

LC001246

IN GENERAL ASSEMBLY

RELATING TO INSURANCE -- TRAVEL INSURANCE ACT

Referred To: Senate Commerce

1 SECTION 1. Chapter 27-79 of the General Laws entitled "Limited Lines Travel
2 Insurance Act" is hereby repealed in its entirety.

~~Limited Lines Travel Insurance Act~~

~~This act shall be known and may be cited as the "Limited Lines Travel Insurance Model~~
~~Act."~~

9 ~~As used in this chapter, the following terms shall mean:~~

~~(2) "Offer and disseminate" means providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other non-licensable activities permitted by the state.~~

19 ~~(ii) Loss of baggage or personal effects;~~

1 ~~(iii) Damages to accommodations or rental vehicles; or~~

2 ~~(iv) Sickness, accident, disability or death occurring during travel.~~

3 ~~Travel insurance does not include major medical plans, which provide comprehensive~~
4 ~~medical protection for travelers with trips lasting six (6) months or longer, including for example,~~
5 ~~those working overseas as an ex-patriot or military personnel being deployed.~~

6 ~~(4) "Travel retailer" means a business entity that makes, arranges or offers travel services~~
7 ~~and may offer and disseminate travel insurance as a service to its customers on behalf of and~~
8 ~~under the direction of a limited lines travel insurance producer.~~

9 ~~**27-79-3. Requirements.**~~

10 ~~(a) A travel retailer may offer and disseminate travel insurance only if the limited lines~~
11 ~~travel insurance producer complies with the following:~~

12 ~~(1) The limited lines travel insurance producer or travel retailer provides to purchasers of~~
13 ~~travel insurance:~~

14 ~~(i) A description of the material terms or the actual material terms of the insurance~~
15 ~~coverage;~~

16 ~~(ii) A description of the process for filing a claim;~~

17 ~~(iii) A description of the review or cancellation process for the travel insurance policy;~~
18 ~~and~~

19 ~~(iv) The identity and contact information of the insurer and limited lines travel insurance~~
20 ~~producer.~~

21 ~~(2) At the time of licensure, the limited lines travel insurance producer shall establish and~~
22 ~~maintain a register of each travel retailer that offers travel insurance on the limited lines travel~~
23 ~~insurance producer's behalf. The register shall be maintained and updated by the limited lines~~
24 ~~travel insurance producer and shall include the name, address, and contact information of the~~
25 ~~travel retailer and an officer or person who directs or controls the travel retailer's operations, and~~
26 ~~the travel retailer's federal employment identification number. The limited lines travel insurance~~
27 ~~producer shall submit such register to the state insurance department upon reasonable request.~~
28 ~~The limited lines travel insurance producer shall also certify that the travel retailer registered~~
29 ~~complies with applicable federal law.~~

30 ~~(3) The limited lines travel insurance producer is responsible for compliance with the~~
31 ~~travel insurance laws, rules and regulations of the state.~~

32 ~~(4) The limited lines travel insurance producer has paid all applicable insurance producer~~
33 ~~licensing fees.~~

34 ~~(5) The limited lines travel insurance producer requires each employee of the travel~~

~~retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which may be subject to review by the commissioner. The training material shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.~~

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

~~(1) Provide the identity and contact information of the insurer and the limited lines travel insurance producer;~~

~~(2) Explain that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and~~

~~(3) Explain that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel insurance producer or insurer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.~~

~~(c) A travel retailer who is not licensed as an insurance producer may not:~~

~~(1) Evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;~~

~~(2) Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or~~

~~(3) Hold himself/herself or itself out as a licensed insurer, licensed producer, or insurance expert.~~

27-79-4. Compensation.

~~A travel retailer whose insurance-related activities, and those of its employees, are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer meeting the conditions stated in this chapter, is authorized to do so and receive related compensation.~~

27-79-5. Policy.

~~Travel insurance may be provided under an individual policy or under a group or master policy.~~

27-79-6. Responsibility.

~~As the insurer designee, the limited lines travel insurance producer is responsible for the acts of the travel retailer and shall use reasonable means to ensure compliance by the travel retailer with this chapter.~~

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- 1 relationship, including, but not limited to, any of the following:
- 2 (i) Any entity engaged in the business of providing travel or travel services, including,
3 but not limited to, tour operators, lodging providers, vacation property owners, hotels and resorts,
4 travel clubs, travel agencies, property managers, cultural exchange programs, and common
5 carriers or the operator, owner, or lessor of a means of transportation of passengers, including, but
6 not limited to, airlines, cruise lines, railroads, steamship companies, and public bus carriers,
7 wherein, with regard to any particular travel or type of travel or travelers, all members or
8 customers of the group must have a common exposure to risk attendant to the travel;
- 9 (ii) Any college, school, or other institution of learning covering students, teachers or
10 employees or volunteers;
- 11 (iii) Any employer covering any group of employees, volunteers, contractors, board of
12 directors, dependents or guests;
- 13 (iv) Any sports team, camp, or sponsor thereof covering participants, members, campers,
14 employees, officials, supervisors, or volunteers;
- 15 (v) Any religious, charitable, recreational, educational, or civic organization or branch
16 thereof covering any group of members, participants, or volunteers;
- 17 (vi) Any financial institution or financial institution vendor, or parent holding company,
18 trustee, or agent of, or designated by, one or more financial institutions or financial institution
19 vendors, including accountholders, credit card holders, debtors, guarantors, or purchasers;
- 20 (vii) Any incorporated or unincorporated association, including labor unions, having a
21 common interest, constitution and bylaws, and organized and maintained in good faith for
22 purposes other than obtaining insurance for members or participants of such association covering
23 its members;
- 24 (viii) Any trust or the trustees of a fund established, created or maintained for the benefit
25 of and covering members, employees or customers, subject to the insurance commissioner
26 (commissioner), as defined in §27-2.7-1, permitting the use of a trust and the state's premium tax
27 provisions in § 27-79.1-6 of one or more associations meeting the requirements of subsection
28 (4)(vii) of this section;
- 29 (ix) Any entertainment production company covering any group of participants,
30 volunteers, audience members, contestants, or workers;
- 31 (x) Any volunteer fire department, ambulance, rescue, police, court or any first aid, civil
32 defense or other such volunteer group;
- 33 (xi) Preschools, daycare institutions for children or adults, and senior citizen clubs;
- 34 (xii) Any automobile or truck rental or leasing company covering a group of individuals

1 who may become renters, lessees, or passengers defined by their travel status on the rented or
2 leased vehicles. The common carrier, the operator, owner, or lessor of a means of transportation,
3 or the automobile or truck rental or leasing company, is the policyholder under a policy to which
4 this section applies; or

5 (xiii) Any other group where the commissioner has determined that the members are
6 engaged in a common enterprise, or have an economic, educational, or social affinity or
7 relationship, and that issuance of the policy would not be contrary to the public interest.

8 (5) "Fulfillment materials" means documentation sent to the purchaser of a travel
9 protection plan confirming the purchase and providing the travel protection plan's coverage and
10 assistance details.

11 (6) "Group travel insurance" means travel insurance issued to any eligible group.

12 (7) "Limited lines travel insurance producer" means:

13 (i) Licensed managing general agent or third-party administrator;

14 (ii) Licensed insurance producer, including a limited lines producer; or

15 (iii) Travel administrator.

16 (8) "Offer and disseminate" means providing general information, including a description
17 of the coverage and price, as well as processing the application, and collecting premiums.

18 (9) "Primary certificate holder" means an individual person who elects and purchases
19 travel insurance under a group policy.

20 (10) "Primary policyholder" means an individual person who elects and purchases
21 individual travel insurance.

22 (11) "Travel administrator" means a person who directly or indirectly underwrites,
23 collects charges, collateral or premiums from, or adjusts or settles claims on residents of this
24 state, in connection with travel insurance, except that a person shall not be considered a travel
25 administrator if that person's only actions that would otherwise cause it to be considered a travel
26 administrator are among the following:

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

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

31 (iii) A travel retailer offering and disseminating travel insurance, and registered under the
32 license of a limited lines travel insurance producer in accordance with this chapter;

33 (iv) An individual adjusting or settling claims in the normal course of that individual's
34 practice or employment as an attorney at law and who does not collect charges or premiums in

1 connection with insurance coverage; or

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

4 (12) "Travel assistance services" means non-insurance services for which the consumer is
5 not indemnified based on a fortuitous event, and where providing the service does not result in
6 transfer or shifting of risk that would constitute the business of insurance. Travel assistance
7 services include, but are not limited to: security advisories; destination information; vaccination
8 and immunization information services; travel reservation services; entertainment; activity and
9 event planning; translation assistance; emergency messaging; international legal and medical
10 referrals; medical case monitoring; coordination of transportation arrangements; emergency cash
11 transfer assistance; medical prescription replacement assistance; passport and travel document
12 replacement assistance; lost luggage assistance; concierge services; and any other service that is
13 furnished in connection with planned travel. Travel assistance services are not insurance and not
14 related to insurance.

15 (13) "Travel insurance" means insurance coverage for personal risks incident to planned
16 travel, including:

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

18 (ii) Loss of baggage or personal effects;

19 (iii) Damages to accommodations or rental vehicles;

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

21 (v) Emergency evacuation;

22 (vi) Repatriation of remains; or

23 (vii) Any other contractual obligations to indemnify or pay a specified amount to the
24 traveler upon determinable contingencies related to travel as approved by the commissioner.

25 Travel insurance does not include major medical plans, that provide comprehensive
26 medical protection for travelers with trips lasting longer than six (6) months or longer, including,
27 for example, those working or residing overseas as an expatriate, or any other product that
28 requires a specific insurance producer license.

29 (14) "Travel protection plans" means plans that provide one or more of the following:

30 (i) Travel insurance,

31 (ii) Travel assistance services, and

32 (iii) Cancellation fee waivers.

33 (15) "Travel retailer" means a business entity that makes, arranges, or offers planned
34 travel services, and may offer and disseminate travel insurance as a service to its customers on

1 behalf of, and under the direction of, a limited lines travel insurance producer.

2 **27-79.1-4. Licensing and registration requirements.**

3 (a) The commissioner may issue to an individual or business entity that has filed with the
4 commissioner an application for a limited lines travel insurance producer license in a form and
5 manner prescribed by the commissioner, a limited lines travel insurance producer license, which
6 authorizes the limited lines travel insurance producer to sell, solicit, or negotiate travel insurance
7 through a licensed insurer. No person may act as a limited lines travel insurance producer or
8 travel insurance retailer unless properly licensed or registered.

9 (b) A travel retailer may offer and disseminate travel insurance under a limited lines
10 travel insurance producer business entity license only, and if the following conditions are met:

11 (1) The limited lines travel insurance producer or travel retailer provides to purchasers of
12 travel insurance:

13 (i) A description of the material terms or the actual material terms of the insurance
14 coverage;

15 (ii) A description of the process for filing a claim;

16 (iii) A description of the review or cancellation process for the travel insurance policy;
17 and

18 (iv) The identity and contact information of the insurer and limited lines travel insurance
19 producer.

20 (2) At the time of licensure, the limited lines travel insurance producer shall establish and
21 maintain a register, on a form prescribed by the commissioner of each travel retailer, that offers
22 travel insurance on the limited lines travel insurance producer's behalf. The register shall be
23 maintained and updated by the limited lines travel insurance producer, and shall include the
24 name, address, and contact information of the travel retailer, and an officer or person who directs
25 or controls the travel retailer's operations, and the travel retailer's federal tax identification
26 number. The limited lines travel insurance producer shall submit the register to the commissioner
27 upon reasonable request. The limited lines travel insurance producer shall also certify that the
28 travel retailer registered complies with 18 U.S.C. § 1033. The grounds for the suspension,
29 revocation, and the penalties applicable to resident insurance producers shall be applicable to the
30 limited lines travel insurance producers and travel retailers.

31 (3) The limited lines travel insurance producer has designated one of its employees who
32 is a licensed individual producer as the person (a "designated responsible producer" or "DRP")
33 responsible for the compliance with the travel insurance laws and regulations applicable to the
34 limited lines travel insurance producer and its registrants.

1 (4) The DRP, president, secretary, treasurer, and any other officer or person who directs
2 or controls the limited lines travel insurance producer's insurance operations shall comply with
3 the fingerprinting requirements applicable to insurance producers in the resident state of the
4 limited lines travel insurance producer.

5 (5) The limited lines travel insurance producer has paid all applicable licensing fees as set
6 forth in applicable state law.

7 (6) The limited lines travel insurance producer must require each employee and
8 authorized representative of the travel retailer whose duties include offering and disseminating
9 travel insurance, to receive a program of instruction or training, which is subject at the discretion
10 of the commissioner for review and approval. The training material shall, at a minimum, contain
11 adequate instructions on the types of insurance offered, ethical sales practices, and required
12 disclosures to prospective customers.

13 (c) Any travel retailer offering or disseminating travel insurance shall make available to
14 prospective purchasers brochures or other written materials that have been approved by the travel
15 insurer. Such materials shall include information which, at a minimum:

16 (1) Provides the identity and contact information of the insurer and the limited lines travel
17 insurance producer;

18 (2) Explains that the purchase of travel insurance is not required in order to purchase any
19 other product or service from the travel retailer; and

20 (3) Explains that an unlicensed travel retailer is permitted to provide only general
21 information about the insurance offered by the travel retailer, including a description of the
22 coverage and price, but is not qualified or authorized to answer technical questions about the
23 terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of
24 the customer's existing insurance coverage.

25 (d) A travel retailer employee or authorized representative, who is not licensed as an
26 insurance producer may not:

27 (1) Evaluate or interpret the technical terms, benefits, and conditions of the offered travel
28 insurance coverage;

29 (2) Evaluate or provide advice concerning a prospective purchaser's existing insurance
30 coverage; or

31 (3) Hold themselves out as a licensed insurer, licensed producer, or insurance expert.

32 (e) Any person licensed in a major line of authority as an insurance producer is
33 authorized to sell, solicit, and negotiate travel insurance. A property and casualty insurance
34 producer is not required to become appointed by an insurer in order to sell, solicit, or negotiate

travel insurance.

27-79.1-5. Compensation.

A travel retailer whose insurance related activities, and those of its employees, are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer meeting the conditions stated in this chapter, is authorized to do so and receive related compensation.

27-79.1-6. Premium tax.

(a) A travel insurer shall pay a gross premiums tax, as provided in § 44-17-2 on travel insurance premiums paid by any of the following:

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

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

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

(b) A travel insurer shall:

(1) Document the state of residence or principal place of business of the policyholder or certificate holder, as required in this chapter; and

(2) Report as premium only the amount allocable to travel insurance, and not any amounts received for travel assistance services or cancellation fee waivers.

27-79.1-7. Travel protection plans.

(a) Travel protection plans may be offered for one price for the combined features that the travel protection plan offers in this state if:

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

(2) The fulfillment materials:

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

(ii) Include the travel insurance disclosures and the contact information for persons

1 providing travel assistance services and cancellation fee waivers, as applicable.

2 **27-79.1-8. Sales practices.**

3 (a) All persons offering travel insurance to residents of this state are subject to the unfair
4 trade practices provided in chapter 29 of title 27, except as otherwise provided in this section. In
5 the event of a conflict between this chapter, and other provisions of this title regarding the sale
6 and marketing of travel insurance and travel protection plans, the provisions of this chapter shall
7 control.

8 (b) Offering or selling a travel insurance policy that could never result in the payment of
9 any claims for any insured under the policy is an unfair trade practice under chapter 29 of title 27.

10 (c)(1) All documents provided to consumers prior to the purchase of travel insurance,
11 including, but not limited to, sales materials, advertising materials, and marketing materials, shall
12 be consistent with the travel insurance policy itself, including, but not limited to, forms,
13 endorsements, policies, rate filings, and certificates of insurance.

14 (2) For travel insurance policies or certificates that contain pre-existing condition
15 exclusions, information and an opportunity to learn more about the pre-existing condition
16 exclusions shall be provided any time prior to the time of purchase, and in the coverage's
17 fulfillment materials.

18 (3) The fulfillment materials and the information described in § 27-79.1-4 shall be
19 provided to a policyholder or certificate holder as soon as practicable following the purchase of a
20 travel protection plan. Unless the insured has either started a covered trip or filed a claim under
21 the travel insurance coverage, a policyholder or certificate holder may cancel a policy or
22 certificate for a full refund of the travel protection plan price from the date of purchase of a travel
23 protection plan until at least:

24 (i) Fifteen (15) days following the date of delivery of the travel protection plan's
25 fulfillment materials by postal mail; or

26 (ii) Ten (10) days following the date of delivery of the travel protection plan's fulfillment
27 materials by means other than postal mail. For the purposes of this section, "delivery" means
28 handing fulfillment materials to the policyholder or certificate holder, or sending fulfillment
29 materials by postal or electronic mail to the policyholder or certificate holder.

30 (4) The company shall disclose in the policy fulfillment and documentation whether the
31 travel insurance is primary or secondary to other applicable coverage.

32 (5) When travel insurance is marketed directly to a consumer through an insurer's website
33 or by others through an aggregator site, it shall not be an unfair trade practice or other violation of
34 law where an accurate summary or short description of coverage is provided on the website, so

1 long as the consumer has access to the full provisions of the policy through electronic means.

2 (d) No person offering travel insurance or travel protection plans on an individual or
3 group basis may do so by using a negative option or opt out, which would require a consumer to
4 take an affirmative action to deselect coverage such as unchecking a box on an electronic form
5 when they purchase a trip.

6 (e) It shall be an unfair trade practice to market blanket travel insurance coverage as free.

7 (f) When a consumer's destination jurisdiction requires insurance coverage, it shall not be
8 an unfair trade practice to require that a consumer choose between the following options as a
9 condition of purchasing a trip or travel package:

10 (1) Purchasing the coverage required by the destination jurisdiction through the travel
11 retailer or limited lines travel insurance producer supplying the trip or travel package; or

12 (2) Agreeing to obtain and provide proof of coverage that meets the destination
13 jurisdiction's requirements prior to departure.

14 **27-79.1-9. Travel administrators.**

15 (a) Notwithstanding any other provisions of this title, no person shall act or represent
16 itself as a travel administrator for travel insurance in this state unless that person:

17 (1) Is a licensed property and casualty insurance producer in this state for activities
18 permitted under that producer license; or

19 (2) Holds a valid managing general agent license in this state.

20 (b) A travel administrator and its employees are exempt from the licensing requirements
21 of chapter 10 of title 27 for travel insurance it administers.

22 (c) An insurer is responsible for the acts of a travel administrator administering travel
23 insurance underwritten by the insurer, and is responsible for ensuring that the travel administrator
24 maintains all books and records relevant to the insurer to be made available by the travel
25 administrator to the commissioner upon request.

26 **27-79.1-10. Policy.**

27 (a) Notwithstanding any other provision of this title, travel insurance shall be classified
28 and filed for purposes of rates and forms under an inland marine line of insurance provided;
29 however, that travel insurance that provides coverage for sickness, accident, disability, or death
30 occurring during travel, either exclusively or in conjunction with related coverages of emergency
31 evacuation or repatriation of remains, or incidental limited property and casualty benefits such as
32 baggage or trip cancellation, may be filed by an authorized insurer under either an accident and
33 health line of insurance or an inland marine line of insurance.

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

1 (c) Eligibility and underwriting standards for travel insurance may be developed and
2 provided based on travel protection plans designed for individual or identified marketing or
3 distribution channels, provided those standards also meet the state's underwriting standards for
4 inland marine.

5 **27-79.1-11. Responsibility.**

6 As the insurer designee, the limited lines travel insurance producer is responsible for the
7 acts of the travel retailer and shall use reasonable means to ensure compliance by the travel
8 retailer with this chapter.

9 **27-79.1-12. Enforcement.**

10 The limited lines travel insurance producer and any travel retailer offering and
11 disseminating travel insurance under the limited lines travel insurance producer license shall be
12 subject to the penalties for violations of this chapter pursuant to § 42-14-16.

13 **27-79.1-13. Regulations.**

14 The commissioner may promulgate regulations to implement the provisions of this
15 chapter.

16 SECTION 3. This act shall take effect ninety (90) days after passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO INSURANCE -- TRAVEL INSURANCE ACT

1 This act would create "The Travel Insurance Act" to establish a comprehensive, uniform
2 regulatory framework to clarify current law applicable to the unique aspects of travel insurance,
3 while establishing uniform regulation pertaining to travel insurance providers, and by
4 standardizing protections and requirements, and encouraging fair and effective competition
5 among market participants.

6 This act would take effect ninety (90) days after passage.

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