

1 AN ACT

2 relating to the business of travel insurance.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Title 12, Insurance Code, is amended by adding
5 Chapter 3504 to read as follows:

6 CHAPTER 3504. TRAVEL INSURANCE

7 Sec. 3504.0001. DEFINITIONS. In this chapter:

8 (1) "Aggregator site" means an Internet website that
9 provides access to information regarding insurance products from
10 more than one insurer, including product and insurer information,
11 for use in comparison shopping.

12 (2) "Blanket travel insurance" means a policy of
13 travel insurance issued to an eligible group that provides coverage
14 for specific classes of persons with coverage provided to each
15 member of the eligible group defined in the policy without a
16 separate charge to individual members of the eligible group.

17 (3) "Cancellation fee waiver" means a contractual
18 agreement between a supplier of travel services and the supplier's
19 customer to waive some or all of the nonrefundable cancellation fee
20 provisions of the supplier's underlying travel contract with or
21 without regard to the reason for the cancellation or form of
22 reimbursement. A cancellation fee waiver is not insurance.

23 (4) "Eligible group" means two or more persons who are
24 engaged in a common enterprise or have an economic, educational, or

1 social affinity or relationship, including any of the following:

2 (A) an entity engaged in the business of
3 providing travel or travel services, including a tour operator, a
4 lodging provider, a vacation property owner, a hotel or resort, a
5 travel club, a travel agency, a property manager, a cultural
6 exchange program, and a common carrier or the operator, owner, or
7 lessor of a means of transportation of passengers, including an
8 airline, a cruise line, a railroad, a steamship company, and a
9 public bus carrier, wherein with regard to any particular travel or
10 type of travel or travelers, all members or customers of the group
11 must have a common exposure to risk attendant to the travel;

12 (B) a college, school, or other institution of
13 learning covering students, teachers, employees, or volunteers;

14 (C) an employer covering a board of directors or
15 a group of employees, volunteers, contractors, dependents, or
16 guests;

17 (D) a sports team or camp or sponsor of a team or
18 camp covering participants, members, campers, employees,
19 officials, supervisors, or volunteers;

20 (E) a religious, charitable, recreational,
21 educational, or civic organization or branch of the organization
22 covering members, participants, or volunteers;

23 (F) a financial institution or financial
24 institution vendor or a parent holding company, trustee, or agent
25 or designee of a financial institution or financial institution
26 vendor covering persons, including account holders, credit card
27 holders, debtors, guarantors, or purchasers;

1 (G) an incorporated or unincorporated
2 association, including a labor union that has a common interest,
3 constitution, and bylaws, organized and maintained in good faith
4 for a purpose other than obtaining insurance for the association's
5 members or participants;

6 (H) a trust, or the trustees of a fund,
7 established, created, or maintained for the benefit of and covering
8 members, employees, or customers of one or more associations
9 meeting the requirements of Paragraph (G), subject to the
10 commissioner's approval and the state premium tax provisions of
11 Section 3504.0004;

12 (I) an entertainment production company covering
13 a group of participants, volunteers, audience members,
14 contestants, or workers;

15 (J) a volunteer fire department or an ambulance,
16 rescue, police, court, first aid, or civil defense volunteer group
17 or other similar volunteer group;

18 (K) a preschool, a day-care facility for children
19 or adults, or a senior citizen club;

20 (L) an automobile or truck rental or leasing
21 company covering a group of individuals who may become renters,
22 lessees, or passengers defined by the individual's status on the
23 rented or leased vehicles, in which circumstance the common
24 carrier, the operator, owner, or lessor of a means of
25 transportation, or the automobile or truck rental or leasing
26 company is the policyholder; or

27 (M) any other group with respect to which the

1 commissioner has determined:

2 (i) the members are engaged in a common
3 enterprise or have an economic, educational, or social affinity or
4 relationship; and

5 (ii) issuance of the policy is not contrary
6 to the public interest.

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

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

13 (7) "Planned trip" or "planned travel" means any
14 journey or travel arranged through the services of a travel agency.

15 (8) "Primary certificate holder," specific to Section
16 3504.0004, means an individual who elects and purchases travel
17 insurance under a group policy.

18 (9) "Primary policyholder," specific to Section
19 3504.0004, means an individual who elects and purchases individual
20 travel insurance.

21 (10) "Travel assistance services" means noninsurance
22 services that do not indemnify the consumer based on a fortuitous
23 event or result in the transfer or shifting of risk constituting the
24 business of insurance. Travel assistance services include security
25 advisories, destination information, vaccination and immunization
26 information services, travel reservation services, entertainment,
27 activity and event planning, translation assistance, emergency

1 messaging, international legal and medical referrals, medical case
2 monitoring, coordination of transportation arrangements, emergency
3 cash transfer assistance, medical prescription replacement
4 assistance, passport and travel document replacement assistance,
5 lost luggage assistance, concierge services, and any other service
6 that is furnished in connection with planned travel. Travel
7 assistance services are not insurance and are not related to
8 insurance.

9 (11) "Travel insurance" means insurance coverage for
10 personal risks incident to planned travel, including:

11 (A) interruption or cancellation of a trip or
12 event;

13 (B) loss of baggage or personal effects;

14 (C) damages to accommodations or rental
15 vehicles;

16 (D) sickness, accident, disability, or death
17 occurring during travel;

18 (E) emergency evacuation;

19 (F) repatriation of remains; or

20 (G) any other contractual obligations to

21 indemnify or pay a specified amount to the traveler on determinable
22 contingencies related to travel as approved by the commissioner.

23 Travel insurance does not include a major medical plan that

24 provides comprehensive medical protection for a traveler on a trip

25 of longer than six months, such as an individual working or residing

26 overseas as an expatriate, or any other insurance product that must

27 be sold by an agent with a specific agent's license.

1 (12) "Travel protection plan" means a plan that
2 provides one or more of the following:

3 (A) travel insurance;

4 (B) travel assistance services; and

5 (C) cancellation fee waivers.

6 Sec. 3504.0002. APPLICABILITY. (a) This chapter applies
7 to a travel insurance policy or certificate that:

8 (1) provides coverage to a resident of this state or is
9 sold, solicited, negotiated, or offered in this state; and

10 (2) is delivered or issued for delivery in this state.

11 (b) This chapter does not apply to a cancellation fee waiver
12 or travel assistance service except as expressly provided in this
13 chapter.

14 Sec. 3504.0003. LINE OF INSURANCE. (a) Except as provided
15 by Subsection (b) and notwithstanding any other provision of this
16 code, travel insurance is classified and filed for purposes of
17 rates and forms under an inland marine line of insurance.

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

26 (c) Eligibility and underwriting standards for travel
27 insurance may be developed and provided based on travel protection

1 plans designed for individual or identified marketing or
2 distribution channels if the standards meet underwriting standards
3 for an inland marine line of insurance.

4 Sec. 3504.0004. PREMIUM TAX. (a) A travel insurer shall
5 pay premium tax, as provided by Section 221.002, on travel
6 insurance premiums paid by any of the following:

7 (1) an individual primary policyholder who is a
8 resident of this state;

9 (2) a primary certificate holder who is a resident of
10 this state and elects and purchases coverage under a group travel
11 insurance policy; or

12 (3) a blanket travel insurance policyholder who buys a
13 blanket travel insurance policy for members of an eligible group
14 if:

15 (A) the policyholder is a resident of this state;

16 or

17 (B) the policyholder's principal place of
18 business is located in this state.

19 (b) A travel insurer shall:

20 (1) document the state of residence or principal place
21 of business of the policyholder or certificate holder described by
22 Subsection (a); and

23 (2) report as premium:

24 (A) only the amount allocable to travel insurance
25 and not amounts received for travel assistance services or
26 cancellation fee waivers; and

27 (B) only the amount allocable to residents of

1 this state.

2 (c) Amounts received for travel assistance services and
3 cancellation fee waivers, whether the travel assistance services
4 and cancellation waivers are offered separately or for a combined
5 price authorized by Section 3504.0005, are not subject to taxation
6 under Section 221.002(b).

7 Sec. 3504.0005. TRAVEL PROTECTION PLANS. A travel
8 protection plan composed of multiple features may be offered for a
9 combined price if:

10 (1) at the time or before the consumer buys the travel
11 protection plan it is clearly disclosed to the consumer that the
12 plan includes travel insurance, travel assistance services, and
13 cancellation fee waivers, as applicable, and provides information
14 and an opportunity for the consumer to obtain additional
15 information regarding the features and the pricing of each feature;
16 and

17 (2) the fulfillment materials:

18 (A) describe the travel insurance, travel
19 assistance services, and cancellation fee waivers in the travel
20 protection plan; and

21 (B) include the travel insurance disclosures and
22 the contact information for persons providing travel assistance
23 services and cancellation fee waivers, as applicable.

24 Sec. 3504.0006. SALES PRACTICES; PROHIBITED PRACTICES. (a)
25 Offering or selling a travel insurance policy that could never
26 result in payment of a claim for an insured under the policy is an
27 unfair trade practice under Subtitle C, Title 5.

1 (b) All documents provided to a consumer before the purchase
2 of travel insurance, including sales materials, advertising
3 materials, and marketing materials, must be consistent with the
4 travel insurance policy, including forms, endorsements, policies,
5 rate filings, and certificates of insurance.

6 (c) Before the consumer buys travel insurance and
7 subsequently in the fulfillment materials, the consumer must be
8 provided information about any preexisting condition exclusion
9 that is included in the travel insurance policy or certificate. The
10 consumer must have the opportunity to learn more about the
11 exclusion.

12 (d) The fulfillment materials and the information described
13 in Section 4055.154(a) must be provided to a policyholder or
14 certificate holder as soon as practicable after the purchase of a
15 travel protection plan. Unless the policyholder or certificate
16 holder has started a covered trip or filed a claim under the travel
17 insurance coverage, the policyholder or certificate holder may
18 cancel a policy or certificate for a full refund of the travel
19 protection plan price. The policyholder or certificate holder must
20 exercise the right to cancel a travel protection plan before:

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

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

27 (e) For the purposes of this section, delivery means handing

1 fulfillment materials to the policyholder or certificate holder or
2 sending fulfillment materials by United States mail or electronic
3 means to the policyholder or certificate holder.

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

7 (g) If travel insurance is marketed directly to a consumer
8 through an insurer's Internet website or by others through an
9 aggregator site, it is not an unfair trade practice or other
10 violation of law if:

11 (1) an accurate summary or short description of
12 coverage is provided on the Internet website; and

13 (2) the consumer has access to the full provisions of
14 the policy through electronic means.

15 (h) A person offering, soliciting, or negotiating travel
16 insurance or travel protection plans on an individual or group
17 basis may not do so by using a negative option or opt out that
18 requires a consumer to take an affirmative action to deselect
19 coverage, such as unchecking a box on an electronic form, when the
20 consumer purchases a trip.

21 (i) It is an unfair trade practice to market blanket travel
22 insurance coverage as free.

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

27 (1) purchasing the coverage required by the

1 destination jurisdiction through the travel retailer or
2 supervising entity supplying the trip or travel package; or

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

6 Sec. 3504.0007. RULEMAKING. (a) The commissioner may
7 adopt rules necessary to implement this chapter. Section
8 2001.0045, Government Code, does not apply to rules adopted under
9 this section.

10 (b) The comptroller, in consultation with the commissioner,
11 may adopt rules to implement this chapter.

12 SECTION 2. Section 4055.151, Insurance Code, is amended by
13 amending Subdivision (1) and adding Subdivisions (1-a) and (1-c) to
14 read as follows:

15 (1) "Offer and disseminate" means to:

16 (A) provide general information, including the
17 price and a description of the coverage; and

18 (B) process the application and collect
19 premiums.

20 (1-a) "Planned trip" means any journey or travel
21 arranged through the services of a travel agency.

22 (1-c) "Travel administrator" means a person who
23 directly or indirectly underwrites, collects a charge, collateral,
24 or premium from, or adjusts or settles a claim of, a resident of
25 this state in connection with travel insurance. A person is not a
26 travel administrator if the person's only actions that would
27 otherwise cause the person to be considered a travel administrator

1 include:

2 (A) the person working for a travel administrator
3 to the extent the person's activities are subject to the
4 supervision and control of the travel administrator;

5 (B) an insurance agent selling insurance or
6 engaged in administrative and claims-related activities within the
7 scope of the agent's license;

8 (C) a travel retailer, registered under the
9 license of a supervising entity in accordance with this subchapter,
10 offering and disseminating travel insurance;

11 (D) an individual adjusting or settling claims in
12 the normal course of the individual's practice or employment as an
13 attorney and who does not collect charges or premiums in connection
14 with insurance coverage; or

15 (E) a business entity that is affiliated with a
16 licensed insurer acting as a travel administrator for the direct
17 and assumed insurance business of an affiliated insurer.

18 SECTION 3. Sections 4055.1515, 4055.153, and 4055.154,
19 Insurance Code, are amended to read as follows:

20 Sec. 4055.1515. TRAVEL INSURANCE SUPERVISING ENTITY AND
21 TRAVEL ADMINISTRATOR. (a) An insurer authorized to engage in the
22 business of travel insurance in this state may designate a travel
23 insurance supervising entity for purposes of this subchapter. The
24 supervising entity must be:

- 25 (1) a licensed managing general agent;
26 (2) a licensed third-party administrator; [~~or~~]
27 (3) a licensed insurance agent, including a specialty

1 license holder and a person described by Section [4055.002\(a\)](#); or

2 (4) a travel administrator.

3 (b) Notwithstanding any other provisions of this code, a
4 person may not act or represent the person as a travel administrator
5 for travel insurance unless the person is:

6 (1) a licensed property and casualty insurance agent;

7 (2) a licensed managing general agent; or

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

11 (c) A travel administrator and a travel administrator's
12 employees are exempt from the licensing requirements under Chapter
13 [4101](#) with respect to travel insurance.

14 (d) An insurer is responsible for the acts of a travel
15 administrator administering travel insurance underwritten by the
16 insurer. The insurer must ensure that the travel administrator
17 maintains all books and records relevant to the insurer and makes
18 the books and records available to the department on request of the
19 commissioner.

20 Sec. 4055.153. AUTHORITY OF TRAVEL RETAILER. [~~a~~] A
21 travel retailer may offer and disseminate travel insurance as a
22 service to the retailer's customers on behalf of and under the
23 license and direction of a supervising entity only:

24 (1) in connection with the sale or arrangement of
25 transportation, accommodations, or events for travelers; and

26 (2) with respect to travel insurance [~~that includes:~~

27 [~~(A) accident and health insurance that provides~~

~~coverage to a traveler for accidental death or dismemberment and for medical expenses resulting from an accident or sickness involving the traveler that occurs during the planned trip,~~

~~[(B) insurance that provides coverage to a traveler for expenses incurred as a result of trip cancellation or interruption of a planned trip or event,~~

~~[(C) personal effects insurance that provides coverage to a traveler for loss of or damage to personal effects during the planned trip or event,~~

~~[(D) insurance that provides coverage for damage to accommodations or rental vehicles, or~~

~~[(E) any other coverage the commissioner approves as meaningful and appropriate in connection with the transportation or accommodations arranged through a travel agency].~~

~~[(b) Travel insurance does not include major medical expense coverage for a traveler on a planned trip for six months or more, including:~~

~~[(1) an individual working abroad,~~

~~[(2) an expatriate, and~~

~~[(3) a military service member on deployment.]~~

Sec. 4055.154. TRAVEL INSURANCE GENERALLY. (a) A travel retailer, or the supervising entity, shall provide to a traveler seeking to purchase travel insurance:

(1) a description of the material terms or the actual terms of the insurance coverage;

(2) a description of the claims filing process;

1 (3) a description of the review and cancellation
2 process for the travel insurance policy; and

3 (4) the name and contact information for the insurer
4 and the supervising entity.

5 (b) Travel insurance coverage may be provided under an
6 individual [~~policy~~] or [~~a~~] group insurance policy or a blanket
7 travel insurance [~~master~~] policy, as defined by Section 3504.0001.

8 SECTION 4. Section 4055.155, Insurance Code, is amended by
9 amending Subsection (e) and adding Subsections (g-1) and (j) to
10 read as follows:

11 (e) The supervising entity must certify in a form prescribed
12 by the commissioner by rule that each registered travel retailer is
13 in compliance with 18 U.S.C. Section 1033. The grounds for
14 suspension or revocation and the penalties that apply to a resident
15 insurance agent apply to a supervising entity and travel retailer.

16 (g-1) The supervising entity shall pay all applicable
17 licensing fees required by state law with respect to travel
18 insurance.

19 (j) Any person licensed in a major line of authority, as
20 determined by the commissioner, as an insurance agent may sell,
21 solicit, and negotiate travel insurance. A property and casualty
22 insurance agent is not required to be appointed by an insurer to
23 sell, solicit, or negotiate travel insurance.

24 SECTION 5. Subchapter D, Chapter 4055, Insurance Code, is
25 amended by adding Section 4055.158 to read as follows:

26 Sec. 4055.158. RULEMAKING. The commissioner shall adopt
27 rules necessary to implement this subchapter. Section 2001.0045,

1 Government Code, does not apply to rules adopted under this
2 section.

3 SECTION 6. Section 221.002(b), Insurance Code, is amended
4 to read as follows:

5 (b) Except as provided by Subsection (c), in determining an
6 insurer's taxable premium receipts, the insurer shall include the
7 total gross amounts of premiums, membership fees, assessments,
8 dues, revenues, and any other considerations for insurance written
9 by the insurer in a calendar year from any kind of insurance written
10 by the insurer on each kind of property or risk located in this
11 state, including:

- 12 (1) fire insurance;
- 13 (2) ocean marine insurance;
- 14 (3) inland marine insurance;
- 15 (4) accident insurance;
- 16 (5) credit insurance;
- 17 (6) livestock insurance;
- 18 (7) fidelity insurance;
- 19 (8) guaranty insurance;
- 20 (9) surety insurance;
- 21 (10) casualty insurance;
- 22 (11) workers' compensation insurance;
- 23 (12) employers' liability insurance;
- 24 (13) crop insurance written by a farm mutual insurance
25 company; ~~and~~
- 26 (14) home warranty insurance; and
- 27 (15) travel insurance.

1 SECTION 7. This Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I certify that H.B. No. 2587 was passed by the House on April 18, 2019, by the following vote: Yeas 141, Nays 6, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2587 on May 24, 2019, by the following vote: Yeas 111, Nays 29, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2587 was passed by the Senate, with amendments, on May 21, 2019, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor