

BILL ANALYSIS

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H.B. 2587
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There have been calls for the state to provide a comprehensive, uniform regulatory framework for travel insurance to level the playing field among travel insurance providers and benefit consumers by standardizing protections and requirements and encouraging fair and effective competition among market participants. H.B. 2587 seeks to enact such a framework.

H.B. 2587 amends current law relating to the business of travel insurance.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTIONS 1 and 5 (Sections 3504.008 and 4055.158, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 12, Insurance Code, by adding Chapter 3504, as follows:

CHAPTER 3504. TRAVEL INSURANCE

Sec. 3504.001. DEFINITIONS. Defines "aggregator site," "blanket travel insurance," "cancellation fee waiver," "eligible group," "fulfillment materials," "group travel insurance," "planned trip," "planned travel," "primary certificate holder," "primary policyholder," "travel assistance services," "travel insurance," and "travel protection plan."

Sec. 3504.0002. APPLICABILITY. (a) Provides that this chapter applies to a travel insurance policy or certificate that provides coverage to a resident of this state or is sold, solicited, negotiated, or offered in this state and that is delivered or issued for delivery in this state.

(b) Provides that this chapter does not apply to a cancellation fee waiver or travel assistance service except as expressly provided in this chapter.

Sec. 3504.0003. CONFLICT OF LAWS. Provides that this chapter prevails to the extent of any conflict with another provision of this code.

Sec. 3504.0004. LINE OF INSURANCE. (a) Provides that, notwithstanding any other provision of this code, travel insurance is classified and filed for purposes of rates and forms under an inland marine line of insurance, except as provided by Subsection (b).

(b) Authorizes travel insurance that provides coverage for sickness, accident, disability, or death occurring during travel, exclusively or in conjunction with related coverage for emergency evacuation, repatriation of remains, or incidental limited property and casualty benefits, including baggage or trip cancellation, to be filed by an authorized insurer under an accident and health line of insurance or an inland marine line of insurance.

(c) Authorizes eligibility and underwriting standards for travel insurance to be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels if the standards meet underwriting standards for an inland marine line of insurance.

Sec. 3504.0005. PREMIUM TAX. (a) Requires a travel insurer to pay premium tax, as provided by Section 221.002 (Tax Imposed; Rate), 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 and elects and purchases coverage under a group travel insurance policy; or
- (3) subject to apportionment of premium in accordance with Chapter 229 (Cooperative Agreements With Other States) or other law, a blanket travel insurance policyholder who buys a blanket travel insurance policy in this state for members of the eligible group if:
 - (A) the policyholder is a resident of this state;
 - (B) the policyholder's principal place of business is located in this state; or
 - (C) the principal place of business of an affiliate or subsidiary of the policyholder is located in this state.

(b) Requires a travel insurer to document the state of residence or principal place of business of the policyholder or certificate holder described by Subsection (a) and to report as premium only the amount allocable to travel insurance and not amounts received for travel assistance services or cancellation fee waivers.

(c) Provides that amounts received for travel assistance services and cancellation fee waivers, whether the travel assistance services and cancellation waivers are offered separately or for a combined price authorized by Section 3504.0006, are not subject to taxation under Section 221.002(b) (relating to the determination of an insurer's taxable premium receipts, including certain costs of certain types of insurance).

Sec. 3504.0006. TRAVEL PROTECTION PLANS. Authorizes a travel protection plan composed of multiple features to be offered for a combined price if:

- (1) at the time of or before the consumer buys the travel protection plan it is clearly disclosed to the consumer that the plan includes travel insurance, travel assistance services, and cancellation fee waivers, as applicable, and information and an opportunity is provided for the consumer to obtain additional information regarding the features and the pricing of each feature; and
- (2) the fulfillment materials describe the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan and include the travel insurance disclosures and the contact information for persons providing travel assistance services and cancellation fee waivers, as applicable.

Sec. 3504.0007. SALES PRACTICES; PROHIBITED PRACTICES. (a) Provides that offering or selling a travel insurance policy that could never result in payment of a claim for an insured under the policy is an unfair trade practice under Subtitle C (Deceptive, Unfair, and Prohibited Practices), Title 5.

(b) Requires all documents provided to a consumer before the purchase of travel insurance, including sales materials, advertising materials, and marketing materials, to be consistent with the travel insurance policy, including forms, endorsements, policies, rate filings, and certificates of insurance.

(c) Requires the consumer to be provided information about any preexisting condition exclusion that is included in the travel insurance policy or certificate before the consumer buys travel insurance and subsequently in the fulfillment materials. Requires the consumer to have the opportunity to learn more about the exclusion.

(d) Requires the fulfillment materials and the information described in Section 4055.154(a) (relating to certain information that a travel retailer or supervising entity is required to provide to a traveler seeking to purchase travel insurance) to be provided to a policyholder or certificate holder as soon as practicable after the purchase of a travel protection plan. Authorizes the policyholder or certificate holder, unless the policyholder or certificate holder has started a covered trip or filed a claim under the travel insurance coverage, to cancel a policy or certificate for a full refund of the travel protection plan price. Requires the policyholder or certificate holder to exercise the right to cancel a travel protection plan before:

(1) the 15th day after the date of delivery of the travel protection plan's fulfillment materials by United States mail or a later date specified by the plan; or

(2) the 10th day after the date of delivery of the travel protection plan's fulfillment materials by means other than United States mail or a later date specified by the plan.

(e) Provides that, for the purposes of this section, delivery means handing fulfillment materials to the policyholder or certificate holder or sending fulfillment materials by United States mail or electronic means to the policyholder or certificate holder.

(f) Requires the company to disclose in the policy documentation and fulfillment materials if the travel insurance is primary or secondary to other applicable coverage.

(g) Provides that, if travel insurance is marketed directly to a consumer through an insurer's website or by others through an aggregator site, it is not an unfair trade practice or other violation of law if an accurate summary or short description of coverage is provided on the website and if the consumer has access to the full provisions of the policy through electronic means.

(h) Prohibits a person offering, soliciting, or negotiating travel insurance or travel protection plans on an individual or group basis from using negative option or opt out that requires a consumer to take an affirmative action to deselect coverage, such as unchecking a box on an electronic form, when the consumer purchases a trip.

(i) Provides that it is an unfair trade practice to market blanket travel insurance coverage as free.

(j) Provides that, if a consumer's destination jurisdiction requires insurance coverage, it is not an unfair trade practice to require that a consumer choose between the following options as a condition of purchasing a trip or travel package:

(1) purchasing the coverage required by the destination jurisdiction through the travel retailer or supervising entity supplying the trip or travel package; or

(2) agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements before departure.

Sec. 3504.0008. RULEMAKING. Requires the commissioner of insurance (commissioner) to adopt rules necessary to implement this chapter. Provides that Section 2001.0045 (Requirement For Rule Increasing Costs to Regulated Persons), Government Code, does not apply to rules adopted under this section.

SECTION 2. Amends Section 4055.151, Insurance Code, by amending Subdivision (1) and adding Subdivisions (1-a) and (1-c) to define "offer and disseminate," "planned trip," and "travel administrator."

SECTION 3. Amends Sections 4055.1515, 4055.153, and 4055.154, Insurance Code, as follows:

Sec. 4055.1515. New heading: TRAVEL INSURANCE SUPERVISING ENTITY AND TRAVEL ADMINISTRATOR. (a) Creates this subsection from existing text and adds a travel administrator to a list of supervising entities that an insurer authorized to engage in the business of travel insurance in this state is authorized to designate for purposes of this subchapter.

(b) Prohibits a person, notwithstanding any other provisions of this code, from acting or representing the person as a travel administrator for travel insurance unless the person is:

(1) a licensed property and casualty insurance agent;

(2) a licensed managing general agent; or

(3) a third-party administrator engaging in the business of insurance in this state under a certificate of authority.

(c) Provides that a travel administrator and a travel administrator's employees are exempt from the licensing requirements under Chapter 4101 (Insurance Adjusters) with respect to travel insurance.

(d) Provides that an insurer is responsible for the acts of a travel administrator administering travel insurance underwritten by the insurer. Requires the insurer to ensure that the travel administrator maintains all books and records relevant to the insurer and makes the books and records available to the Texas Department of Insurance (TDI) on request of the commissioner.

Sec. 4055.153. AUTHORITY OF TRAVEL RETAILER. Deletes designation of Subsection (a). Deletes existing text relating to certain categories of travel insurance. Deletes existing Subsection (b) and text relating to travel insurance for a planned trip of more than six months not including coverage for major medical expenses for certain individuals.

Sec. 4055.154. TRAVEL INSURANCE GENERALLY. (a) Makes nonsubstantive changes to this subsection.

(b) Authorizes travel insurance coverage to be provided under an individual, group, or blanket policy as defined by Section 3504.0001, rather than authorizing travel insurance coverage to be provided under an individual policy or a group or master policy.

SECTION 4. Amends Section 4055.155, Insurance Code, by amending Subsection (e) and adding Subsections (g-1) and (j), as follows:

(e) Provides that the grounds for suspension or revocation and the penalties that apply to a resident insurance agent apply to a supervising entity and travel retailer.

(g-1) Requires the supervising entity to pay all applicable licensing fees required by state law with respect to travel insurance.

(j) Authorizes any person licensed in a major line of authority, as determined by the commissioner, as an insurance agent to sell, solicit, and negotiate travel insurance. Provides that a property and casualty insurance agent is not required to be appointed by an insurer to sell, solicit, or negotiate travel insurance.

SECTION 5. Amends Subchapter D, Chapter 4055, Insurance Code, by adding Section 4055.158, as follows:

Sec. 4055.158. RULEMAKING. Requires the commissioner to adopt rules necessary to implement this subchapter (Travel Insurance). Provides that Section 2001.0045, Government Code, does not apply to rules adopted under this section.

SECTION 6. Amends Section 221.002(b), Insurance Code, to add travel insurance to a list of types of insurance that an insurer is required to include in determining an insurer's taxable premium receipts.

SECTION 7. Effective date: September 1, 2019.