

SUBSTITUTE FOR
SENATE BILL NO. 859

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 1201a (MCL 500.1201a), as added by 2001 PA 228,
and by adding chapter 29A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1201a. (1) A person shall not sell, solicit, or negotiate
2 insurance in this state for any line of insurance unless the person
3 is licensed for that qualification in accordance with this chapter.

4 (2) This chapter does not apply to excess and surplus lines
5 agents and brokers licensed under chapter 19 except as provided in
6 sections 1204e and 1206a.

7 (3) THIS CHAPTER DOES NOT APPLY TO THE SALE, SOLICITATION, OR
8 NEGOTIATION OF PORTABLE ELECTRONICS INSURANCE UNDER CHAPTER 29A.

9 CHAPTER 29A

PORTABLE ELECTRONICS INSURANCE

SEC. 2960. AS USED IN THIS CHAPTER:

(A) "CUSTOMER" MEANS A PERSON THAT PURCHASES PORTABLE ELECTRONICS OR SERVICES.

(B) "ENROLLED CUSTOMER" MEANS A CUSTOMER THAT ELECTS COVERAGE UNDER A PORTABLE ELECTRONICS INSURANCE POLICY ISSUED TO A VENDOR.

(C) "LOCATION" MEANS ANY PHYSICAL LOCATION IN THIS STATE OR ANY WEBSITE, CALL CENTER SITE, OR SIMILAR LOCATION DIRECTED TO RESIDENTS OF THIS STATE.

(D) "OFFICE" MEANS THE OFFICE OF FINANCIAL AND INSURANCE REGULATION.

(E) "PORTABLE ELECTRONIC DEVICE" MEANS AN ELECTRONIC DEVICE THAT IS PORTABLE IN NATURE AND ANY ACCESSORIES OR SERVICES RELATED TO THE USE OF THAT DEVICE.

(F) "PORTABLE ELECTRONICS INSURANCE" MEANS INSURANCE THAT PROVIDES COVERAGE FOR THE REPAIR OR REPLACEMENT OF A PORTABLE ELECTRONIC DEVICE, INCLUDING, BUT NOT LIMITED TO, INSURANCE THAT PROVIDES COVERAGE FOR A PORTABLE ELECTRONIC DEVICE AGAINST LOSS, THEFT, INOPERABILITY BECAUSE OF MECHANICAL FAILURE, MALFUNCTION, DAMAGE, OR OTHER SIMILAR CAUSES OF LOSS. PORTABLE ELECTRONICS INSURANCE DOES NOT INCLUDE ANY OF THE FOLLOWING:

(i) A SERVICE CONTRACT OR EXTENDED WARRANTY THAT PROVIDES COVERAGE THAT IS LIMITED TO THE REPAIR, REPLACEMENT, OR MAINTENANCE OF A PORTABLE ELECTRONIC DEVICE IF THERE IS AN OPERATIONAL OR STRUCTURAL FAILURE OF THE DEVICE CAUSED BY A DEFECT IN MATERIALS OR WORKMANSHIP, ACCIDENTAL DAMAGE FROM HANDLING, A POWER SURGE, OR NORMAL WEAR AND TEAR.

1 (ii) A POLICY OF INSURANCE COVERING A SELLER'S OR
2 MANUFACTURER'S OBLIGATIONS UNDER A WARRANTY.

3 (iii) A HOMEOWNER'S, RENTER'S, PRIVATE PASSENGER AUTOMOBILE,
4 COMMERCIAL MULTI-PERIL, OR SIMILAR INSURANCE POLICY.

5 (G) "PORTABLE ELECTRONICS TRANSACTION" MEANS ANY OF THE
6 FOLLOWING:

7 (i) A SALE OR LEASE OF A PORTABLE ELECTRONIC DEVICE BY A VENDOR
8 TO A CUSTOMER.

9 (ii) A SALE OF A SERVICE RELATED TO THE USE OF A PORTABLE
10 ELECTRONIC DEVICE BY A VENDOR TO A CUSTOMER.

11 (H) "SUPERVISING ENTITY" MEANS A BUSINESS ENTITY THAT IS AN
12 INSURANCE PRODUCER OR INSURER LICENSED UNDER THIS ACT.

13 (I) "VENDOR" MEANS A PERSON IN THE BUSINESS OF DIRECTLY OR
14 INDIRECTLY ENGAGING IN PORTABLE ELECTRONIC DEVICE TRANSACTIONS.

15 SEC. 2961. (1) A PERSON SHALL NOT SELL OR OFFER FOR SALE
16 PORTABLE ELECTRONICS INSURANCE IN THIS STATE UNLESS THE INSURANCE
17 IS SOLD OR OFFERED FOR SALE IN COMPLIANCE WITH THIS CHAPTER. A
18 VENDOR OR AN EMPLOYEE OR AUTHORIZED REPRESENTATIVE OF A VENDOR WHO
19 ACTS IN COMPLIANCE WITH THIS CHAPTER MAY SELL OR OFFER FOR SALE
20 PORTABLE ELECTRONICS INSURANCE AT EACH LOCATION WHERE THE VENDOR
21 ENGAGES IN PORTABLE ELECTRONICS TRANSACTIONS.

22 (2) A VENDOR SHALL MAINTAIN A REGISTRY OF LOCATIONS THAT ARE
23 AUTHORIZED TO SELL OR OFFER FOR SALE PORTABLE ELECTRONICS INSURANCE
24 IN THIS STATE. UPON THE COMMISSIONER'S REQUEST AND WITH 10 DAYS'
25 NOTICE TO THE VENDOR, THE REGISTRY SHALL BE OPEN TO INSPECTION AND
26 EXAMINATION BY THE COMMISSIONER DURING THE VENDOR'S REGULAR
27 BUSINESS HOURS.

1 SEC. 2962. (1) AT EVERY LOCATION WHERE A VENDOR OFFERS FOR
2 SALE PORTABLE ELECTRONICS INSURANCE TO CUSTOMERS, THE VENDOR SHALL
3 MAKE BROCHURES OR OTHER WRITTEN MATERIALS AVAILABLE TO A
4 PROSPECTIVE CUSTOMER. THE BROCHURES OR OTHER WRITTEN MATERIALS
5 SHALL DO ALL OF THE FOLLOWING:

6 (A) DISCLOSE THAT PORTABLE ELECTRONICS INSURANCE MAY PROVIDE A
7 DUPLICATION OF COVERAGE ALREADY PROVIDED BY THE CUSTOMER'S
8 HOMEOWNER'S INSURANCE POLICY, RENTER'S INSURANCE POLICY, OR OTHER
9 INSURANCE COVERAGE.

10 (B) STATE THAT THE ENROLLMENT BY THE CUSTOMER IN A PORTABLE
11 ELECTRONICS INSURANCE PROGRAM IS NOT REQUIRED TO PURCHASE OR LEASE
12 A PORTABLE ELECTRONIC DEVICE OR SERVICES FOR THE DEVICE.

13 (C) SUMMARIZE THE MATERIAL TERMS OF THE PORTABLE ELECTRONICS
14 INSURANCE COVERAGE, INCLUDING AT LEAST ALL OF THE FOLLOWING:

15 (i) THE IDENTITY OF THE INSURER.

16 (ii) THE IDENTITY OF ANY SUPERVISING ENTITY.

17 (iii) THE AMOUNT OF ANY APPLICABLE DEDUCTIBLE AND HOW IT IS TO
18 BE PAID.

19 (iv) BENEFITS OF THE COVERAGE.

20 (v) KEY TERMS AND CONDITIONS OF THE COVERAGE, SUCH AS WHETHER
21 PORTABLE ELECTRONICS MAY BE REPAIRED OR REPLACED WITH SIMILAR MAKE
22 AND MODEL RECONDITIONED OR NONORIGINAL MANUFACTURER PARTS OR
23 EQUIPMENT.

24 (D) SUMMARIZE THE PROCESS FOR FILING A CLAIM, INCLUDING A
25 DESCRIPTION OF HOW TO RETURN A PORTABLE ELECTRONIC DEVICE AND THE
26 MAXIMUM FEE APPLICABLE IF THE CUSTOMER FAILS TO COMPLY WITH ANY
27 EQUIPMENT RETURN REQUIREMENTS.

1 (E) STATE THAT THE CUSTOMER MAY CANCEL ENROLLMENT FOR COVERAGE
2 UNDER A PORTABLE ELECTRONICS INSURANCE POLICY AT ANY TIME AND THAT
3 THE PERSON PAYING THE PREMIUM WILL RECEIVE A REFUND OF OR CREDIT
4 FOR ANY APPLICABLE UNEARNED PREMIUM.

5 (2) A VENDOR MAY OFFER FOR SALE PORTABLE ELECTRONICS INSURANCE
6 ON A MONTH-TO-MONTH OR OTHER PERIODIC BASIS AS A GROUP OR MASTER
7 COMMERCIAL INLAND MARINE POLICY ISSUED TO THE VENDOR FOR ITS
8 ENROLLED CUSTOMERS.

9 (3) AN INSURER ISSUING A POLICY OF PORTABLE ELECTRONICS
10 INSURANCE SHALL ESTABLISH ELIGIBILITY AND UNDERWRITING STANDARDS
11 FOR CUSTOMERS ELECTING TO ENROLL IN COVERAGE FOR EACH PORTABLE
12 ELECTRONICS INSURANCE PROGRAM.

13 SEC. 2963. (1) AN INSURER THAT ISSUES A PORTABLE ELECTRONICS
14 INSURANCE POLICY SHALL EITHER DIRECTLY SUPERVISE OR APPOINT A
15 SUPERVISING ENTITY TO SUPERVISE THE ADMINISTRATION OF THE PORTABLE
16 ELECTRONICS INSURANCE PROGRAM.

17 (2) A VENDOR OR AN EMPLOYEE OR AUTHORIZED REPRESENTATIVE OF A
18 VENDOR SHALL NOT ADVERTISE, REPRESENT, OR OTHERWISE HOLD HIMSELF OR
19 HERSELF OUT AS A LIMITED LINES LICENSED INSURANCE PRODUCER UNLESS
20 THE VENDOR, EMPLOYEE, OR REPRESENTATIVE IS SO LICENSED UNDER THIS
21 ACT.

22 (3) A VENDOR MAY BILL AND COLLECT THE CHARGES FOR PORTABLE
23 ELECTRONICS INSURANCE COVERAGE. A VENDOR SHALL SEPARATELY ITEMIZE
24 ON THE ENROLLED CUSTOMER'S BILL ANY CHARGE FOR COVERAGE THAT IS NOT
25 INCLUDED IN THE COST ASSOCIATED WITH THE PURCHASE OR LEASE OF A
26 PORTABLE ELECTRONIC DEVICE OR RELATED SERVICES. IF THE PORTABLE
27 ELECTRONICS INSURANCE COVERAGE IS INCLUDED WITH THE PURCHASE OR

1 LEASE OF A PORTABLE ELECTRONIC DEVICE OR RELATED SERVICES, THE
2 VENDOR SHALL CLEARLY AND CONSPICUOUSLY DISCLOSE TO THE ENROLLED
3 CUSTOMER THAT THE PORTABLE ELECTRONICS INSURANCE COVERAGE IS
4 INCLUDED WITH THE PORTABLE ELECTRONIC DEVICE OR RELATED SERVICES.
5 VENDORS BILLING AND COLLECTING CHARGES DESCRIBED IN THIS SUBSECTION
6 ARE NOT REQUIRED TO MAINTAIN THE PROCEEDS IN A SEGREGATED ACCOUNT
7 IF THE VENDOR IS AUTHORIZED BY THE INSURER TO HOLD THE PROCEEDS IN
8 AN ALTERNATIVE MANNER AND REMITS THOSE PROCEEDS TO THE SUPERVISING
9 ENTITY WITHIN 60 DAYS AFTER RECEIVING THEM. ALL MONEY RECEIVED BY A
10 VENDOR FROM AN ENROLLED CUSTOMER FROM THE PURCHASE OF PORTABLE
11 ELECTRONICS INSURANCE IS CONSIDERED MONEY HELD IN TRUST BY THE
12 VENDOR IN A FIDUCIARY CAPACITY FOR THE BENEFIT OF THE INSURER. A
13 VENDOR MAY RECEIVE COMPENSATION FOR BILLING AND COLLECTION SERVICES
14 DESCRIBED IN THIS SUBSECTION.

15 SEC. 2964. IF A VENDOR OR AN EMPLOYEE OR AUTHORIZED
16 REPRESENTATIVE OF A VENDOR VIOLATES THIS CHAPTER, THE COMMISSIONER
17 MAY DO ANY OF THE FOLLOWING:

18 (A) AFTER NOTICE AND HEARING, IMPOSE AN ADMINISTRATIVE FINE OF
19 NOT MORE THAN \$500.00 FOR EACH VIOLATION. HOWEVER, THE COMMISSIONER
20 SHALL NOT ASSESS ADMINISTRATIVE FINES UNDER THIS CHAPTER AGAINST
21 ANY PERSON THAT IN THE AGGREGATE ARE MORE THAN \$5,000.00 FOR
22 MULTIPLE VIOLATIONS THAT INVOLVE THE SAME CONDUCT, ACTION, OR
23 PRACTICE.

24 (B) AFTER NOTICE AND HEARING, IMPOSE OTHER PENALTIES THAT THE
25 COMMISSIONER CONSIDERS NECESSARY AND REASONABLE TO CARRY OUT THE
26 PURPOSE OF THIS CHAPTER, INCLUDING, BUT NOT LIMITED TO, ANY OF THE
27 FOLLOWING:

1 (i) SUSPENDING THE PRIVILEGE OF TRANSACTING PORTABLE
2 ELECTRONICS INSURANCE UNDER THIS CHAPTER AT SPECIFIC LOCATIONS
3 WHERE VIOLATIONS HAVE OCCURRED.

4 (ii) SUSPENDING OR REVOKING THE ABILITY OF THE VENDOR OR
5 INDIVIDUAL EMPLOYEES OR AUTHORIZED REPRESENTATIVES OF THE VENDOR TO
6 SELL OR OFFER FOR SALE PORTABLE ELECTRONICS INSURANCE.

7 SEC. 2965. (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO
8 THE CONTRARY, A POLICY OF PORTABLE ELECTRONICS INSURANCE MAY BE
9 TERMINATED OR MODIFIED AS STATED IN THE POLICY.

10 (2) A NOTICE OR CORRESPONDENCE WITH RESPECT TO A POLICY OF
11 PORTABLE ELECTRONICS INSURANCE THAT IS REQUIRED UNDER THE POLICY OR
12 OTHERWISE REQUIRED BY LAW SHALL BE IN WRITING AND SENT WITHIN THE
13 NOTICE PERIOD, IF ANY, SPECIFIED IN THE POLICY, STATUTE, OR RULE
14 REQUIRING THE NOTICE OR CORRESPONDENCE. A NOTICE OR CORRESPONDENCE
15 MAY BE SENT EITHER BY MAIL OR BY ELECTRONIC MEANS AS FOLLOWS:

16 (A) IF THE NOTICE OR CORRESPONDENCE IS MAILED, IT SHALL BE
17 SENT TO THE VENDOR AT THE VENDOR'S MAILING ADDRESS SPECIFIED FOR
18 RECEIVING MAILED NOTICES AND CORRESPONDENCE AND TO THE AFFECTED
19 CUSTOMER'S LAST KNOWN MAILING ADDRESS ON FILE WITH THE INSURER. THE
20 INSURER OR VENDOR SHALL MAINTAIN PROOF OF MAILING OF A NOTICE OR
21 CORRESPONDENCE IN A FORM AUTHORIZED OR ACCEPTED BY THE UNITED
22 STATES POSTAL SERVICE OR OTHER COMMERCIAL MAIL DELIVERY SERVICE.

23 (B) IF THE NOTICE OR CORRESPONDENCE IS SENT BY ELECTRONIC
24 MEANS, IT SHALL BE SENT TO THE VENDOR AT THE VENDOR'S ELECTRONIC
25 MAIL ADDRESS SPECIFIED FOR RECEIVING NOTICES AND CORRESPONDENCE BY
26 ELECTRONIC MEANS AND TO THE AFFECTED CUSTOMER'S LAST KNOWN
27 ELECTRONIC MAIL ADDRESS AS PROVIDED BY THE CUSTOMER TO THE INSURER

1 OR VENDOR. FOR PURPOSES OF THIS SUBDIVISION, THE PROVISION OF AN
2 ELECTRONIC MAIL ADDRESS TO THE INSURER OR VENDOR BY THE CUSTOMER IS
3 CONSIDERED TO BE CONSENT TO RECEIVE NOTICES AND CORRESPONDENCE BY
4 ELECTRONIC MEANS. THE INSURER OR VENDOR SHALL MAINTAIN PROOF THAT A
5 NOTICE OR CORRESPONDENCE WAS SENT BY ELECTRONIC MEANS.

6 (3) A NOTICE OR CORRESPONDENCE REQUIRED BY THIS SECTION OR
7 OTHERWISE REQUIRED BY LAW MAY BE SENT ON BEHALF OF AN INSURER OR
8 VENDOR BY A SUPERVISING ENTITY APPOINTED BY THE INSURER.