

1 HB235
2 216757-2
3 By Representative Faulkner
4 RFD: Insurance
5 First Read: 02-FEB-22

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ENROLLED, An Act,

Relating to travel insurance; to add Chapter 64 to Title 27 of the Code of Alabama 1975 and to repeal Section 27-7-5.2, Code of Alabama 1975, relating to travel insurance, and replace the section with new Section 27-64-4, Code of Alabama 1975; to create the Travel Insurance Act; to revise licensing and registration requirements for limited lines travel insurance; to provide standards for premium taxes on travel insurance; to provide for the sale of travel insurance as part of a travel protection plan; to establish sales practices standards for the sale of travel insurance; to provide standards for travel administrators; to classify travel insurance for purposes of rates and forms; and to further provide for the commissioner's authority to adopt rules and implement the act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Chapter 64, commencing with Section 27-64-1, is added to Title 27 of the Code of Alabama 1975 to read as follows:

§27-64-1.

This act shall be known and may be cited as the Travel Insurance Act.

§27-64-2.

1 (a) The purpose of this chapter is to promote the
2 public welfare by creating a comprehensive legal framework
3 within which travel insurance may be sold in this state.

4 (b) The requirements of this chapter shall apply to
5 travel insurance that covers any resident of this state, is
6 sold, solicited, negotiated, or offered in this state, and
7 policies and certificates are delivered or issued for delivery
8 in this state. This chapter does not apply to cancellation fee
9 waivers or travel assistance services, except as expressly
10 provided in this chapter.

11 (c) All other applicable provisions of state
12 insurance laws shall continue to apply to travel insurance,
13 except that the specific provisions of this chapter shall
14 supersede any general provisions of law that would otherwise
15 be applicable to travel insurance.

16 §27-64-3.

17 As used in this chapter, the following terms shall
18 have the following meanings:

19 (1) AGGREGATOR SITE. A website that provides access
20 to information regarding insurance products from more than one
21 insurer, including product and insurer information, for use in
22 comparison shopping.

23 (2) BLANKET TRAVEL INSURANCE. A policy of travel
24 insurance issued to any eligible group providing coverage for
25 specific classes of persons defined in the policy with

1 coverage provided to all members of the eligible group without
2 a separate charge to individual members of the eligible group.

3 (3) CANCELLATION FEE WAIVER. A contractual agreement
4 between a supplier of travel services and its customer to
5 waive some or all of the non-refundable cancellation fee
6 provisions of the supplier's underlying travel contract with
7 or without regard to the reason for the cancellation or form
8 of reimbursement. A cancellation fee waiver is not insurance.

9 (4) ELIGIBLE GROUP. Two or more persons who are
10 engaged in a common enterprise, or have an economic,
11 educational, or social affinity or relationship, including,
12 but not limited to, any of the following:

13 a. Any entity engaged in the business of providing
14 travel or travel services, including, but not limited to, tour
15 operators, lodging providers, vacation property owners, hotels
16 and resorts, travel clubs, travel agencies, property managers,
17 cultural exchange programs, and common carriers or the
18 operator, owner, or lessor of a means of transportation of
19 passengers, including, but not limited to, airlines, cruise
20 lines, railroads, steamship companies, and public bus
21 carriers, wherein with regard to any particular travel or type
22 of travel or travelers, all members or customers of the group
23 must have a common exposure to risk attendant to such travel.

1 b. Any college, school, or other institution of
2 learning, covering students, teachers, employees, or
3 volunteers.

4 c. Any employer covering any group of employees,
5 volunteers, contractors, boards of directors, dependents, or
6 guests.

7 d. Any sports team, camp, or sponsor thereof,
8 covering participants, members, campers, employees, officials,
9 supervisors, or volunteers.

10 e. Any religious, charitable, recreational,
11 educational, or civic organization, or branch thereof,
12 covering any group of members, participants, or volunteers.

13 f. Any financial institution or financial
14 institution vendor, or parent holding company, trustee, or
15 agent of or designated by one or more financial institutions
16 or financial institution vendors, including account holders,
17 credit card holders, debtors, guarantors, or purchasers.

18 g. Any incorporated or unincorporated association,
19 including labor unions, having a common interest,
20 constitution, and bylaws, and organized and maintained in good
21 faith for purposes other than obtaining insurance for members
22 or participants of the association covering its members.

23 h. Any trust or the trustees of a fund established,
24 created, or maintained for the benefit of and covering
25 members, employees, or customers, subject to the

1 commissioner's permitting the use of a trust and the state's
 2 premium tax provisions in Section 27-64-5 of one or more
 3 associations meeting the requirements of paragraph g.

4 i. Any entertainment production company covering any
 5 group of participants, volunteers, audience members,
 6 contestants, or workers.

7 j. Any volunteer fire department, ambulance, rescue,
 8 police, court, or any first aid, civil defense, or other such
 9 volunteer group.

10 k. Any preschool, day care institution for children
 11 or adults, or senior citizen club.

12 l. Any automobile or truck rental or leasing company
 13 covering a group of individuals who may become renters,
 14 lessees, or passengers defined by their travel status on the
 15 rented or leased vehicles. The common carrier, the operator,
 16 owner or lessor of a means of transportation, or the
 17 automobile or truck rental or leasing company, is the
 18 policyholder under a policy to which this provision applies.

19 m. Any other group where the commissioner has
 20 determined that the members are engaged in a common
 21 enterprise, or have an economic, educational, or social
 22 affinity or relationship, and that issuance of the policy
 23 would not be contrary to the public interest.

24 (5) FULFILLMENT MATERIALS. Documentation sent to the
 25 purchaser of a travel protection plan confirming the purchase

1 and providing the travel protection plan's coverage and
2 assistance details.

3 (6) GROUP TRAVEL INSURANCE. Travel insurance issued
4 to any eligible group.

5 (7) LIMITED LINES TRAVEL INSURANCE PRODUCER. Any of
6 the following:

7 a. A licensed managing general agent or third party
8 administrator.

9 b. A licensed insurance producer, including a
10 limited lines producer.

11 c. A travel administrator.

12 (8) OFFER AND DISSEMINATE. To provide general
13 information, including a description of the coverage and
14 price, as well as processing the application, collecting
15 premiums, and performing other non-licensable activities
16 permitted by the state.

17 (9) PRIMARY CERTIFICATE HOLDER. A person who elects
18 and purchases travel insurance under a group policy.

19 (10) PRIMARY POLICYHOLDER. A person who elects and
20 purchases individual travel insurance.

21 (11) TRAVEL ADMINISTRATOR. A person who directly or
22 indirectly underwrites, collects charges, collateral, or
23 premiums from, or adjusts or settles claims on, residents of
24 this state in connection with travel insurance, except that a
25 person shall not be considered a travel administrator if that

1 person's only actions that would otherwise cause it to be
2 considered a travel administrator are among any of the
3 following:

4 a. An individual working for a travel administrator
5 to the extent that the individual's activities are subject to
6 the supervision and control of the travel administrator.

7 b. An insurance producer selling insurance or
8 engaged in administrative and claims-related activities within
9 the scope of the producer's license.

10 c. A travel retailer offering and disseminating
11 travel insurance and registered under the license of a limited
12 lines travel insurance producer in accordance with this
13 chapter.

14 d. An individual adjusting or settling claims in the
15 normal course of that individual's practice or employment as
16 an attorney-at-law and who does not collect charges or
17 premiums in connection with insurance coverage.

18 e. A business entity that is affiliated with a
19 licensed insurer while acting as a travel administrator for
20 the direct and assumed insurance business of an affiliated
21 insurer.

22 (12) TRAVEL ASSISTANCE SERVICES. Non-insurance
23 services for which the customer is not indemnified based on a
24 fortuitous event, and where providing the service does not
25 result in transfer or shifting of risk that would constitute

1 the business of insurance. Travel assistance services include,
2 but are not limited to, security advisories, destination
3 information, vaccination and immunization information
4 services, travel reservation services, entertainment, activity
5 and event planning, translation assistance, emergency
6 messaging, international legal and medical referrals, medical
7 case monitoring, coordination of transportation arrangements,
8 emergency cash transfer assistance, medical prescription
9 replacement assistance, passport and travel document
10 replacement assistance, lost luggage assistance, concierge
11 services, and any other service that is furnished in
12 connection with planned travel. Travel assistance services are
13 not insurance and not related to insurance.

14 (13) TRAVEL INSURANCE. a. Insurance coverage for
15 personal risks incident to planned travel, including, but not
16 limited to, all of the following:

- 17 1. Interruption or cancellation of trip or event.
- 18 2. Loss of baggage or personal effects.
- 19 3. Damages to accommodations or rental vehicles.
- 20 4. Sickness, accident, disability, or death
21 occurring during travel.
- 22 5. Emergency evacuations.
- 23 6. Repatriation of remains.
- 24 7. Any other contractual obligations to indemnify or
25 pay a specified amount to the traveler upon determinable

1 contingencies relating to travel as approved by the
2 commissioner.

3 b. The term does not include either of the
4 following:

5 1. Major medical plans that provide comprehensive
6 medical protection for travelers with trips lasting six months
7 or longer, including for example, those working overseas as an
8 expatriate or military personnel being deployed.

9 2. Any other product that requires a specific
10 insurance producer license.

11 (14) TRAVEL RETAILER. A business entity that makes,
12 arranges, or offers travel and may offer and disseminate
13 travel insurance as a service to its customers on behalf of
14 and under the direction of a limited lines travel insurance
15 producer.

16 §27-64-4.

17 (a) The commissioner may issue a limited lines
18 travel insurance producer license to an individual or business
19 entity that has filed with the commissioner an application for
20 a limited lines travel insurance producer license in a form
21 and manner prescribed by rule by the commissioner. A limited
22 lines travel insurance producer shall be licensed to sell,
23 solicit, or negotiate travel insurance through a licensed
24 insurer.

1 (b) No person may act as a limited lines travel
2 insurance producer or travel insurance retailer unless
3 properly licensed or registered, respectively.

4 (c) The criteria for suspension, revocation, and the
5 penalties applicable to resident insurance producers under
6 Section 27-7-19 shall be applicable to limited lines travel
7 insurance producers and travel retailers.

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

12 (1) The limited lines travel insurance producer or
13 the travel retailer provides to customers of travel insurance
14 all of the following:

15 a. A description of the material terms or the actual
16 material terms of the insurance coverage.

17 b. A description of the process for filing a claim.

18 c. A description of the review or cancellation
19 process for the travel insurance policy.

20 d. The identity and contact information of the
21 insurer and limited lines travel insurance producer.

22 (2) At the time of licensure, the limited lines
23 travel insurance producer establishes and thereafter maintains
24 a register, in a form prescribed by rule by the commissioner,
25 of each travel retailer that offers travel insurance on the

1 limited lines travel insurance producer's behalf. The register
2 shall be maintained and updated annually by the limited lines
3 travel insurance producer and shall include the name, address,
4 contact information, and federal tax identification number of
5 the travel retailer, and the name of an officer or individual
6 who directs or controls the travel retailer's operations. The
7 limited lines travel insurance producer shall submit the
8 register to the commissioner upon reasonable request. The
9 limited lines travel insurance producer shall also certify
10 that a registered travel retailer complies with 18 U.S.C. §
11 1033.

12 (3) The limited lines travel insurance producer
13 shall designate one of its employees who is a licensed
14 individual producer as the designated responsible producer,
15 responsible for the business entity's compliance with the
16 travel insurance laws and rules of the state applicable to the
17 limited lines travel insurance producer and its registrants.

18 (4) The DRP, president, secretary, treasurer, and
19 any other officer or individual who directs or controls the
20 limited lines travel insurance producer's insurance operations
21 shall comply with the fingerprinting requirements applicable
22 to insurance producers in the resident state of the limited
23 lines travel insurance producer.

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

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

13 (e) Any travel retailer offering or disseminating
14 travel insurance shall make brochures or other written
15 materials available to prospective purchasers that have been
16 approved by the travel insurer. The materials shall include
17 information which at a minimum do all of the following:

18 (1) Provide the identity and contact information of
19 the insurer and the travel insurance producer.

20 (2) Explain that the purchase of travel insurance is
21 not required in order to purchase any other product or service
22 from the travel retailer.

23 (3) Explain that an unlicensed travel retailer is
24 permitted to provide general information about the insurance
25 offered by the travel retailer, including a description of the

1 coverage and price, but is not qualified or authorized to
2 answer technical questions about the terms and conditions of
3 the insurance offered by the travel retailer or to evaluate
4 the adequacy of the customer's existing insurance coverage.

5 (f) A travel retailer employee or authorized
6 representative who is not licensed as an insurance producer
7 may not do any of the following:

8 (1) Evaluate or interpret the technical terms,
9 benefits, and conditions of the offered travel insurance
10 coverage.

11 (2) Evaluate or provide advice concerning the
12 existing insurance coverage of a prospective purchaser.

13 (3) Hold himself or herself out as a licensed
14 insurer, licensed producer, or insurance expert.

15 (g) Notwithstanding any other state law, a travel
16 retailer whose insurance-related activities, and those of its
17 employees and authorized representatives, are limited to
18 offering and disseminating travel insurance on behalf of and
19 under the direction of a limited lines travel insurance
20 producer meeting the conditions stated in this section may
21 offer and disseminate travel insurance and is authorized to
22 receive related compensation, upon registration by the travel
23 insurance producer as described in this section.

24 (h) As the insurer designee, the limited lines
25 travel insurance producer is responsible for the acts of the

1 travel retailer and shall use reasonable means to ensure
2 compliance by the travel retailer with this section.

3 (i) Any person licensed in a major line of authority
4 as an insurance producer may sell, solicit, or negotiate
5 travel insurance. A property and casualty insurance producer
6 is not required to become appointed by an insurer in order to
7 sell, solicit, or negotiate travel insurance.

8 §27-64-5.

9 (a) A travel insurer shall pay premium tax, as
10 provided in Section 27-4A-3, on travel insurance premiums paid
11 by any of the following:

12 (1) An individual primary policyholder who is a
13 resident of this state.

14 (2) A primary certificate holder who is a resident
15 of this state who elects coverage under a group travel
16 insurance policy.

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

1 (b) A travel insurer shall do both of the following:

2 (1) Document the state of residence or principal
3 place of business of the policyholder or certificate holder,
4 as required in subsection (a).

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

8 27-64-6.

9 Travel protection plans may be offered for one price
10 for the combined features that the travel protection plan
11 offers in this state if all of the following criteria are met:

12 (1) The travel protection plan clearly discloses to
13 the purchaser, at or prior to the time of purchase, that it
14 includes travel insurance, travel assistance services, and
15 cancellation fee waivers as applicable, and provides
16 information and an opportunity, at or prior to the time of
17 purchase, for the purchaser to obtain additional information
18 regarding the features and pricing of each.

19 (2) The fulfillment materials do both of the
20 following:

21 a. Describe and delineate the travel insurance,
22 travel assistance services, and cancellation fee waivers in
23 the travel protection plan.

1 b. Include the travel insurance disclosures and the
2 contact information for persons providing travel assistance
3 services, and cancellation fee waivers, as applicable.

4 §27-64-7.

5 (a) All persons offering travel insurance to
6 residents of this state are subject to the provisions of
7 Chapter 12, except as otherwise provided in this section. In
8 the event of a conflict between this section and other
9 provisions of this title regarding the sale and marketing of
10 travel insurance and travel protection plans, the provisions
11 of this chapter shall control.

12 (b) Offering or selling a travel insurance policy
13 that could never result in payment of any claims for any
14 insured under the policy is an unfair trade practice under
15 Chapter 12.

16 (c) (1) All documents provided to customers prior to
17 the purchase of travel insurance, including, but not limited
18 to, sales materials, advertising materials, and marketing
19 materials, shall be consistent with the travel insurance
20 policy itself, including, but not limited to, forms,
21 endorsements, policies, rate filings, and certificates of
22 insurance.

23 (2) For travel insurance policies or certificates
24 that contain preexisting condition exclusions, information and
25 an opportunity to learn more about the preexisting condition

1 exclusions shall be provided any time prior to the time of
2 purchase, and in the coverage's fulfillment materials.

3 (3)a. The fulfillment materials and the information
4 described in paragraphs a. through d. of Section 27-64-4(d) (1)
5 shall be provided to a policyholder or certificate holder as
6 soon as practicable, following the purchase of a travel
7 protection plan. Unless the insured has either started a
8 covered trip or filed a claim under the travel insurance
9 coverage, a policyholder or certificate holder may cancel a
10 policy or certificate for a full refund of the travel
11 protection plan price from the date of purchase of a travel
12 protection plan until at least:

13 1. Fifteen days following the date of delivery of
14 the travel protection plan's fulfillment materials by postal
15 mail; or

16 2. Ten days following the date of delivery of the
17 travel protection plans fulfillment materials by means other
18 than postal mail.

19 b. For purposes of this subsection, delivery means
20 handing fulfillment materials to the policyholder or
21 certificate holder or sending fulfillment materials by postal
22 mail or electronic means to the policyholder or certificate
23 holder.

24 (4) A travel insurer shall disclose in the policy
25 documentation and fulfillment materials whether the travel

1 insurance is primary or secondary to other applicable
2 coverage.

3 (5) Where travel insurance is marketed directly to a
4 customer through an insurer's website or by others through an
5 aggregator site, it shall not be an unfair trade practice or
6 other violation of law where an accurate summary or short
7 description of coverage is provided on the website, so long as
8 the customer has access to the full provisions of the policy
9 through electronic means.

10 (d) No person offering, soliciting, or negotiating
11 travel insurance or travel protection plans on an individual
12 or group basis may do so by using negative option or opt out,
13 which would require a customer to take an affirmative action
14 to deselect coverage, such as unchecking a box on an
15 electronic form, when the customer purchases a trip.

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

18 (f) Where a customer's destination jurisdiction
19 requires insurance coverage, it shall not be an unfair trade
20 practice to require that a customer choose between the
21 following options as a condition of purchasing a trip or
22 travel package:

23 (1) Purchasing the coverage required by the
24 destination jurisdiction through the travel retailer or

1 limited lines travel insurance producer supplying the trip or
2 travel package.

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

6 §27-64-8.

7 (a) Notwithstanding any other provision of this
8 title, no person shall act or represent itself as a travel
9 administrator for travel insurance in this state unless the
10 person meets one of the following requirements:

11 (1) Is a licensed property and casualty insurance
12 producer in this state for activities permitted under that
13 producer license.

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

16 (3) Holds a valid third-party administrator license
17 in this state.

18 (b) A travel administrator and its employees are
19 exempt from the licensing requirements of Chapter 9A for
20 travel insurance the travel administrator administers.

21 (c) An insurer is responsible for the acts of a
22 travel administrator administering travel insurance
23 underwritten by the insurer, and is responsible for ensuring
24 that the travel administrator maintains all books and records

1 relevant to the insurer, to be made available by the travel
2 administrator to the commissioner upon request.

3 §27-64-9.

4 (a) Notwithstanding any other provision of this
5 title, travel insurance shall be classified and filed for
6 purposes of rates and forms under an inland marine line of
7 insurance; provided, however, that travel insurance that
8 provides coverage for sickness, accident, disability, or death
9 occurring during travel, either exclusively or in conjunction
10 with related coverages of emergency evacuation or repatriation
11 of remains, or incidental limited property and casualty
12 benefits such as baggage or trip cancellation, may be filed
13 under either an accident and health line of insurance or an
14 inland marine line of insurance.

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

17 (c) Eligibility and underwriting standards for
18 travel insurance may be developed and provided based on travel
19 protection plans designed for individual or identified
20 marketing or distribution channels, provided those standards
21 also meet the state's underwriting standards for inland
22 marine.

23 §27-64-10.

24 The commissioner may adopt rules to implement this
25 chapter.

1 Section 2. Section 27-7-5.2, Code of Alabama 1975,
2 relating to the regulation and licensure of persons selling
3 travel insurance coverage, is repealed.

4 Section 3. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.

