

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 471

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO INSURANCE; AMENDING SECTION 41-1003, IDAHO CODE, TO REVISE A
2 DEFINITION; AMENDING SECTION 41-1004, IDAHO CODE, TO PROVIDE FOR AN
3 EXEMPTION FROM A LICENSE FOR A PERSON ACTING UNDER A LICENSED BUSINESS
4 ENTITY AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 10, TITLE
5 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1081, IDAHO CODE,
6 TO PROVIDE FOR FINDINGS OF THE LEGISLATURE AND PURPOSE; AMENDING CHAP-
7 TER 10, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1082,
8 IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 10, TITLE 41, IDAHO CODE,
9 BY THE ADDITION OF A NEW SECTION 41-1083, IDAHO CODE, TO PROVIDE FOR A
10 LIMITED LINES LICENSE FOR A VENDOR SELLING PORTABLE ELECTRONICS INSUR-
11 ANCE; AMENDING CHAPTER 10, TITLE 41, IDAHO CODE, BY THE ADDITION OF A
12 NEW SECTION 41-1084, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR THE SALE
13 OF PORTABLE ELECTRONICS INSURANCE; AMENDING CHAPTER 10, TITLE 41, IDAHO
14 CODE, BY THE ADDITION OF A NEW SECTION 41-1085, IDAHO CODE, TO PROVIDE
15 FOR THE AUTHORITY OF A VENDOR HOLDING A LIMITED LINES LICENSE TO SELL
16 PORTABLE ELECTRONICS INSURANCE; AMENDING CHAPTER 10, TITLE 41, IDAHO
17 CODE, BY THE ADDITION OF A NEW SECTION 41-1086, IDAHO CODE, TO PROVIDE
18 FOR A VENDOR'S RESPONSIBILITY FOR THE ACTIONS OF ITS EMPLOYEES AND
19 AUTHORIZED REPRESENTATIVES ACTING UNDER THE VENDOR'S LICENSE; AMEND-
20 ING CHAPTER 10, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
21 41-1087, IDAHO CODE, TO PROVIDE FOR PENALTIES FOR A VENDOR VIOLATING
22 THE REQUIREMENTS FOR THE SALE OR OFFERING OF PORTABLE ELECTRONICS IN-
23 SURANCE; AMENDING CHAPTER 10, TITLE 41, IDAHO CODE, BY THE ADDITION
24 OF A NEW SECTION 41-1088, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR THE
25 TERMINATION OR MODIFICATION OF A POLICY OF PORTABLE ELECTRONICS INSUR-
26 ANCE; AMENDING CHAPTER 10, TITLE 41, IDAHO CODE, BY THE ADDITION OF A
27 NEW SECTION 41-1089, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR A VENDOR
28 APPLYING FOR A LIMITED LINES LICENSE TO SELL OR OFFER PORTABLE ELEC-
29 TRONICS INSURANCE; AMENDING SECTION 41-1102, IDAHO CODE, TO PROVIDE AN
30 EXEMPTION FROM PORTABLE CONSUMER ELECTRONIC INSURANCE ADJUSTER LICEN-
31 SURE FOR A CLERICAL PERSON; AMENDING SECTION 41-1103, IDAHO CODE, TO
32 PROVIDE THE MANNER IN WHICH CANADIAN RESIDENTS MAY BE LICENSED TO ADJUST
33 CLAIMS; AMENDING SECTION 41-1104, IDAHO CODE, TO PROVIDE FOR BACKGROUND
34 MATERIAL FOR CERTAIN PERSONS WITHIN ENTITIES APPLYING FOR ADJUSTER LI-
35 CENSURE AND TO MAKE TECHNICAL CORRECTIONS; PROVIDING SEVERABILITY; AND
36 PROVIDING AN EFFECTIVE DATE.
37

38 Be It Enacted by the Legislature of the State of Idaho:

39 SECTION 1. That Section 41-1003, Idaho Code, be, and the same is hereby
40 amended to read as follows:

1 41-1003. DEFINITIONS. (1) "Business entity" means a corporation, as-
2 sociation, partnership, limited liability company, limited liability part-
3 nership or other legal entity.

4 (2) "Home state" means the District of Columbia and any state or terri-
5 tory of the United States or any province of Canada in which an insurance pro-
6 ducer maintains his or her principal place of residence or principal place of
7 business and is licensed to act as an insurance producer.

8 (3) "License" means a document issued by the director authorizing a
9 person to act as an insurance producer for the lines of authority specified
10 in the document. The license itself does not create any authority, actual,
11 apparent or inherent, in the holder to represent or commit an insurance car-
12 rier.

13 (4) "Limited lines insurance" is insurance which restricts the author-
14 ity of the license to less than the total authority prescribed in the as-
15 sociated major lines pursuant to section 41-1008(1)(a) through (g), Idaho
16 Code, and shall include, but not be limited to: credit life, credit disabil-
17 ity, credit property, credit unemployment, involuntary unemployment, mort-
18 gage life, mortgage guaranty, mortgage disability, guaranteed automobile
19 protection (GAP) insurance, transportation baggage insurance, transporta-
20 tion ticket policies covering personal accident insurance, pet insurance,
21 portable electronics insurance or any other line of insurance that the di-
22 rector deems necessary to recognize for the purposes of complying with sec-
23 tion 41-1009(5), Idaho Code.

24 (5) "Limited lines producer" means a producer authorized by the direc-
25 tor to sell, solicit or negotiate limited lines insurance.

26 (6) "Negotiate" means the act of conferring directly with or offering
27 advice directly to a purchaser or prospective purchaser of a particular con-
28 tract of insurance concerning any of the substantive benefits, terms or con-
29 ditions of the contract, provided that the person engaged in the act either
30 sells insurance or obtains insurance from insurers for purchasers.

31 (7) "Person" means an individual or a business entity.

32 (8) "Producer" means a person required to be licensed under the laws of
33 this state to sell, solicit or negotiate insurance.

34 (9) "Resident" means a person whose home state is Idaho or any other
35 particular state identified in conjunction with the use of the term.

36 (10) "Sell" means to exchange a contract of insurance by any means, for
37 money or its equivalent, on behalf of an insurance company.

38 (11) "Solicit" means attempting to sell insurance or asking or urging a
39 person to apply for a particular kind of insurance from a particular company
40 or companies.

41 (12) "Terminate" means the cancellation of the relationship between an
42 insurance producer and the insurer or the termination of a producer's au-
43 thority to transact insurance for or on behalf of an insurer.

44 (13) "Uniform application" means the current version of the national
45 association of insurance commissioners (NAIC) uniform application for resi-
46 dent and nonresident producer licensing.

47 (14) "Uniform business entity application" means the current version of
48 the NAIC uniform business entity application for resident and nonresident
49 business entities.

1 SECTION 2. That Section 41-1004, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 41-1004. LICENSE REQUIRED. (1) A person shall not sell, solicit or ne-
4 gotiate insurance in this state for any class or classes of insurance unless
5 the person is licensed as a producer for that line of authority in accordance
6 with this chapter.

7 (2) A person shall not, for a fee, engage in the business of offering any
8 advice, counsel, opinion or service with respect to the benefits, advantages
9 or disadvantages under any policy of insurance that could be issued in Idaho
10 unless that person is:

11 (a) A licensed insurance producer offering advice concerning a class of
12 insurance as to which the producer is licensed to transact business in
13 this state;

14 (b) An attorney rendering services in the performance of the duties of
15 an attorney;

16 (c) A certified public accountant rendering services in the perfor-
17 mance of the duties of a certified public accountant, as authorized by
18 law;

19 (d) An actuary rendering actuarial services if such actuary is a member
20 of an organization determined by the director as establishing standards
21 for the actuarial profession;

22 (e) A person providing services to producers or authorized insurers
23 only;

24 (f) A person rendering services as an expert pursuant to the Idaho rules
25 of evidence; ~~or~~

26 (g) An investment adviser, investment adviser representative or
27 ~~federally covered~~ federally covered investment adviser as defined in
28 section 30-14-102, Idaho Code; or

29 (h) A person rendering such services pursuant to a license issued in ac-
30 cordance with sections 41-1081 through 41-1089 of this chapter.

31 SECTION 3. That Chapter 10, Title 41, Idaho Code, be, and the same is
32 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
33 ignated as Section 41-1081, Idaho Code, and to read as follows:

34 41-1081. REQUIREMENTS FOR SALE OF PORTABLE ELECTRONICS INSURANCE --
35 FINDINGS -- PURPOSE. (1) Sections 41-1081 through 41-1089, Idaho Code, set
36 forth requirements for the sale of portable electronics insurance in this
37 state.

38 (2) The legislature finds that portable electronics insurers and in-
39 surance producers who sell, solicit or negotiate the offer or sale of such
40 insurance in this state shall be supervised and regulated by the department
41 of insurance in a uniform and consistent manner.

42 SECTION 4. That Chapter 10, Title 41, Idaho Code, be, and the same is
43 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
44 ignated as Section 41-1082, Idaho Code, and to read as follows:

45 41-1082. DEFINITIONS. As used in sections 41-1081 through 41-1089,
46 Idaho Code:

- 1 (1) "Customer" means a person who purchases portable electronics or
2 services.
- 3 (2) "Enrolled Customer" means a customer who purchases coverage under
4 a portable electronics insurance policy issued to a vendor of portable elec-
5 tronics, which vendor would be the insured under a master or group policy.
- 6 (3) "Location" means any physical location in the state of Idaho or any
7 website, call center site or similar location directed to residents of the
8 state of Idaho.
- 9 (4) "Portable electronics" means electronic devices that are portable
10 in nature and includes accessories and any services related to the use of
11 such device.
- 12 (5) (a) "Portable electronics insurance" means insurance providing
13 coverage for the repair or replacement of portable electronics against
14 any one (1) or more of the following causes of loss: loss of the portable
15 electronic device, theft, inoperability due to mechanical failure,
16 malfunction, damage or other similar causes of loss;
- 17 (b) "Portable electronics insurance" does not include:
- 18 (i) A service contract as defined in section 41-114A, Idaho Code;
19 (ii) A policy of insurance covering a seller's or a manufacturer's
20 obligations under a warranty; or
21 (iii) A homeowner's, renter's, private passenger automobile, com-
22 mercial multi-peril or similar insurance policy.
- 23 (6) "Portable electronics transaction" means:
- 24 (a) The sale or lease of portable electronics by a vendor to a customer;
25 or
26 (b) The sale of a service related to the use of portable electronics by a
27 vendor to a customer.
- 28 (7) "Supervising entity" means a business entity that is a licensed in-
29 surer or insurance producer that is authorized by an insurer to supervise the
30 administration of a portable electronics insurance program.
- 31 (8) "Vendor" means a person in the business of engaging in portable
32 electronics transactions directly or indirectly.

33 SECTION 5. That Chapter 10, Title 41, Idaho Code, be, and the same is
34 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
35 ignated as Section 41-1083, Idaho Code, and to read as follows:

36 41-1083. LICENSURE OF VENDORS. (1) A vendor is required to hold a lim-
37 ited lines license to sell or offer coverage under a policy of portable elec-
38 tronics insurance.

39 (2) A limited lines license issued pursuant to the provisions of this
40 section shall authorize any employee or authorized representative of the
41 vendor to sell or offer coverage under a policy of portable electronics
42 insurance to a customer at each location at which the vendor engages in
43 portable electronics transactions.

44 (3) The supervising entity shall maintain a registry of vendor loca-
45 tions that are authorized to sell or solicit portable electronics insurance
46 coverage in this state. Upon request by the director to the supervising en-
47 tity, the registry shall be open to inspection and examination by the direc-
48 tor during regular business hours of the supervising entity.

1 (4) Notwithstanding any other provision of law, a limited lines license
2 issued pursuant to this section shall authorize the licensee and its employ-
3 ees or authorized representatives to engage in those activities that are
4 permitted in this section.

5 SECTION 6. That Chapter 10, Title 41, Idaho Code, be, and the same is
6 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
7 ignated as Section 41-1084, Idaho Code, and to read as follows:

8 41-1084. REQUIREMENTS FOR SALE OF PORTABLE ELECTRONICS INSURANCE. (1)
9 At every location where portable electronics insurance is offered or sold to
10 customers, brochures or other written materials must be provided by the ven-
11 dor to a prospective customer which:

12 (a) Disclose that portable electronics insurance may duplicate cov-
13 erage already provided by a customer's homeowner's insurance policy,
14 renter's insurance policy or other source of insurance coverage;

15 (b) State that the purchase by the customer of a portable electronics
16 insurance policy is not required in order to purchase or lease portable
17 electronics or related services;

18 (c) Summarize the material terms of the insurance coverage, including:

19 (i) The identity of the insurer;

20 (ii) The identity and contact information of the supervising en-
21 tity;

22 (iii) The amount of any applicable deductible and how it is to be
23 paid;

24 (iv) Benefits of the insurance coverage; and

25 (v) Key terms and conditions of the insurance coverage such as
26 whether portable electronics may be repaired or replaced with sim-
27 ilar make and model, reconditioned or nonoriginal manufacturer
28 parts or equipment;

29 (d) Set forth the process for filing a claim, including a description
30 of how to return portable electronics and any deadlines applicable
31 thereto, any fees that may apply and the maximum fee applicable in the
32 event the customer fails to comply with any equipment return require-
33 ments; and

34 (e) State that an enrolled customer may cancel enrollment for coverage
35 under a portable electronics insurance policy at any time and that the
36 person who paid the premium shall receive a pro rata refund or credit of
37 any applicable unearned premium within sixty (60) days of the receipt of
38 notice from the customer that he wishes to cancel coverage.

39 (2) The director may order a vendor to stop using any brochure or other
40 written material that violates the requirements of this section or is other-
41 wise found to be misleading or false.

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

45 (4) Eligibility and underwriting standards for customers electing to
46 purchase portable electronics insurance coverage shall be established for
47 each portable electronics insurance program by the insurer issuing a policy
48 to a vendor.

1 SECTION 7. That Chapter 10, Title 41, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
3 ignated as Section 41-1085, Idaho Code, and to read as follows:

4 41-1085. AUTHORITY OF VENDORS OF PORTABLE ELECTRONICS. (1) Notwith-
5 standing any other provision of law, the employees and authorized represen-
6 tatives of vendors may sell or offer portable electronics insurance to cus-
7 tomers and shall not be subject to licensure as an insurance producer under
8 the provisions of this chapter provided that:

9 (a) The vendor obtains a limited lines license to authorize its employ-
10 ees or authorized representatives to sell or offer portable electronics
11 insurance pursuant to the provisions of this section;

12 (b) The insurer issuing the portable electronics insurance either
13 directly supervises or appoints a supervising entity who shall super-
14 vise the administration of the program, to include development of a
15 training program for employees and authorized representatives of the
16 vendors concerning the applicable requirements of this chapter prior
17 to the transaction of any personal electronics insurance. The training
18 required by the provisions of this section shall comply with the follow-
19 ing:

20 (i) The training shall be delivered to employees and authorized
21 representatives of a vendor who are directly engaged in the activi-
22 ty of selling or offering portable electronics insurance;

23 (ii) The training may be provided in electronic form. However, if
24 conducted in an electronic form, the supervising entity shall im-
25 plement a supplemental education program regarding the portable
26 electronics insurance product being offered or sold that is con-
27 ducted and overseen by employees of the supervising entity that
28 are licensed pursuant to this chapter;

29 (iii) Each employee and authorized representative shall receive
30 basic instruction concerning the portable electronics insurance
31 offered to customers and the disclosures required pursuant to sec-
32 tion 41-1084, Idaho Code; and

33 (c) No employee or authorized representative of a vendor of portable
34 electronics shall advertise, represent or otherwise hold himself out as
35 a limited lines or other licensed insurance producer.

36 (2) The charges for portable electronics insurance coverage may be
37 billed and collected by the vendor of portable electronics. Any charge to
38 the enrolled customer for portable electronics insurance coverage that is
39 not included in the cost associated with the purchase or lease of portable
40 electronics or related services shall be separately itemized on the enrolled
41 customer's bill. If the portable electronics insurance coverage is included
42 with the purchase or lease of portable electronics or related services, the
43 vendor shall clearly and conspicuously disclose to the enrolled customer
44 that the portable electronics insurance coverage is included in the portable
45 electronics or related services purchased. Vendors billing and collecting
46 such charges shall not be required to maintain such funds in a segregated
47 account, provided that the vendor is authorized by the insurer to hold such
48 funds in a nonsegregated account and is required to remit such amounts to the
49 supervising entity within sixty (60) days of receipt. All funds received by

1 a vendor from an enrolled customer for the sale of portable electronics in-
2 surance shall be considered funds held in trust by the vendor in a fiduciary
3 capacity for the benefit of the insurer. Failure to do so is a violation of
4 this section. Vendors may receive compensation for billing and collection
5 services.

6 SECTION 8. That Chapter 10, Title 41, Idaho Code, be, and the same is
7 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
8 ignated as Section 41-1086, Idaho Code, and to read as follows:

9 41-1086. RESPONSIBILITY FOR ACTIONS OF OTHERS. For purposes of li-
10 censing and regulation under title 41, Idaho Code, a portable electronics
11 limited lines licensee shall be responsible for the actions of the li-
12 censee's employees and authorized representatives acting on the licensee's
13 behalf in relation to portable electronics insurance transactions and mat-
14 ters arising out of the same. Any violation of this chapter by the licensee's
15 employees and authorized representatives acting on the licensee's behalf
16 shall be considered a violation by the licensee.

17 SECTION 9. That Chapter 10, Title 41, Idaho Code, be, and the same is
18 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
19 ignated as Section 41-1087, Idaho Code, and to read as follows:

20 41-1087. SUSPENSION OR REVOCATION OF LICENSE. If a vendor of portable
21 electronics or its employee or authorized representative violates any ap-
22 plicable provision of this chapter including, but not limited to, section
23 41-1016, Idaho Code, or applicable provisions of chapter 13, title 41, Idaho
24 Code, or an applicable rule, the director may:

25 (1) Impose an administrative penalty pursuant to section 41-117, Idaho
26 Code. However, penalties arising from the same or similar conduct shall not
27 exceed fifty thousand dollars (\$50,000) in the aggregate; and

28 (2) Impose other penalties that the director deems necessary and rea-
29 sonable, including:

30 (a) Prohibiting such vendor from transacting portable electronics in-
31 surance pursuant to the provisions of this section at specific business
32 locations where violations have occurred or from using specific employ-
33 ees or representatives in the transaction of portable electronics in-
34 surance; and

35 (b) Suspending, revoking or refusing to renew the license of such ven-
36 dor.

37 SECTION 10. That Chapter 10, Title 41, Idaho Code, be, and the same is
38 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
39 ignated as Section 41-1088, Idaho Code, and to read as follows:

40 41-1088. TERMINATION OF PORTABLE ELECTRONICS INSURANCE. Notwith-
41 standing any other provision of law:

42 (1) An insurer may terminate or otherwise change the terms and condi-
43 tions of a policy of portable electronics insurance only upon providing the
44 policyholder and enrolled customers with at least thirty (30) days' notice.

1 (2) If the insurer changes the terms and conditions, then the insurer
2 shall provide the vendor policyholder with a revised policy or endorsement
3 and each enrolled customer with a revised certificate, endorsement, updated
4 brochure or other evidence indicating that a change in the terms and condi-
5 tions has occurred and a summary of material changes. An enrolled customer
6 shall be entitled to reject any change to the terms and conditions or cancel
7 coverage, and the person who paid the premium shall receive a pro rata refund
8 or credit of any applicable unearned premium within sixty (60) days of the
9 receipt of notice from the customer that he wishes to cancel coverage.

10 (3) Notwithstanding subsection (1) of this section, an insurer may ter-
11 minate an enrolled customer's enrollment under a portable electronics in-
12 surance policy upon fifteen (15) days' notice for discovery of fraud or ma-
13 terial misrepresentation in obtaining coverage or in the presentation of a
14 claim thereunder.

15 (4) Notwithstanding subsection (1) of this section, an insurer may
16 immediately terminate an enrolled customer's enrollment under a portable
17 electronics insurance policy:

18 (a) For nonpayment of premium;

19 (b) If the enrolled customer ceases to have an active service with the
20 vendor of portable electronics; or

21 (c) If an enrolled customer exhausts the aggregate limit of liability
22 under the terms of the portable electronics insurance policy and the
23 insurer sends notice of termination to the enrolled customer within
24 thirty (30) calendar days after exhaustion of the limit. However, if
25 notice is not timely sent, enrollment shall continue notwithstanding
26 the aggregate limit of liability until the insurer sends notice of
27 termination to the enrolled customer and specifies the date of such ter-
28 mination.

29 (5) Where a portable electronics insurance policy is terminated by a
30 policyholder, the policyholder shall mail or deliver written notice to each
31 enrolled customer advising the enrolled customer of the termination of the
32 policy and the effective date of termination. The written notice shall be
33 mailed or delivered to the enrolled customer at least thirty (30) days prior
34 to the termination, and any unearned premium shall be returned to the policy-
35 holder within sixty (60) days of such termination.

36 (6) Whenever notice or correspondence with respect to a policy of
37 portable electronics insurance is required pursuant to the provisions of
38 this section or is otherwise required by law, it shall be in writing and sent
39 within the required notice period, if any, specified within the statute or
40 regulation requiring the notice or correspondence. Notwithstanding any
41 other provision of law, notices and correspondence may be sent either by
42 mail or by electronic means if agreed to by the customer pursuant to section
43 28-50-105, Idaho Code, and as set forth in this subsection. If the notice or
44 correspondence is mailed, it shall be sent to the vendor of portable elec-
45 tronics at the vendor's mailing address specified for such purpose and to
46 each affected enrolled customer's last known mailing address on file with
47 the insurer. The insurer or vendor of portable electronics, as the case may
48 be, shall maintain proof of mailing in a form authorized or accepted by the
49 United States postal service or other commercial mail delivery service. If
50 the notice or correspondence is sent by electronic means, it shall be sent

1 to the vendor of portable electronics at the vendor's electronic mail ad-
2 dress specified for such purpose and to each affected enrolled customer's
3 last known electronic mail address as provided by each enrolled customer to
4 the insurer or vendor of portable electronics at the time of purchase of the
5 portable electronics insurance coverage. For purposes of this subsection,
6 an enrolled customer's provision of an electronic mail address to the in-
7 surer or vendor of portable electronics shall be deemed consent to receive
8 notices and correspondence by electronic means at such address so long as no-
9 tice of that consent is simultaneously provided to the customer. The insurer
10 or vendor of portable electronics shall maintain proof that the notice or
11 correspondence was sent.

12 (7) Notice or correspondence required by this section or otherwise re-
13 quired by law may be sent on behalf of an insurer or vendor by the supervising
14 entity appointed by the insurer.

15 SECTION 11. That Chapter 10, Title 41, Idaho Code, be, and the same is
16 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
17 ignated as Section 41-1089, Idaho Code, and to read as follows:

18 41-1089. APPLICATION FOR LICENSE AND FEES. (1) A sworn application for
19 a limited lines license to sell, solicit or negotiate portable electronics
20 insurance shall be completed and filed with the department of insurance on
21 forms prescribed by the director to include such information as the director
22 deems necessary.

23 (2) The application shall:

24 (a) Provide the name, residence address and other information required
25 by the director for an employee or officer of the vendor that is desig-
26 nated by the applicant as the person responsible for the vendor's com-
27 pliance with the requirements of this chapter, which designation shall
28 satisfy the requirements of section 41-1007(2)(b), Idaho Code. How-
29 ever, if the vendor derives more than fifty percent (50%) of its revenue
30 from the sale of portable electronics insurance, the information noted
31 in this subsection shall be provided for all officers, directors, and
32 shareholders of record having beneficial ownership of ten percent (10%)
33 or more of the vendor;

34 (b) Provide the location of the applicant's home office, both street
35 address and mailing address, and phone number where such applicant may
36 be reached during regular business hours; and

37 (c) Provide the syllabus for the training program that is developed by
38 the supervising entity or the insurer that issued the portable elec-
39 tronics insurance policy to the vendor.

40 (3) Any vendor engaging in portable electronics insurance transactions
41 on or before the effective date of sections 41-1081 through 41-1089, Idaho
42 Code, must apply for licensure within ninety (90) days of the application
43 being made available to the vendor by the director. Any applicant commencing
44 operations after the effective date of sections 41-1081 through 41-1089,
45 Idaho Code, must obtain a license prior to offering or selling portable elec-
46 tronics insurance.

47 (4) Notwithstanding any other provision of law, applicants for licen-
48 sure pursuant to sections 41-1081 through 41-1089, Idaho Code, whose home
49 state does not issue a producer license with a similar line of authority as

1 the license authorized by such sections shall be issued a portable electron-
2 ics limited lines license upon satisfying all applicable requirements of
3 this chapter. However, any licensee whose home state does not authorize a
4 limited lines license for portable electronics insurance in its home state
5 after July 1, 2014, or such later date as may be determined by the director,
6 shall obtain a property and casualty license under title 41, Idaho Code, or
7 its license shall terminate in Idaho. For the purposes of this subsection,
8 "home state" means the District of Columbia and any state or territory of the
9 United States except Idaho, or any province of Canada, in which an applicant
10 maintains such person's principal place of residence or principal place of
11 business.

12 (5) Initial licenses issued pursuant to sections 41-1081 through
13 41-1089, Idaho Code, shall be valid for a period of twenty-four (24) months
14 and expire thereafter unless renewed by the director upon completion of
15 forms required by the director and payment of fees consistent with the pro-
16 visions of this chapter.

17 (6) Each vendor of portable electronics licensed pursuant to this chap-
18 ter shall pay to the director a fee of one thousand dollars (\$1,000) for an
19 initial portable electronics limited lines license and five hundred dollars
20 (\$500) for each renewal thereof. However, for a vendor engaged in portable
21 electronics transactions at ten (10) or fewer locations in the state of
22 Idaho, the fee shall not exceed one hundred dollars (\$100) for an initial
23 license and for each renewal thereof.

24 SECTION 12. That Section 41-1102, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 41-1102. "ADJUSTER" DEFINED. (1) An "adjuster" is a person who, on be-
27 half of the insurer, for compensation as an independent contractor or as the
28 employee of such an independent contractor, or for fee or commission, in-
29 vestigates and negotiates settlement of claims arising under insurance con-
30 tracts.

31 (2) None of the following is an "adjuster" for the purposes of this
32 chapter:

33 (a) A licensed attorney at law who is qualified to practice law in this
34 state.

35 (b) The salaried employee of an authorized insurer, or group of such
36 insurers under common control or ownership, or of a managing general
37 agent, who adjusts losses for such insurer or insurers or for the autho-
38 rized insurers represented by the general agent.

39 (c) The licensed agent of an authorized insurer who, at the insurer's
40 request, from time to time adjusts or assists in adjustment of losses
41 arising under policies issued by such insurer.

42 (d) An individual who collects claim information from, or furnishes
43 claim information to, claimants or those who are insured and who con-
44 ducts data entry, including entering data into an automated claims
45 adjudication system, provided that the individual is an employee of a
46 licensed adjuster or its affiliate where no more than twenty-five (25)
47 such persons are under the supervision of one (1) licensed adjuster or
48 licensed agent. A licensed agent who acts as a supervisor or adjusts
49 claims pursuant to the provisions of this paragraph is not required to

1 also be licensed as an adjuster. For purposes of this section, "au-
 2 tomated claims adjudication system" means a pre-programmed computer
 3 system designed for the collection, data entry, calculation and final
 4 resolution of portable electronics insurance claims that:

5 (i) May only be utilized by a licensed adjuster, licensed agent
 6 or supervised individuals operating pursuant to the provisions of
 7 this paragraph;

8 (ii) Must comply with all claims payment requirements of the in-
 9 surance code; and

10 (iii) Must be certified as compliant with this section by a li-
 11 icensed adjuster who is an officer of a licensed business entity
 12 pursuant to the provisions of this chapter.

13 SECTION 13. That Section 41-1103, Idaho Code, be, and the same is hereby
 14 amended to read as follows:

15 41-1103. LICENSE REQUIRED. No person shall in this state be, act as,
 16 or advertise or hold himself out to be, an adjuster unless then licensed as
 17 an adjuster under this chapter. No resident of Canada may be licensed as a
 18 resident adjuster or may designate Idaho as his home state, unless such per-
 19 son has successfully passed the adjuster examination and has complied with
 20 the other applicable provisions of this chapter. No resident of Canada may
 21 be licensed as a nonresident adjuster unless such person has obtained a resi-
 22 dent or home state adjuster license in another state.

23 SECTION 14. That Section 41-1104, Idaho Code, be, and the same is hereby
 24 amended to read as follows:

25 41-1104. QUALIFICATIONS FOR ADJUSTER'S LICENSE. (1) Except as pro-
 26 vided in subsection (2) ~~below~~ of this section, the director shall not issue,
 27 continue, or permit to exist any license as an adjuster as to any person not
 28 qualified therefor as follows:

29 (a) Must be a natural person not less than twenty-one (21) years of age.

30 (b) Must be trustworthy, and be of good character and reputation as to
 31 morals, integrity, and financial responsibility, and must not have been
 32 convicted of a felony or of any crime involving moral turpitude.

33 (c) Must be a salaried employee of a licensed adjuster, or must have had
 34 experience or special education or training as to the investigation and
 35 settlement of loss of claims under insurance contracts of sufficient
 36 duration and extent reasonably to satisfy the director as to his compe-
 37 tence to fulfill the responsibilities of an adjuster.

38 (d) If required by the director, must pass a written examination to test
 39 his knowledge of the duties and responsibilities of an adjuster and of
 40 matters involved in transactions under an adjuster's license. The ex-
 41 amination shall be subject to the same applicable provisions as apply
 42 ~~under this code~~ pursuant to title 41, Idaho Code, to examinations for
 43 license as insurance agent.

44 (2) A firm or corporation, whether or not organized under the laws of
 45 this state, may be licensed as an adjuster if each individual who is to ex-
 46 ercise the license powers in this state is separately licensed, or is named
 47 in the firm or corporation license, and is qualified as for an individual li-

1 cense as adjuster under subsection (1) ~~above~~ of this section. An additional
2 full license fee shall be paid as to each individual in excess of one (1) so
3 named in the firm or corporation license to exercise its powers.

4 (3) A firm or corporation applying for licensure as an adjuster pur-
5 suant to the laws of this state shall submit the names, addresses, social se-
6 curity numbers, criminal and administrative history, background checks, bi-
7 ographical statement and fingerprints of all executive officers and direc-
8 tors of the applicant and of all executive officers and directors of enti-
9 ties owning, and any individuals owning, directly or indirectly, fifty-one
10 percent (51%) or more of the outstanding voting securities of the applicant.
11 Any nonresident business entity applicant whose home state complies with all
12 of the provisions of this subsection shall not be required to submit a crim-
13 inal history, background check, biographical statement and fingerprints for
14 its executive officers, directors and owners of outstanding voting securi-
15 ties.

16 SECTION 15. SEVERABILITY. The provisions of this act are hereby de-
17 clared to be severable and if any provision of this act or the application
18 of such provision to any person or circumstance is declared invalid for any
19 reason, such declaration shall not affect the validity of the remaining por-
20 tions of this act.

21 SECTION 16. This act shall be in full force and effect on and after July
22 1, 2013.