, or internal malfunction of a portable electronic device. Interested parties assert that this type of insurance not only protects a consumer's investment in such a device but also ensures that the consumer is able to receive a replacement device soon after a problem occurs. C.S.S.B. 839 seeks to update insurance regulations regarding coverage for these widely used products.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 839 amends the Insurance Code to authorize an insurer to terminate or change the terms and conditions of a policy of portable electronics insurance only after notice to the master or group policyholder and each enrolled customer, except as otherwise provided by the bill's provisions. The bill requires such notice to be provided not later than the 30th day before the date of the termination or change. The bill requires an insurer that changes the terms and conditions of such a policy to provide a revised policy or endorsement to the master or group policyholder and provide to each enrolled customer a revised certificate, revised endorsement, updated brochure, or other document indicating that a change in the terms and conditions has occurred; a summary of the material changes; and a disclosure, in a font that is capitalized, boldfaced, italicized, or underlined or is larger than or set off from the remainder of the document, that enrollment in coverage is optional and that provides information on how to discontinue enrollment.

C.S.S.B. 839 authorizes an insurer to terminate the coverage of an enrolled customer under a portable electronics insurance policy for fraud or material misrepresentation in obtaining coverage or in the presentation of a claim under the coverage. The bill prohibits such termination of coverage from being effective before the 15th day after the date the insurer provides the customer notice of the termination.

C.S.S.B. 839 authorizes an insurer to terminate the coverage of an enrolled customer under a portable electronics insurance policy without notice if the enrolled customer ceases to have an active service with the vendor of portable electronics; if the enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the policy; or for nonpayment of premium. The bill requires the insurer, if the policy is terminated because the aggregate limit of liability is exhausted, to send notice of termination to the enrolled customer not later than the 30th day after the date of exhaustion of the limit. The bill establishes that if the notice is not timely sent, the insurer is required to continue the customer's coverage, and the aggregate limit of liability is waived, until the insurer sends the notice of termination to the enrolled customer. The bill requires a master or group policyholder who terminates a portable electronics insurance policy to provide notice not later than the 30th day before the date the termination becomes effective to

each enrolled customer advising the enrolled customer of the termination and the effective date of termination.

C.S.S.B. 839 requires a notice or correspondence with respect to a portable electronics insurance policy under the bill's provisions or that is required by law to be in writing and sent by mail or electronic means within the notice period, if any, specified by the statute or rule requiring the notice or correspondence. The bill requires a notice or correspondence that is mailed to be sent to the master or group policyholder at the policyholder's mailing address specified for notice purposes and to each affected enrolled customer's last known mailing address on file with the insurer and requires the insurer or master or group policyholder to maintain proof of mailing in a form authorized or accepted by the United States Postal Service or other commercial mail delivery service. The bill requires a notice or correspondence sent by electronic means to be sent to the master or group policyholder at the policyholder's e-mail address specified for notice purposes and to each affected enrolled customer's last known e-mail address as provided by the customer to the insurer or master or group policyholder and requires the insurer or master or group policyholder to maintain proof that the notice or correspondence was sent. The bill establishes that an enrolled customer's provision of an e-mail address is considered consent to receive notices and correspondence by electronic means. The bill authorizes a notice or correspondence to be sent on behalf of an insurer or master or group policyholder by a licensed agent or agency appointed by the insurer.

C.S.S.B. 839 authorizes a licensed portable electronics vendor to bill a customer for, and collect from a customer payment for, portable electronics insurance coverage provided to the customer. The bill establishes that an insurer issuing a policy to a licensed portable electronic vendor is considered to have received a premium from a vendor's customer enrolled in coverage on the customer's payment of the premium to the vendor. The bill requires a licensed portable electronics vendor to separately itemize on a customer's bill any charge to the customer for portable electronics insurance coverage that is not included in the cost associated with the purchase or lease of the covered portable electronic device or related services and, if that coverage is included in the associated cost, to clearly and conspicuously disclose the inclusion of that coverage to the customer at the time of the purchase or lease.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 839 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Chapter 551, Insurance Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. PORTABLE ELECTRONICS INSURANCE

Sec. 551.201. DEFINITIONS.

Sec. 551.202. REQUIRED NOTICE OF TERMINATION OR CHANGE TO POLICY. (a) Except as otherwise provided

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 551, Insurance Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. PORTABLE ELECTRONICS INSURANCE

Sec. 551.201. DEFINITIONS.

Sec. 551.202. REQUIRED NOTICE OF TERMINATION OR CHANGE TO POLICY. (a) Except as otherwise provided

by this subchapter, an insurer may terminate or change the terms and conditions of a policy of portable electronics insurance only after notice to the master or group policyholder and each enrolled customer. Notice under this section must be provided not later than the 30th day before the date of the termination or change.

(b) If the insurer changes the terms and conditions of the policy, the insurer shall:

(1) provide to the master or group policyholder a revised policy or endorsement; and

(2) provide to each enrolled customer:

(A) a revised certificate, revised endorsement, updated brochure, or other document indicating that a change in the terms and conditions has occurred; and

(B) a summary of the material changes.

Sec. 551.203. TERMINATION FOR FRAUD OR MISREPRESENTATION.

Sec. 551.204. TERMINATION WITHOUT NOTICE.

Sec. 551.205. TERMINATION BY POLICYHOLDER.

Sec. 551.206. FORM OF NOTICE OR CORRESPONDENCE.

SECTION 2. Section 4055.253, Insurance Code, is amended.

SECTION 3. Subchapter F, Chapter 4055, Insurance Code, is amended.

SECTION 4. This Act takes effect September 1, 2013.

by this subchapter, an insurer may terminate or change the terms and conditions of a policy of portable electronics insurance only after notice to the master or group policyholder and each enrolled customer. Notice under this section must be provided not later than the 30th day before the date of the termination or change.

(b) If the insurer changes the terms and conditions of the policy, the insurer shall:

(1) provide to the master or group policyholder a revised policy or endorsement; and

(2) provide to each enrolled customer:

(A) a revised certificate, revised endorsement, updated brochure, or other document indicating that a change in the terms and conditions has occurred;

(B) a summary of the material changes; and

(C) a disclosure, in a font that is capitalized, boldfaced, italicized, or underlined or is larger than or set off from the remainder of the document, that enrollment in coverage is optional and that provides information on how to discontinue enrollment.

Sec. 551.203. TERMINATION FOR FRAUD OR MISREPRESENTATION.

Sec. 551.204. TERMINATION WITHOUT NOTICE.

Sec. 551.205. TERMINATION BY POLICYHOLDER.

Sec. 551.206. FORM OF NOTICE OR CORRESPONDENCE.

SECTION 2. Same as engrossed version.

SECTION 3. Same as engrossed version.

SECTION 4. Same as engrossed version.