

By: Lucio III

H.B. No. 2587

A BILL TO BE ENTITLED

AN ACT

relating to the business of travel insurance.

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

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

CHAPTER 3504. TRAVEL INSURANCE

Sec. 3504.0001. DEFINITIONS. In this chapter:

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

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

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

(4) "Eligible group" means two or more persons who are 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 3504.0005;

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 daycare institution for
19 children 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 3504.0005, means an individual who elects and purchases travel
17 insurance under a group policy.

18 (9) "Primary policyholder," specific to Section
19 3504.0005, 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 not related to insurance.

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

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

12 (B) loss of baggage or personal effects;

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

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

17 (E) emergency evacuation;

18 (F) repatriation of remains; or

19 (G) any other contractual obligations to
20 indemnify or pay a specified amount to the traveler on determinable
21 contingencies related to travel as approved by the commissioner by
22 rule. Travel insurance does not include a major medical plan that
23 provides comprehensive medical protection for a traveler on a trip
24 of longer than six months, such as an individual working or residing
25 overseas as an expatriate, or any other insurance product that must
26 be sold by an agent with a specific agent's license.

27 (12) "Travel protection plan" means a plan that

1 provides one or more of the following:

2 (A) travel insurance;

3 (B) travel assistance services; and

4 (C) cancellation fee waivers.

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

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

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

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

13 Sec. 3504.0003. CONFLICT OF LAWS. This chapter prevails to
14 the extent of any conflict with another provision of this code.

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

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

27 (c) Eligibility and underwriting standards for travel

1 insurance may be developed and provided based on travel protection
2 plans designed for individual or identified marketing or
3 distribution channels if the standards meet underwriting standards
4 for an inland marine line of insurance.

5 Sec. 3504.0005. PREMIUM TAX. (a) A travel insurer shall
6 pay premium tax, as provided by Section 221.002, on travel
7 insurance premiums paid by any of the following:

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

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

13 (3) subject to apportionment of premium in accordance
14 with Chapter 229 or other law, a blanket travel insurance
15 policyholder who buys a blanket travel insurance policy in this
16 state for members of the eligible group if:

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

18 (B) the policyholder's principal place of
19 business is located in this state; or

20 (C) the principal place of business of an
21 affiliate or subsidiary of the policyholder is located in this
22 state.

23 (b) A travel insurer shall:

24 (1) document the state of residence or principal place
25 of business of the policyholder or certificate holder described by
26 Subsection (a); and

27 (2) report as premium only the amount allocable to

1 travel insurance and not amounts received for travel assistance
2 services or cancellation fee waivers.

3 Sec. 3504.0006. TRAVEL PROTECTION PLANS. A travel
4 protection plan composed of multiple features may be offered for a
5 combined price if:

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

13 (2) the fulfillment materials:

14 (A) describe the travel insurance, travel
15 assistance services, and cancellation fee waivers in the travel
16 protection plan; and

17 (B) include the travel insurance disclosures and
18 the contact information for persons providing travel assistance
19 services and cancellation fee waivers, as applicable.

20 Sec. 3504.0007. SALES PRACTICES; PROHIBITED PRACTICES. (a)
21 Offering or selling a travel insurance policy that could never
22 result in payment of a claim for an insured under the policy is an
23 unfair trade practice under Subtitle C, Title 5.

24 (b) All documents provided to a consumer before the purchase
25 of travel insurance, including sales materials, advertising
26 materials, and marketing materials, must be consistent with the
27 travel insurance policy, including forms, endorsements, policies,

1 rate filings, and certificates of insurance.

2 (c) Before the consumer buys travel insurance, the consumer
3 must be provided information in the fulfillment materials about any
4 preexisting condition exclusion that is included in the travel
5 insurance policy or certificate. The consumer must have the
6 opportunity to learn more about the exclusion.

7 (d) The fulfillment materials and the information described
8 in Section 3504.0006 must be provided to a policyholder or
9 certificate holder as soon as practicable after the purchase of a
10 travel protection plan. Unless the policyholder or certificate
11 holder has started a covered trip or filed a claim under the travel
12 insurance coverage, the policyholder or certificate holder may
13 cancel a policy or certificate for a full refund of the travel
14 protection plan price. The consumer must exercise the right to
15 cancel a travel protection plan before:

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

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

22 (e) For the purposes of this section, delivery means handing
23 fulfillment materials to the policyholder or certificate holder or
24 sending fulfillment materials by United States mail or electronic
25 means to the policyholder or certificate holder.

26 (f) The company shall disclose in the policy documentation
27 and fulfillment materials if the travel insurance is primary or

1 secondary to other applicable coverage.

2 (g) If travel insurance is marketed directly to a consumer
3 through an insurer's website or by others through an aggregator
4 site, it is not an unfair trade practice or other violation of law
5 if:

6 (1) an accurate summary or short description of
7 coverage is provided on the website; and

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

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

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

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

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

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

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

4 (1) "Offer and disseminate" means:

5 (A) providing general information, including the
6 price and a description of the coverage; and

7 (B) processing the application and collecting
8 premiums.

9 (1-a) "Planned trip" means any journey or travel
10 arranged through the services of a travel agency.

11 (1-c) "Travel administrator" means a person who,
12 directly or indirectly, underwrites, collects a charge,
13 collateral, or a premium from, or adjusts or settles a claim of a
14 resident of this state in connection with travel insurance. A
15 person is not a travel administrator if the person's only actions
16 that would otherwise cause the person to be considered a travel
17 administrator include:

18 (A) the person working for a travel administrator
19 to the extent the person's activities are subject to the
20 supervision and control of the travel administrator;

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

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

27 (D) an individual adjusting or settling claims in

1 the normal course of the individual's practice or employment as an
2 attorney and who does not collect charges or premiums in connection
3 with insurance coverage; or

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

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

9 Sec. 4055.1515. TRAVEL INSURANCE SUPERVISING ENTITY AND
10 TRAVEL ADMINISTRATOR. (a) An insurer authorized to engage in the
11 business of travel insurance in this state may designate a travel
12 insurance supervising entity for purposes of this subchapter. The
13 supervising entity must be:

- 14 (1) a licensed managing general agent;
15 (2) a licensed third-party administrator; ~~[or]~~
16 (3) a licensed insurance agent, including a specialty
17 license holder and a person described by Section 4055.002(a); or
18 (4) a travel administrator.

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

- 22 (1) a licensed property and casualty insurance agent;
23 (2) a licensed managing general agent; or
24 (3) a third-party administrator engaging in the
25 business of insurance in this state under a certificate of
26 authority.

27 (c) A travel administrator and a travel administrator's

1 employees are exempt from the licensing requirements under Chapter
2 4101 with respect to travel insurance.

3 (d) An insurer is responsible for the acts of a travel
4 administrator administering travel insurance underwritten by the
5 insurer. The insurer must ensure that the travel administrator
6 maintains all books and records relevant to the insurer and makes
7 the books and records available to the department on request of the
8 commissioner.

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

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

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

16 [~~(A) accident and health insurance that provides~~
17 ~~coverage to a traveler for accidental death or dismemberment and~~
18 ~~for medical expenses resulting from an accident or sickness~~
19 ~~involving the traveler that occurs during the planned trip,~~

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

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

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

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

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

8 ~~[(1) an individual working abroad;~~

9 ~~[(2) an expatriate; and~~

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

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

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

16 (2) a description of the claims filing process;

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

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

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

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

27 (e) The supervising entity must certify in a form prescribed

1 by the commissioner by rule that each registered travel retailer is
2 in compliance with 18 U.S.C. Section 1033. The grounds for
3 suspension or revocation and the penalties that apply to a resident
4 insurance agent apply to a supervising entity and travel retailer.

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

8 (j) Any person licensed in a major line of authority, as
9 determined by the commissioner, as an insurance agent may sell,
10 solicit, and negotiate travel insurance. A property and casualty
11 insurance agent is not required to be appointed by an insurer to
12 sell, solicit, or negotiate travel insurance.

13 SECTION 5. Section 221.002(b), Insurance Code, is amended
14 to read as follows:

15 (b) Except as provided by Subsection (c), in determining an
16 insurer's taxable premium receipts, the insurer shall include the
17 total gross amounts of premiums, membership fees, assessments,
18 dues, revenues, and any other considerations for insurance written
19 by the insurer in a calendar year from any kind of insurance written
20 by the insurer on each kind of property or risk located in this
21 state, including:

- 22 (1) fire insurance;
- 23 (2) ocean marine insurance;
- 24 (3) inland marine insurance;
- 25 (4) accident insurance;
- 26 (5) credit insurance;
- 27 (6) livestock insurance;

- 1 (7) fidelity insurance;
- 2 (8) guaranty insurance;
- 3 (9) surety insurance;
- 4 (10) casualty insurance;
- 5 (11) workers' compensation insurance;
- 6 (12) employers' liability insurance;
- 7 (13) crop insurance written by a farm mutual insurance
- 8 company; ~~and~~
- 9 (14) home warranty insurance; and
- 10 (15) travel insurance.

11 SECTION 6. The commissioner of insurance shall promulgate
12 forms and adopt rules as necessary to implement Chapter 3504,
13 Insurance Code, as added by this Act, and Chapter 4055, Insurance
14 Code, as amended by this Act, as soon as practicable after the
15 effective date of this Act, but not later than January 1, 2020.

16 SECTION 7. This Act applies only to a travel insurance
17 policy or certificate that is delivered or issued for delivery on or
18 after January 1, 2020. A travel insurance policy or certificate
19 delivered or issued for delivery before January 1, 2020, is
20 governed by the law as it existed immediately before the effective
21 date of this Act, and that law is continued in effect for that
22 purpose.

23 SECTION 8. This Act takes effect September 1, 2019.