

House Bill 583

By: Representatives Williams of the 148th and Gambill of the 15th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 provide a framework for regulating the offering or issuance of travel insurance in this state;
3 to revise and provide for definitions; to provide for related matters; to provide for an
4 effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in Code
8 Section 33-7-5, relating to marine and transportation insurance, by deleting "and" at the end
9 of paragraph (6), by replacing the period at the end of paragraph (7) with "; and", and by
10 adding a new paragraph to read as follows:

11 "(8) Travel insurance as such term is defined in subsection (f) of Code Section 33-23-12."

12 **SECTION 2.**

13 Said title is further amended in Article 1 of Chapter 23, relating to licencing of agents,
14 agencies, subagents, counselors, and adjusters, by revising subsection (f) of Code
15 Section 33-23-12, relating to limited licenses, as follows:

16 "(f)(1) As used in this subsection, the term:

17 (A) 'Aggregator site' means a website that provides access to information regarding
18 insurance products from more than one insurer, including product and insurer
19 information, for use in comparison shopping.

20 (B) 'Blanket travel insurance' means a policy of travel insurance issued to any eligible
21 group providing coverage for specific classes of persons defined in the policy with
22 coverage provided to all members of the eligible group without a separate charge to
23 individual members of the eligible group.

24 (C) 'Cancellation fee waiver' means a contractual agreement between a supplier of
25 travel services and its customer to waive some or all of the nonrefundable cancellation

26 fee provisions of the supplier's underlying travel contract with or without regard to the
27 reason for the cancellation or form of reimbursement. Such term shall not be
28 considered insurance.

29 (D) 'Eligible group' means two or more persons that are engaged in a common
30 enterprise or have an economic, educational, or social affinity or relationship, including
31 but not limited to any of the following:

32 (i) Any entity engaged in the business of providing travel or travel services, including
33 but not limited to:

34 (I) Tour operators, lodging providers, vacation property owners, hotels and resorts,
35 travel clubs, travel agencies, property managers, or cultural exchange programs; or

36 (II) Common carriers or the operator, owner, or lessor of a means of transportation
37 of passengers, including but not limited to airlines, cruise lines, railroads, steamship
38 companies, and public bus carriers,

39 wherein, with regard to any particular travel or type of travel or travelers, all members
40 or customers of the group share a common exposure to risk attendant to such travel;

41 (ii) Any college, school, or other institution of learning covering students, teachers,
42 employees, or volunteers;

43 (iii) Any employer covering any group of employees, volunteers, contractors, board
44 of directors, dependents, or guests;

45 (iv) Any sports team, camp, or sponsor thereof covering participants, members,
46 campers, employees, officials, supervisors, or volunteers;

47 (v) Any religious, charitable, recreational, educational, or civic organization or
48 branch thereof covering any group of members, participants, or volunteers;

49 (vi) Any financial institution or financial institution vendor, or any parent holding
50 company, trustee, or agent of or designated by one or more financial institutions or
51 financial institution vendors, including account holders, credit card holders, debtors,
52 guarantors, or purchasers;

53 (vii) Any incorporated or unincorporated association, including labor unions, that has
54 a common interest, a constitution, and bylaws and that is organized and maintained
55 in good faith for purposes other than obtaining insurance for members or participants
56 of such association in covering its members;

57 (viii) Any trust or the trustees of a fund established, created, or maintained for the
58 benefit of and for covering members, employees, or customers, subject to the
59 Commissioner permitting the use of a trust and the state's premium tax provisions
60 provided in Code Section 33-8-4 for one or more associations meeting the
61 requirements of division (vii) of this subparagraph;

- 62 (ix) Any entertainment production company covering any group of participants,
 63 volunteers, audience members, contestants, or workers;
- 64 (x) Any volunteer fire department, ambulance, rescue, police, court, first aid, civil
 65 defense, or other such volunteer group;
- 66 (xi) Any preschool, day-care institution for children or adults, or senior citizen club;
- 67 (xii) Any automobile or truck rental or leasing company covering a group of
 68 individuals who may become renters, lessees, or passengers as defined by their travel
 69 status on the rented or leased vehicles;
- 70 (xiii) The common carrier; the operator, owner, or lessor of a means of
 71 transportation; or the automobile or truck rental or leasing company that is the
 72 policyholder under a policy to which this subsection applies; and
- 73 (xiv) Any other group to which the Commissioner has determined that issuance of
 74 the policy would not be contrary to the public interest and in which the members are
 75 engaged in a common enterprise or have an economic, educational, or social affinity
 76 or relationship.
- 77 (E) 'Fulfillment materials' means documentation sent to the purchaser of a travel
 78 protection plan confirming the purchase and providing the travel protection plan's
 79 coverage and assistance details.
- 80 (F) 'Group travel insurance' means travel insurance issued to any eligible group.
- 81 (G) 'Limited licensee' means a person or entity authorized to sell certain coverages
 82 related to travel pursuant to the provisions of this subsection.
- 83 ~~(B)~~(H) 'Limited lines travel insurance producer' means a:
- 84 (i) Licensed managing general underwriter;
- 85 (ii) Licensed managing general agent or third-party administrator; or
- 86 (iii) Licensed insurance producer, including a limited licensee, ~~designated by an~~
 87 ~~insurer as the travel insurance supervising entity as set forth in division (2)(C)(iii) of~~
 88 ~~this subsection; or~~
- 89 (iv) Travel administrator.
- 90 ~~(C)~~(I) 'Offer and disseminate' means providing general information, including a
 91 description of the coverage and price, as well as processing the application; and
 92 collecting premiums; and performing other nonlicensable activities permitted by this
 93 state.
- 94 (J) 'Primary certificate holder' means an individual or person that elects and purchases
 95 travel insurance under a group policy.
- 96 (K) 'Travel administrator' means each person that directly or indirectly underwrites;
 97 collects charges, collateral, or premiums from; or adjusts or settles claims for residents
 98 of this state in connection with travel insurance; provided, however, that a person shall

99 not be considered a travel administrator if such person's only actions that would
 100 otherwise cause it to be considered a travel administrator are among the following:

101 (i) A person working for a travel administrator to the extent that the person's
 102 activities are subject to the supervision and control of the travel administrator;

103 (ii) An insurance producer selling insurance or engaged in administrative and claims
 104 related activities within the scope of the producer's license;

105 (iii) A travel retailer offering and disseminating travel insurance and registered under
 106 the license of a limited lines travel insurance producer in accordance with this
 107 subsection;

108 (iv) An individual adjusting or settling claims in the normal course of such
 109 individual's practice or employment as an attorney at law and who does not collect
 110 charges or premiums in connection with insurance coverage; or

111 (v) A business entity that is affiliated with a licensed insurer while acting as a travel
 112 administrator for the direct and assumed insurance business of an affiliated insurer.

113 (L) 'Travel assistance services' means:

114 (i) Noninsurance services for which the consumer is not indemnified based on a
 115 fortuitous event and the provision of the service does not result in the transfer or
 116 shifting of risk that would constitute the business of insurance.

117 (ii) Such term shall include, but not be limited to, security advisories; destination
 118 information; vaccination and immunization information services; travel reservation
 119 services; entertainment; activity and event planning; translation assistance; emergency
 120 messaging; international legal and medical referrals; medical case monitoring;
 121 coordination of transportation arrangements; emergency cash transfer assistance;
 122 medical prescription replacement assistance; passport and travel document
 123 replacement assistance; lost luggage assistance; concierge services; and any similar
 124 service that is furnished in connection with planned travel.

125 (iii) Such term shall not include assistance services that are insurance or related to
 126 insurance.

127 ~~(D)~~(M) 'Travel insurance' means insurance coverage for personal risks incident to
 128 planned travel, including, but not limited to:

129 (i) Interruption or cancellation of trip or event;

130 (ii) Loss of baggage or personal effects;

131 (iii) ~~Damage~~ Damages to accommodations or rental vehicles; or

132 (iv) Sickness, accident, disability, or death occurring during travel;

133 (v) Emergency evacuation;

134 (vi) Repatriation of remains; or

135 (vii) Any other contractual obligations to indemnify or pay a specified amount to the
 136 traveler upon determinable contingencies related to travel as approved by the
 137 Commissioner.

138 Travel insurance shall not include major medical plans which provide comprehensive
 139 medical protection for travelers with trips lasting six months or longer, including, but
 140 not limited to, those working or residing overseas as an expatriate, ~~or military personnel~~
 141 ~~being deployed~~ any other product that requires a specific insurance producer license.

142 (N) 'Travel protection plan' means any plan that provides for travel insurance, travel
 143 assistance services, or cancellation fee waivers.

144 ~~(E)~~ (O) 'Travel retailer' means a business entity that makes, arranges, or offers travel
 145 services and that may offer and disseminate travel insurance as a service to its
 146 customers on behalf of and under the direction of a limited lines travel insurance
 147 producer.

148 (2)(A) Notwithstanding any other provision of law, the Commissioner may issue to an
 149 individual or business entity that has complied with the requirements of this subsection
 150 a limited lines travel insurance producer license which authorizes the limited lines
 151 travel insurance producer to sell, solicit, or negotiate travel insurance through a licensed
 152 insurer.

153 (B) As a prerequisite for issuance of a limited license under this subsection, there shall
 154 be filed with the Commissioner an application for such limited license in a form and
 155 manner prescribed by the Commissioner.

156 (C) Notwithstanding any other provision of law, a travel retailer may offer and
 157 disseminate travel insurance under a limited lines travel insurance producer business
 158 entity license only if the following conditions are met:

159 (i) The limited lines travel insurance producer or travel retailer provides to purchasers
 160 of travel insurance:

161 (I) A description of the material terms or the actual material terms of the insurance
 162 coverage;

163 (II) A description of the process for filing a claim;

164 (III) A description of the review or cancellation process for the travel insurance
 165 policy; and

166 (IV) The identity and contact information of the insurer and limited lines travel
 167 insurance producer;

168 (ii) At the time of licensure, the limited lines travel insurance producer shall establish
 169 and maintain a register on a form prescribed by the Commissioner of each travel
 170 retailer that offers travel insurance on the limited lines travel insurance producer's
 171 behalf. The register shall be maintained and updated by the limited lines travel

172 insurance producer and shall include the name, address, and contact information of
 173 the travel retailer and an officer or person who directs or controls the travel retailer's
 174 operations and the travel retailer's federal tax identification number. The limited lines
 175 travel insurance producer shall submit such register to the Insurance Department upon
 176 reasonable request. The limited lines travel insurance producer shall also certify that
 177 the travel retailer registered complies with 18 U.S.C. Section 1033. The grounds for
 178 the suspension and revocation and the penalties applicable to resident insurance
 179 providers shall be applicable to limited lines travel insurance producers and travel
 180 retailers;

181 (iii) The limited lines travel insurance producer shall designate one of its employees
 182 who is a licensed individual producer as the person responsible for the limited lines
 183 travel insurance producer's compliance with the travel insurance laws, rules, and
 184 regulations of this state;

185 (iv) The employee designated as provided in division (iii) of this subparagraph,
 186 president, secretary, treasurer, and any other officer or person who directs or controls
 187 the limited lines travel insurance producer's insurance operations shall comply with
 188 the fingerprinting requirements applicable to insurance producers in the resident state
 189 of the limited lines travel insurance producer;

190 (v) The limited lines travel insurance producer shall pay all applicable insurance
 191 producer licensing fees as set forth in applicable state law;

192 (vi) The limited lines travel insurance producer shall require each employee or
 193 authorized representative of the travel retailer whose duties include offering and
 194 disseminating travel insurance to receive a program of instruction or training, which
 195 may be subject to review by the Commissioner. The training material shall, at a
 196 minimum, contain instructions on the types of insurance offered, ethical sales
 197 practices, and required disclosures to prospective customers; and

198 (vii) No prelicensing examination or continuing education shall be required for
 199 issuance of a limited license pursuant to this subsection.

200 (D) Any travel retailer offering or disseminating travel insurance shall make available
 201 to prospective purchasers brochures or other written materials that:

202 (i) Provide the identity and contact information of the insurer and the limited lines
 203 travel insurance producer;

204 (ii) Explain that the purchase of travel insurance is not required in order to purchase
 205 any other product or service from the travel retailer; and

206 (iii) Explain that an unlicensed travel retailer is permitted to provide general
 207 information about the insurance offered by the travel retailer, including a description
 208 of the coverage and price, but is not qualified or authorized to answer technical

209 questions about the terms and conditions of the insurance offered by the travel retailer
 210 or to evaluate the adequacy of the customer's existing insurance coverage.

211 (E) A travel retailer employee or authorized representative that is not licensed as an
 212 insurance producer shall not:

213 (i) Evaluate or interpret the technical terms, benefits, and conditions of the offered
 214 travel insurance coverage;

215 (ii) Evaluate or provide advice concerning a prospective purchaser's existing
 216 insurance coverage; or

217 (iii) Hold itself out as a licensed insurer, licensed producer, or insurance expert.

218 (3) Notwithstanding any other provision of law, a travel retailer whose insurance related
 219 activities, and those of its employees or authorized representatives, are limited to offering
 220 and disseminating travel insurance on behalf of and under the direction of a limited lines
 221 travel insurance producer meeting the conditions stated in this subsection shall be
 222 authorized to do so and receive related compensation upon registration by the limited
 223 lines travel insurance producer as provided in subparagraph (C) of paragraph (2) of this
 224 subsection.

225 ~~(4) Travel insurance may be provided under an individual policy or under a group or~~
 226 ~~master policy.~~

227 ~~(5)~~(4) As the insurer designee, the limited lines travel insurance producer shall be
 228 responsible for the acts of the travel retailer and authorized representative and shall use
 229 reasonable means to ensure compliance by the travel retailer with this subsection.

230 ~~(6) The limited lines travel insurance producer and any travel retailer or authorized~~
 231 ~~representative offering and disseminating travel insurance under the limited lines travel~~
 232 ~~insurance producer's license shall be subject to the unfair trade practices provisions under~~
 233 ~~Article 1 of Chapter 6 of this title and to the other provisions of this article relating to~~
 234 ~~insurance producers.~~

235 (5)(A) The requirements of this subsection shall apply to travel insurance which covers
 236 any resident of this state; is sold, solicited, negotiated, or offered in this state; or for
 237 which policies and certificates are delivered or issued for delivery in this state;
 238 provided, however, that such requirements shall not apply to cancellation fee waivers
 239 and travel assistance services, except as expressly provided in this subsection.

240 (B) All other applicable provisions of the state's insurance laws shall continue to apply
 241 to travel insurance except that the specific provisions of this subsection shall supersede
 242 any general provisions of law that would otherwise be applicable to travel insurance.

243 (6) Any person licensed in a major line of authority as an insurance producer shall be
 244 authorized to sell, solicit, and negotiate travel insurance. A property and casualty

245 insurance producer shall not be required to become appointed by an insurer in order to
 246 sell, solicit, or negotiate travel insurance.

247 (7)(A) Each travel insurer shall pay the tax levied by Code Section 33-8-4 with respect
 248 to travel insurance premiums paid by any of the following:

249 (i) An individual primary policyholder who is a resident of this state;

250 (ii) A primary certificate holder who is a resident of this state who elects coverage
 251 under a group travel insurance policy; or

252 (iii) A blanket travel insurance policyholder that is a resident in or has its principal
 253 place of business or the principal place of business of an affiliate or subsidiary that
 254 has purchased blanket travel insurance in this state for eligible blanket group
 255 members, subject to any apportionment rules which apply to the insurer across
 256 multiple taxing jurisdictions or that permits the insurer to allocate premiums on an
 257 apportioned basis in a reasonable and equitable manner in such jurisdictions.

258 (B) Each travel insurer shall:

259 (i) Document the state of residence or principal place of business of the policyholder
 260 or certificate holder, as described in subparagraph (A) of this paragraph; and

261 (ii) Report as premiums only the amount allocable to travel insurance and shall not
 262 report any amounts received for travel assistance services or cancellation fee waivers.

263 (8) A travel protection plan may be offered for one price for the combined features that
 264 the travel protection plan offers in this state if:

265 (A) The travel protection plan clearly discloses to the consumer at or prior to the time
 266 of purchase that it includes travel insurance, travel assistance services, and cancellation
 267 fee waivers, as applicable, and provides information and an opportunity at or prior to
 268 the time of purchase for the consumer to obtain additional information regarding the
 269 features and pricing of each; and

270 (B) The fulfillment materials:

271 (i) Describe and delineate the travel insurance, travel assistance services, and
 272 cancellation fee waivers in the travel protection plan; and

273 (ii) Include the travel insurance disclosures and the contact information for persons
 274 providing travel assistance services and cancellation fee waivers, as applicable.

275 (9)(A) Each person offering travel insurance to residents of this state shall be subject
 276 to Chapter 6 of this title, relating to unfair trade practices; provided, however, that in
 277 the event of a conflict between this subsection and other provisions of this title
 278 regarding the sale and marketing of travel insurance and travel protection plans, the
 279 provisions of this subsection shall control.

280 (B) Offering or selling a travel insurance policy that could never result in payment of
281 any claims for any insured under the policy is considered an unfair trade practice under
282 Chapter 6 of this title.

283 (C)(i) All documents provided to consumers prior to the purchase of travel insurance,
284 including but not limited to sales materials, advertising materials, and marketing
285 materials, shall be consistent with the travel insurance policy itself, which shall
286 include but not be limited to respective forms, endorsements, policies, rate filings, and
287 certificates of insurance.

288 (ii) For travel insurance policies or certificates that contain preexisting condition
289 exclusions, information and an opportunity to learn more about the preexisting
290 condition exclusions shall be provided at some point prior to the time of purchase and
291 in the coverage's fulfillment materials.

292 (iii) The fulfillment materials and the information described in division (f)(2)(c)(i)
293 of this Code section shall be provided to a policyholder or primary certificate holder
294 as soon as practicable following the purchase of a travel protection plan. Unless the
295 insured has either started a covered trip or filed a claim under the travel insurance
296 coverage, a policyholder or primary certificate holder may cancel a policy or
297 certificate for a full refund of the travel protection plan price from the date of
298 purchase of a travel protection plan until at least:

299 (I) Fifteen days following the date of delivery of the travel protection plan's
300 fulfillment materials by postal mail; or

301 (II) Ten days following the date of delivery of the travel protection plan's fulfillment
302 materials by means other than postal mail.

303 For the purposes of this division, the term 'delivery' means handing fulfillment
304 materials to the policyholder or primary certificate holder or sending fulfillment
305 materials by postal mail or electronically to the policyholder or primary certificate
306 holder.

307 (iv) Each company shall disclose in the policy documentation and fulfillment
308 materials whether the travel insurance is primary or secondary to other applicable
309 coverage.

310 (v) If travel insurance is marketed directly to a consumer through an insurer's website
311 or by others through an aggregator site, it shall not be considered an unfair trade
312 practice or other violation of law if an accurate summary or short description of
313 coverage is provided on the website, so long as the consumer has electronic access to
314 the full provisions of the policy.

315 (D) A person offering, soliciting, or negotiating travel insurance or travel protection
316 plans on an individual or group basis shall not do so by using negative option or opt out

317 that would require a consumer to take an affirmative action to deselect coverage such
 318 as upchucking a box on an electronic form when the consumer purchases a trip.

319 (E) It shall be considered an unfair trade practice to market blanket travel insurance
 320 coverage as being free.

321 (F) If a consumer's destination jurisdiction requires insurance coverage, it shall not be
 322 considered an unfair trade practice to require such consumer to choose between the
 323 following options as a condition of purchasing a trip or travel package:

324 (i) Purchasing the coverage required by the destination jurisdiction through the travel
 325 retailer or limited lines travel insurance producer supplying the trip or travel package;
 326 or

327 (ii) Agreeing to obtain and provide proof of coverage that meets the destination
 328 jurisdiction's requirements prior to departure.

329 (10)(A) Notwithstanding any provision of this title to the contrary, a person shall not
 330 act or represent itself as a travel administrator for travel insurance in this state unless
 331 such person:

332 (i) Is a licensed property and casualty insurance producer in this state for activities
 333 permitted under such producer's license;

334 (ii) Holds a valid managing general agent (M.A.) license in this state; or

335 (iii) Holds a valid third-party administrator (TA) license in this state.

336 (B) A travel administrator and its employees shall be exempt from the licensing
 337 requirements provided in paragraph (4) of subsection (a) of Code Section 33-23-4,
 338 relating to adjuster licensing, for travel insurance that such travel administrator and its
 339 employees administer.

340 (C) An insurer is responsible for the acts of a travel administrator administering travel
 341 insurance underwritten by the insurer and ensuring that the travel administrator
 342 maintains all books and records relevant to the insurer to be made available by the
 343 travel administrator to the Commissioner upon request.

344 (11)(A) Notwithstanding any provision of this title to the contrary, travel insurance
 345 shall be classified and filed for purposes of rates and forms as marine and transportation
 346 insurance; provided, however, that travel insurance that provides coverage for sickness,
 347 accident, disability, or death occurring during travel, either exclusively or in
 348 conjunction with related coverages of emergency evacuation or repatriation of remains,
 349 or incidental limited property and casualty benefits, such as baggage or trip
 350 cancellation, may be filed by an authorized insurer under either an accident and health
 351 line of insurance or as marine and transportation insurance.

352 (B) Travel insurance may be in the form of an individual, group, or blanket policy.

353 (C) Eligibility and underwriting standards for travel insurance may be developed and
354 provided based on travel protection plans designed for individual or identified
355 marketing or distribution channels, provided that those standards also meet the state's
356 underwriting standards for marine and transportation insurance.

357 (12) The Commissioner shall be authorized to promulgate rules and regulations
358 necessary to implement and administer the provisions of this subsection."

359 **SECTION 3.**

360 This Act shall become effective upon its approval by the Governor or upon its becoming law
361 without such approval.

362 **SECTION 4.**

363 All laws and parts of laws in conflict with this Act are repealed.