

1 State of Arkansas *As Engrossed: S3/4/19 H3/14/19*

2 92nd General Assembly

# A Bill

3 Regular Session, 2019

SENATE BILL 399

4

5 By: Senator Rapert

6 By: Representative Lowery

7

8

## For An Act To Be Entitled

9

AN ACT TO ESTABLISH A COMPREHENSIVE REGULATORY

10

FRAMEWORK FOR THE SALE OF TRAVEL INSURANCE; AND FOR

11

OTHER PURPOSES.

12

13

14

## Subtitle

15

TO ESTABLISH A COMPREHENSIVE REGULATORY

16

FRAMEWORK FOR THE SALE OF TRAVEL

17

INSURANCE.

18

19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21

22 SECTION 1. Arkansas Code § 23-62-107, concerning marine insurance, is  
23 amended to add an additional subdivision to read as follows:

24

(3) Travel insurance, as defined in § 23-64-234.

25

26 SECTION 2. Arkansas Code § 23-64-202(e), concerning the sale of travel  
27 insurance, is repealed.

28

~~(e)(1) As used in this section:~~

29

~~(A) "Limited lines travel insurance producer" means a~~

30

~~licensed insurance producer or agent designated as the travel insurance~~

31

~~supervising entity under subdivision (e)(8) of this section;~~

32

~~(B) "Offer and disseminate" means to:~~

33

~~(i) Provide general information, including without~~

34

~~limitation a description of the insurance coverage and the cost of the~~

35

~~insurance coverage;~~

36

~~(ii) Process an application for insurance coverage;~~



1 ~~(iii) Collect the premiums for insurance coverage;~~  
2 and

3 ~~(iv) Perform other nonlicensed activities allowed by~~  
4 ~~the insurance laws of this state;~~

5 ~~(C)(i) "Travel insurance" means insurance coverage for~~  
6 ~~personal risks incident to planned travel, including without limitation:~~

7 ~~(a) Interruption or cancellation of a trip or~~  
8 ~~event;~~

9 ~~(b) Loss of baggage or personal effects;~~

10 ~~(c) Damages to accommodations or rental~~  
11 ~~vehicles; and~~

12 ~~(d) Sickness, accident, disability, or death~~  
13 ~~occurring during travel.~~

14 ~~(ii) "Travel insurance" does not include major~~  
15 ~~medical plans that provide comprehensive medical protection for travelers on~~  
16 ~~trips of six (6) months or more, including without limitation working~~  
17 ~~overseas and deployment of military personnel; and~~

18 ~~(D) "Travel retailer" means a business entity that makes,~~  
19 ~~arranges, and offers travel services and offers travel insurance as a service~~  
20 ~~to its customers on behalf of a limited lines travel insurance producer.~~

21 ~~(2) The commissioner may issue to a limited lines travel~~  
22 ~~insurance producer in compliance with this section a limited license to offer~~  
23 ~~or sell travel insurance.~~

24 ~~(3) A travel retailer may offer and disseminate travel insurance~~  
25 ~~under a limited lines travel insurance producer license if the limited lines~~  
26 ~~travel insurance producer:~~

27 ~~(A) Provides a purchaser with the material terms of the~~  
28 ~~insurance coverage or a description of the material terms, a description of~~  
29 ~~the process for filing a claim, the review or cancellation process for the~~  
30 ~~travel insurance policy, and the identity of and contact information for the~~  
31 ~~insurer and limited lines travel insurance producer;~~

32 ~~(B)(i) Establishes at the time of licensure and maintains~~  
33 ~~a register on a form prescribed by the commissioner of each travel retailer~~  
34 ~~that offers travel insurance on behalf of the limited lines travel insurance~~  
35 ~~producer.~~

36 ~~(ii) The register shall include:~~

1 ~~(a) The identity of and contact information~~  
2 ~~for the travel retailer and an officer or other person who directs or~~  
3 ~~controls the travel retailer's operations; and~~

4 ~~(b) The federal employer identification number~~  
5 ~~of the travel retailer;~~

6 ~~(C)(i) Provides on application for and renewal of a~~  
7 ~~limited lines travel insurance producer license a list of each travel~~  
8 ~~retailer that offers travel insurance on its behalf.~~

9 ~~(ii) The limited lines travel insurance producer~~  
10 ~~shall certify that the travel retailer is in compliance with 18 U.S.C. §~~  
11 ~~1033, as it existed on January 1, 2013;~~

12 ~~(D) Designates an employee who is a licensed individual~~  
13 ~~producer to be responsible for compliance issues;~~

14 ~~(E) Pays the applicable insurance producer licensing fees;~~  
15 ~~and~~

16 ~~(F)(i) Requires each employee of the travel retailer that~~  
17 ~~offers and disseminates travel insurance to receive instruction or training~~  
18 ~~that may be reviewed by the commissioner.~~

19 ~~(ii) At a minimum, the training material shall~~  
20 ~~contain instructions on the types of insurance offered, ethical sales~~  
21 ~~practices, and the required disclosures to provide to customers.~~

22 ~~(4) In a brochure or other written materials, a travel retailer~~  
23 ~~shall make available to customers the following information:~~

24 ~~(A) The identity of and contact information for the~~  
25 ~~insurer and limited lines travel insurance producer;~~

26 ~~(B) An explanation that the purchase of travel insurance~~  
27 ~~is not required to purchase any other product or service from the travel~~  
28 ~~retailer; and~~

29 ~~(C) An explanation that an unlicensed travel retailer may~~  
30 ~~provide general information about the insurance coverage offered by the~~  
31 ~~travel retailer, including a description of the insurance coverage and the~~  
32 ~~cost of the insurance coverage, but shall not answer technical questions~~  
33 ~~about the insurance terms offered by the travel retailer or provide an~~  
34 ~~evaluation of the adequacy of any existing insurance coverage.~~

35 ~~(5) A travel retailer that is not licensed as an insurance~~  
36 ~~producer shall not:~~

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

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

5 ~~(C) Hold itself out as a licensed insurer, producer, or~~  
6 ~~insurance expert.~~

7 ~~(6) A travel retailer and its employees that receive training~~  
8 ~~under subdivision (e)(3)(F) of this section and whose insurance-related~~  
9 ~~activities are limited to offering and disseminating travel insurance on~~  
10 ~~behalf of a limited lines travel insurance producer that is licensed under~~  
11 ~~this subchapter may receive compensation if listed on the registry maintained~~  
12 ~~by the limited lines travel insurance producer under subdivision (e)(3)(B) of~~  
13 ~~this section.~~

14 ~~(7) Travel insurance may be provided under an individual policy,~~  
15 ~~a group policy, or a master policy.~~

16 ~~(8) As the insurer designee, the limited lines travel insurance~~  
17 ~~producer is responsible for the acts of the travel retailer and shall use~~  
18 ~~reasonable means to ensure compliance by the travel retailer with this~~  
19 ~~section.~~

20 ~~(9) The limited lines travel insurance producer and a travel~~  
21 ~~retailer offering and disseminating travel insurance under the limited lines~~  
22 ~~travel insurance producer license are subject to the Trade Practices Act, §~~  
23 ~~23-66-201 et seq., and the licensing requirements of the Producer Licensing~~  
24 ~~Model Act, § 23-64-501 et seq.~~

25  
26 SECTION 3. Arkansas Code Title 23, Chapter 64, Subchapter 2, is  
27 amended to add an additional section to read as follows:

28 23-64-234. Travel insurance – Scope – Definitions – Licensing –  
29 Premium tax.

30 (a)(1) This section applies to travel insurance that:

31 (A) Covers a resident of this state;

32 (B) Is sold, solicited, negotiated, or offered in this  
33 state; and

34 (C) Has policies and certificates that are delivered or  
35 issued for delivery in this state.

36 (2) This section does not apply to a cancellation fee waiver or

1 travel assistance services except as provided in this section.

2 (3) All other applicable provisions of this state's insurance  
3 laws shall continue to apply to travel insurance except that this section  
4 shall supersede any general provisions of law that would otherwise be  
5 applicable to travel insurance.

6 (b) As used in this section:

7 (1)(A) "Aggregator site" means a website that provides access to  
8 information regarding insurance products from more than one (1) insurer.

9 (B) "Aggregator site" includes a website that provides  
10 product and insurer information for use in comparison shopping;

11 (2) "Blanket travel insurance" means a policy issued to an  
12 eligible group providing coverage for specific classes of persons defined in  
13 the policy with coverage provided to all members of the eligible group  
14 without a separate charge to individual members of the eligible group;

15 (3)(A) "Cancellation fee waiver" means a contractual agreement  
16 between a supplier of services for travel and its customer to waive some or  
17 all of the nonrefundable cancellation fee provisions of the underlying travel  
18 contract of the supplier with or without regard to the reason for the  
19 cancellation or form of reimbursement.

20 (B) "Cancellation fee waiver" is not insurance under this  
21 section;

22 (4) "Eligible group" means two (2) or more persons who are  
23 engaged in a common enterprise, or have an economic, educational, or social  
24 affinity or relationship, including without limitation any of the following:

25 (A)(i) An entity engaged in the business of providing  
26 travel or services for travel, if in regard to any particular travel or type  
27 of travel or travelers, all members or customers of the group have a common  
28 exposure to risk attendant to the travel.

29 (ii) An entity as described in subdivision  
30 (b)(4)(A)(i) of this section includes without limitation:

31 (a) A tour operator;

32 (b) A lodging provider;

33 (c) A vacation property owner;

34 (d) A hotel or resort;

35 (e) A travel club;

36 (f) A travel agency;

- 1 (g) A property manager;  
2 (h) A cultural exchange program; or  
3 (i) A common carrier or the operator, owner,  
4 or lessor of a means of transportation of passengers including without  
5 limitation:
- 6 (1) An airline;  
7 (2) A cruise line;  
8 (3) A railroad;  
9 (4) A steamship company; or  
10 (5) A public bus carrier;
- 11 (B) A college, school, or other institution of learning  
12 covering students, teachers, employees, or volunteers;
- 13 (C) An employer covering a group of employees, volunteers,  
14 contractors, members of a board of directors, dependents, or guests;
- 15 (D) A sports team, camp, or sponsor thereof covering  
16 participants, members, campers, employees, officials, supervisors, or  
17 volunteers;
- 18 (E) A religious, charitable, recreational, educational, or  
19 civic organization or branch thereof covering any group of members,  
20 participants, or volunteers;
- 21 (F) A financial institution or financial institution  
22 vendor, parent holding company, trustee, or an agent of a financial  
23 institution or financial institution vendor, parent holding company, trustee,  
24 or a designee of one (1) or more financial institutions or financial  
25 institution vendors, including without limitation an accountholder, credit  
26 card holder, debtor, guarantor, or purchaser;
- 27 (G) An incorporated or unincorporated association,  
28 including without limitation a labor union, that has a common interest,  
29 constitution, and bylaws and is organized and maintained in good faith for  
30 purposes other than obtaining insurance for members or participants of the  
31 association covering its members;
- 32 (H) A trust or the trustees of a fund that is established,  
33 created, or maintained for the benefit of and covering members, employees, or  
34 customers, subject to the permission of the Insurance Commissioner to use a  
35 trust and the state's premium tax provisions, as provided in subdivision  
36 (d)(1) of this section, of one (1) or more associations meeting the

1 requirements of subdivision (b)(4)(G) of this section;

2 (I) An entertainment production company covering a group  
3 of participants, volunteers, audience members, contestants, or workers;

4 (J) A volunteer fire department, ambulance, rescue,  
5 police, court, or any first aid, civil defense, or other similar volunteer  
6 group;

7 (K) A preschool, daycare institution for children or  
8 adults, or senior citizen club;

9 (L)(i) An automobile or truck rental or leasing company  
10 covering a group of individuals who may become renters, lessees, or  
11 passengers as defined by their travel status on the rented or leased  
12 vehicles.

13 (ii) A common carrier, owner, operator, or lessor of  
14 a means of transportation, or an automobile or truck rental or leasing  
15 company, is the policyholder under a policy to which this section applies; or

16 (M) Any other group if the commissioner has determined  
17 that the members are engaged in a common enterprise, or have an economic,  
18 educational, or social affinity or relationship, and that issuance of the  
19 policy would not be contrary to the public interest;

20 (5) "Fulfillment materials" means documentation sent to the  
21 purchaser of a travel protection plan confirming the purchase and providing  
22 the travel protection plan's coverage and travel assistance services details;

23 (6) "Group travel insurance" means travel insurance issued to an  
24 eligible group;

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

26 (A) A managing general agent;

27 (B) An insurance producer, including a limited lines  
28 producer; or

29 (C) A travel administrator;

30 (8) "Offer and disseminate" means to:

31 (A) Provide general information, including without  
32 limitation a description of the insurance coverage and the cost of the  
33 insurance coverage;

34 (B) Process an application for insurance coverage;

35 (C) Collect the premiums for insurance coverage; and

36 (D) Perform other nonlicensed activities allowed by the

1 insurance laws of this state;

2 (9) "Primary certificate holder" means an individual who elects  
3 and purchases travel insurance under a group policy;

4 (10) "Primary policyholder" means an individual who elects and  
5 purchases a policy for individual travel insurance;

6 (11)(A) "Travel administrator" means a person that, directly or  
7 indirectly, underwrites, collects or charges collateral or premiums from, or  
8 adjusts or settles claims on, residents of this state in connection with  
9 travel insurance.

10 (B) "Travel administrator" does not include a person whose  
11 only actions that would otherwise cause it to be considered a travel  
12 administrator are among the following:

13 (i) The person works for a travel administrator to  
14 the extent that the person's activities are subject to the supervision and  
15 control of the travel administrator;

16 (ii) The person is an insurance producer selling  
17 insurance or engaged in administrative and claims-related activities within  
18 the scope of the license of the insurance producer;

19 (iii) The person is a travel retailer offering and  
20 disseminating travel insurance and registered under the license of a limited  
21 lines travel insurance producer according to this section;

22 (iv) The person is an individual adjusting or  
23 settling claims in the normal course of that individual's practice or  
24 employment as an attorney-at-law and does not collect charges or premiums in  
25 connection with insurance coverage; or

26 (v) The person is a business entity that is  
27 affiliated with a licensed insurer while acting as a travel administrator for  
28 the direct and assumed insurance business of an affiliated insurer;

29 (12)(A) "Travel assistance service" means a noninsurance  
30 service:

31 (i) For which the consumer is not indemnified based  
32 on a fortuitous event; and

33 (ii) That does not result in the transfer or  
34 shifting of risk that would constitute the business of insurance.

35 (B) "Travel assistance services" includes without  
36 limitation:



1                   (i) Security advisories;  
2                   (ii) Destination information;  
3                   (iii) Vaccination and immunization information  
4 services;  
5                   (iv) Travel reservation services;  
6                   (v) Entertainment;  
7                   (vi) Activity and event planning;  
8                   (vii) Translation assistance;  
9                   (viii) Emergency messaging;  
10                  (ix) International legal and medical referrals;  
11                  (x) Medical case monitoring;  
12                  (xi) Coordination of transportation arrangements;  
13                  (xii) Emergency cash transfer assistance;  
14                  (xiii) Medical prescription replacement assistance;  
15                  (xiv) Passport and travel document replacement  
16 assistance;  
17                  (xv) Lost luggage assistance;  
18                  (xvi) Concierge services; and  
19                  (xvii) Any other service that is furnished in  
20 connection with planned travel.

21                  (C) "Travel assistance services" is not considered  
22 insurance and is not related to insurance;

23                  (13)(A) "Travel insurance" means insurance coverage for personal  
24 risks incident to planned travel, including without limitation:

25                   (i) Interruption or cancellation of a trip or event;  
26                   (ii) Loss of baggage or personal effects;  
27                   (iii) Damages to accommodations or rental vehicles;  
28                   (iv) Sickness, accident, disability, or death  
29 occurring during travel;  
30                   (v) Emergency evacuation;  
31                   (vi) Repatriation of remains; or  
32                   (vii) Any other contractual obligations to indemnify  
33 or pay a specified amount to a traveler upon determinable contingencies  
34 related to travel as approved by the commissioner.

35                  (B) "Travel insurance" does not include major medical  
36 plans that provide comprehensive medical protection for travelers on trips

1 lasting longer than six (6) months, including without limitation an  
2 individual who is working or residing overseas as an expatriate, or any other  
3 product that requires a specific insurance producer license;

4 (14) "Travel protection plan" means a plan that provides one (1)  
5 or more of the following:

6 (A) Travel insurance;

7 (B) Travel assistance services; or

8 (C) Cancellation fee waivers; and

9 (15) "Travel retailer" means a business entity that makes,  
10 arranges, or offers planned travel and offers and disseminates travel  
11 insurance as a service to a customer of the business entity on behalf of and  
12 under the direction of a limited lines travel insurance producer.

13 (c)(1)(A) The commissioner may issue a limited lines travel insurance  
14 producer license to an individual or business entity that has filed with the  
15 commissioner an application for a limited lines travel insurance producer  
16 license in a form and manner prescribed by the commissioner.

17 (B) A limited lines travel insurance producer shall be  
18 licensed to sell, solicit, and negotiate travel insurance through a licensed  
19 insurer.

20 (C) A person shall not act as a limited lines travel  
21 insurance producer or travel retailer unless properly licensed or registered  
22 under the insurance laws of this state.

23 (2) A travel retailer may offer and disseminate travel insurance  
24 under a limited lines travel insurance producer business entity license only  
25 if the following conditions are met:

26 (A) A limited lines travel insurance producer or travel  
27 retailer provides to purchasers of travel insurance:

28 (i) Actual material terms of the insurance coverage  
29 or a description of the material terms;

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

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

34 (iv) The identity of and contact information for the  
35 insurer and limited lines travel insurance producer;

36 (B)(i) A limited lines travel insurance producer

1 establishes at the time of licensure and maintains a register, on a form  
2 prescribed by the commissioner, of each travel retailer that offers travel  
3 insurance on behalf of the limited lines travel insurance producer in this  
4 state.

5 (ii) A register described under subdivision  
6 (c)(2)(B)(i) of this section shall be maintained and updated by the limited  
7 lines travel insurance producer and include:

8 (a) The name, address, and contact information  
9 for the travel retailer and an officer or other person who directs or  
10 controls the travel retailer's operations; and

11 (b) The federal employer identification number  
12 of the travel retailer.

13 (iii) The limited lines travel insurance producer  
14 shall:

15 (a) Provide the register described under  
16 subdivision (c)(2)(B)(i) of this section on application for and renewal of a  
17 limited lines travel insurance producer license; and

18 (b) Certify that the travel retailer  
19 registered is in compliance with 18 U.S.C. § 1033, as it existed on January  
20 1, 2019.

21 (iv) The grounds for the suspension, revocation, and  
22 any penalties that are applicable to resident insurance producers shall be  
23 applicable to the limited lines travel insurance producers and travel  
24 retailers;

25 (C) A limited lines travel insurance producer has  
26 designated an employee who is a licensed individual producer who shall be  
27 known as a designated responsible producer, to be responsible for compliance  
28 with the travel insurance laws and regulations applicable to the limited  
29 lines travel insurance producer and its registrants;

30 (D) A designated responsible producer, president,  
31 secretary, treasurer, and any other officer or person who directs or controls  
32 the limited lines travel insurance producer's insurance operations shall  
33 comply with the fingerprinting requirements applicable to insurance producers  
34 in the resident state of the limited lines travel insurance producer;

35 (E) A limited lines travel insurance producer pays the  
36 applicable insurance producer licensing fees; and

1 (F)(i) A limited lines travel insurance producer requires  
2 each employee and authorized representative of the travel retailer that  
3 offers and disseminates travel insurance to receive instruction or training  
4 that may be reviewed and approved by the commissioner.

5 (ii) At a minimum, the training material shall  
6 contain instructions on the types of insurance offered, ethical sales  
7 practices, and the required disclosures to provide to customers.

8 (3)(A) A travel retailer offering or disseminating travel  
9 insurance shall make available to prospective purchasers brochures or other  
10 written materials that have been approved by the insurer.

11 (B) A brochure or other written materials, at a minimum,  
12 shall contain the following information:

13 (i) The identity of and contact information for the  
14 insurer and limited lines travel insurance producer;

15 (ii) An explanation that the purchase of travel  
16 insurance is not required to purchase any other product or service from the  
17 travel retailer; and

18 (iii) An explanation that an unlicensed travel  
19 retailer may provide general information about the insurance coverage offered  
20 by the travel retailer, including a description of the insurance coverage and  
21 the cost of the insurance coverage, but shall not answer technical questions  
22 about the insurance terms and conditions offered by the travel retailer or  
23 provide an evaluation of the adequacy of any existing insurance coverage.

24 (4) A travel retailer employee or authorized representative of  
25 the travel retailer that is not licensed as an insurance producer shall not:

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

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

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

32 (5) Notwithstanding any other provision in law, a travel  
33 retailer, its employees, and authorized representatives of the travel  
34 retailer that receive training under subdivision (c)(2)(F)(i) of this section  
35 and whose insurance-related activities are limited to offering and  
36 disseminating travel insurance on behalf of and under the direction of a

1 limited lines travel insurance producer that is licensed under this  
2 subchapter may receive compensation if listed on the registry maintained by  
3 the limited lines travel insurance producer under subdivision (c)(2)(B)(i) of  
4 this section.

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

9 (7)(A) A person licensed in a major line of authority as an  
10 insurance producer is authorized to sell, solicit, and negotiate travel  
11 insurance.

12 (B) A property and casualty insurance producer is not  
13 required to become appointed by an insurer in order to sell, solicit, or  
14 negotiate travel insurance.

15 (d)(1) An insurer shall pay premium tax, as provided in § 26-57-603,  
16 on travel insurance premiums paid by any of the following:

17 (A) An individual primary policyholder who is a resident  
18 of this state;

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

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

29 (2) An insurer shall:

30 (A) Document the state of residence or principal place of  
31 business of the primary policyholder or primary certificate holder, as  
32 required in subdivision (d)(1) of this section; and

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

36 (e) A travel protection plan may be offered for one (1) price for the

1 combined features that the travel protection plan offers in this state if:

2 (1) A travel protection plan clearly discloses to the consumer  
3 at or before the time of purchase that the travel protection plan includes  
4 travel insurance, travel assistance services, and cancellation fee waivers,  
5 as applicable, and provides information and an opportunity at or before the  
6 time of purchase for the consumer to obtain additional information regarding  
7 the features and pricing of each; and

8 (2) The fulfillment materials:

9 (A) Describe and delineate the travel insurance, travel  
10 assistance services, and cancellation fee waivers in the travel protection  
11 plan; and

12 (B) Include the travel insurance disclosures and the  
13 contact information for persons providing travel assistance services and  
14 cancellation fee waivers, as applicable.

15 (f)(1)(A) Except as provided in subdivision (f)(1)(B) of this section,  
16 a person offering travel insurance to residents of this state is subject to  
17 the Trade Practices Act, § 23-66-201 et seq.

18 (B) If a conflict exists between this section and any  
19 other insurance law of this state regarding the sale and marketing of travel  
20 insurance and travel protection plans, this section controls.

21 (2) Offering or selling a travel insurance policy that could  
22 never result in payment of any claims for any insured under the policy is an  
23 unfair trade practice under the Trade Practices Act, § 23-66-201 et seq.

24 (3)(A) All documents provided to consumers before the purchase  
25 of travel insurance, including without limitation sales materials and  
26 marketing materials, shall be consistent with the travel insurance policy  
27 itself, including without limitation, forms, endorsements, policies, rate  
28 filings, and certificates of insurance.

29 (B) For travel insurance policies or certificates that  
30 contain pre-existing condition exclusions, information and an opportunity to  
31 learn more about the pre-existing condition exclusions shall be provided any  
32 time before the time of purchase and in the coverage's fulfillment materials.

33 (C)(i) The fulfillment materials and the information  
34 described in subdivision (c)(2)(A) of this section shall be provided to a  
35 primary policyholder or primary certificate holder as soon as practicable  
36 following the purchase of a travel protection plan.

1                   (ii)(a) Unless the insured has either started a  
2 covered trip or filed a claim under the travel insurance coverage, a primary  
3 policyholder or primary certificate holder may cancel a policy or certificate  
4 for a full refund of the travel protection plan price from the date of  
5 purchase of a travel protection plan until at least:

6                   (1) Fifteen (15) days after the date of  
7 delivery of the travel protection plan's fulfillment materials by postal  
8 mail; or

9                   (2) Ten (10) days after the date of  
10 delivery of the travel protection plan's fulfillment materials by means other  
11 than postal mail.

12                   (b) For purposes of subdivision  
13 (f)(3)(C)(ii)(a) of this section, "delivery" means handing fulfillment  
14 materials to the primary policyholder or primary certificate holder or  
15 sending fulfillment materials by postal mail or electronic means to the  
16 primary policyholder or primary certificate holder.

17                   (D) The policy documentation and fulfillment materials  
18 shall disclose whether the travel insurance is primary or secondary to other  
19 applicable coverage.

20                   (E) If travel insurance is marketed directly to a consumer  
21 through an insurer's website or by others through an aggregator site, it  
22 shall not be an unfair trade practice or other violation of law when an  
23 accurate summary or short description of coverage is provided on the  
24 insurer's website or aggregator site, so long as the consumer has access to  
25 the full provisions of the policy through electronic means.

26                   (4) A person offering, soliciting, or negotiating travel  
27 insurance or travel protection plans on an individual or group basis shall  
28 not do so by using negative option or opt out, which would require a consumer  
29 to take an affirmative action to deselect coverage such as unchecking a box  
30 on an electronic form when the consumer purchases a trip.

31                   (5) It is an unfair trade practice under the Trade Practices  
32 Act, § 23-66-201 et seq., to market blanket travel insurance coverage as  
33 free.

34                   (6) If a consumer's destination jurisdiction requires insurance  
35 coverage, it is not an unfair trade practice under the Trade Practices Act, §  
36 23-66-201 et seq., to require that a consumer choose between the following

1 options as a condition of purchasing a trip or travel package:

2 (A) Purchasing the coverage required by the destination  
3 jurisdiction through the travel retailer or limited lines travel insurance  
4 producer supplying the trip or travel package; or

5 (B) Agreeing to obtain and provide proof of coverage that  
6 meets the destination jurisdiction's requirements before departure.

7 (g)(1) Notwithstanding any other provision of insurance laws in this  
8 state, a person shall not act or represent itself as a travel administrator  
9 for travel insurance in this state unless that person:

10 (A) Is a licensed property and casualty insurance producer  
11 in this state for activities permitted under that property and casualty  
12 insurance producer license; or

13 (B) Holds a valid managing general agent license in this  
14 state.

15 (2) A travel administrator and its employees are exempt from the  
16 licensing requirements for adjusters under § 23-64-201 for travel insurance  
17 it administers.

18 (3) An insurer is responsible for the acts of a travel  
19 administrator administering travel insurance underwritten by the insurer and  
20 is responsible for ensuring that the travel administrator maintains all books  
21 and records relevant to the insurer to be made available by the travel  
22 administrator to the commissioner upon request.

23 (h)(1) Notwithstanding any other provision of the insurance laws of  
24 this state, travel insurance shall be classified and filed for purposes of  
25 rates and forms as marine insurance, provided, however, that travel insurance  
26 that provides coverage for sickness, accident, disability, or death occurring  
27 during travel, either exclusively or in conjunction with related coverages of  
28 emergency evacuation or repatriation of remains or in conjunction with  
29 incidental limited property and casualty benefits such as baggage or trip  
30 cancellation, may be filed by an authorized insurer under either an accident  
31 and health line of insurance or a marine line of insurance.

32 (2) Travel insurance may be in the form of an individual, group,  
33 or blanket policy.

34 (3) Eligibility and underwriting standards for travel insurance  
35 may be developed and provided based on travel protection plans designed for  
36 individual or identified marketing or distribution channels, provided those



1 standards also meet the state's underwriting standards for marine insurance.

2 (i)(1) The commissioner shall promulgate rules necessary to implement  
3 this section.

4 (2)(A) When adopting the initial rules to implement this  
5 section, the final rule shall be filed with the Secretary of State for  
6 adoption under § 25-15-204(f):

7 (i) On or before January 1, 2020; or

8 (ii) If approval under § 10-3-309 has not occurred  
9 by January 1, 2020, as soon as practicable after approval under § 10-3-309.

10 (B) The commissioner shall file the proposed rule with the  
11 Legislative Council under § 10-3-309(c) sufficiently in advance of January 1,  
12 2020, so that the Legislative Council may consider the rule for approval  
13 before January 1, 2020.

14  
15 SECTION 4. EFFECTIVE DATE. This act is effective for travel insurance  
16 sold on or after October 1, 2019.

17 */s/Rapert*

18  
19  
20 **APPROVED: 4/4/19**