
A BILL FOR AN ACT

RELATING TO TRAVEL INSURANCE.

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

1 SECTION 1. Chapter 431, Hawaii Revised Statutes, is
2 amended by adding a new article to be appropriately designated
3 and to read as follows:

4 **"ARTICLE**

5 **TRAVEL INSURANCE**

6 **§431: -101 Short title.** This article shall be known and
7 may be cited as the Hawaii Travel Insurance Act.

8 **§431: -102 Scope and purpose.** (a) The purpose of this
9 article is to promote public welfare by creating a comprehensive
10 legal framework to regulate the sale of travel insurance in this
11 State.

12 (b) The requirements of this article shall apply to:

13 (1) Travel insurance that covers any resident of this
14 State and is sold, solicited, negotiated, or offered
15 in the State; and

16 (2) Policies and certificates that are delivered or issued
17 for delivery in the State.



1 This article shall not apply to cancellation fee waivers or
2 travel assistance services, except as expressly provided in this
3 article.

4 (c) All other applicable provisions of this State's
5 insurance laws shall continue to apply to travel insurance,
6 except that the specific provisions of this article shall
7 supersede any general provisions of law that would otherwise
8 apply to travel insurance.

9 **§431: -103 Definitions.** As used in this article:

10 "Aggregator site" means a website that provides access to
11 information regarding insurance products from more than one
12 travel insurer, including product and travel insurer
13 information, for use in comparison shopping.

14 "Blanket travel insurance" means a travel insurance policy
15 issued to any eligible group providing coverage for specific
16 classes of persons defined in the policy, with coverage provided
17 to all members of the eligible group without a separate charge
18 to individual members of the eligible group.

19 "Cancellation fee waiver" means a contractual agreement
20 between a supplier of travel services and the supplier's
21 customer to waive some or all of the non-refundable cancellation



1 fee provisions of the supplier's underlying travel contract
2 regardless of the reason for the cancellation or form of
3 reimbursement. A cancellation fee waiver is not insurance.

4 "Designated responsible producer" means the person
5 responsible for compliance with the travel insurance laws and
6 regulations applicable to the limited lines travel insurance
7 producer and its registrants.

8 "Eligible group" means two or more persons who are engaged
9 in a common enterprise, or have an economic, educational, or
10 social affinity or relationship. "Eligible group" includes but
11 is not limited to:

12 (1) Any entity engaged in the business of providing travel
13 or travel services, including but not limited to tour
14 operators, lodging providers, vacation property
15 owners, hotels and resorts, travel clubs, travel
16 agencies, property managers, cultural exchange
17 programs, and common carriers, or the operator, owner,
18 or lessor of a means of transportation of passengers,
19 including but not limited to airlines, cruise lines,
20 railroads, steamship companies, and public bus
21 carriers, wherein all members or customers of the



- 1 group have common exposure to risk attendant to any
2 particular travel or type of travel or travelers;
- 3 (2) Any college, school, or other institution of learning
4 covering students, teachers, employees, or volunteers;
- 5 (3) Any employer covering any group of employees,
6 volunteers, contractors, boards of directors,
7 dependents, or guests;
- 8 (4) Any sports team, camp, or sponsor thereof covering
9 participants, members, campers, employees, officials,
10 supervisors, or volunteers;
- 11 (5) Any religious, charitable, recreational, educational,
12 or civic organization, or branch thereof covering any
13 group of members, participants, or volunteers;
- 14 (6) Any financial institution or financial institution
15 vendor or parent holding company, trustee, or agent
16 of, or designated by, one or more financial
17 institutions or financial institution vendors,
18 including account holders, credit card holders,
19 debtors, guarantors, or purchasers;
- 20 (7) Any incorporated or unincorporated association,
21 including labor unions, having a common interest,



- 1 constitution, and bylaws, and that is organized and
2 maintained in good faith for purposes other than
3 obtaining insurance for members or participants of the
4 association covering its members;
- 5 (8) Any trust or the trustees of a fund established,
6 created, or maintained for the benefit of and covering
7 members, employees, or customers, subject to the
8 commissioner's permitting the use of a trust and this
9 State's premium tax provisions in section 431: -105
10 of one or more associations meeting the requirements
11 of paragraph (7);
- 12 (9) Any entertainment production company covering any
13 group of participants, volunteers, audience members,
14 contestants, or workers;
- 15 (10) Any volunteer fire department, ambulance, rescue,
16 police, court, or any first aid, civil defense, or
17 other such volunteer group;
- 18 (11) Preschools, daycare institutions for children or
19 adults, and senior citizen clubs;
- 20 (12) Any automobile or truck rental or leasing company
21 covering a group of individuals who may become



1 renters, lessees, or passengers of the rented or
2 leased vehicles; provided that the common carrier;
3 operator, owner, or lessor of a means of
4 transportation; or the automobile or truck rental or
5 leasing company shall be the policyholder under a
6 policy to which this paragraph applies; or

7 (13) Any other group for which the commissioner has
8 determined that:

9 (A) The members are engaged in a common enterprise or
10 have an economic, educational, or social affinity
11 or relationship; and

12 (B) Issuance of the policy would not be contrary to
13 the public interest.

14 "Fulfillment materials" means documentation sent to the
15 purchaser of a travel protection plan confirming the purchase
16 and providing the travel protection plan's coverage and
17 assistance details.

18 "Group travel insurance" means travel insurance issued to
19 any eligible group.

20 "Limited lines travel insurance producer" means a:



- 1 (1) Licensed managing general agent or third-party
- 2 administrator;
- 3 (2) Licensed insurance producer, including a limited lines
- 4 producer licensed under section 431:9A-107.5(a) (1); or
- 5 (3) Travel administrator.

6 "Offer and disseminate" means the act of providing general
7 information, including a description of the coverage and price,
8 processing an application, and collecting premiums.

9 "Primary certificate holder" means a person who elects and
10 purchases travel insurance under a group policy.

11 "Primary policyholder" means a person who elects and
12 purchases individual travel insurance.

13 "Travel administrator" means a person who directly or
14 indirectly underwrites, collects charges, collateral, or
15 premiums from, or adjusts or settles claims on, residents of the
16 State, in connection with travel insurance. "Travel
17 administrator" does not include:

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



- 1 (2) An insurance producer selling insurance or engaged in
2 administrative and claims-related activities within
3 the scope of the producer's license;
- 4 (3) A travel retailer offering and disseminating travel
5 insurance and registered under the license of a
6 limited lines travel insurance producer in accordance
7 with this article;
- 8 (4) An individual adjusting or settling claims in the
9 normal course of that individual's practice or
10 employment as an attorney and who does not collect
11 charges or premiums in connection with insurance
12 coverage; or
- 13 (5) A business entity that is affiliated with a licensed
14 travel insurer while acting as a travel administrator
15 for the direct and assumed insurance business of an
16 affiliated travel insurer.
- 17 "Travel assistance services" means non-insurance services:
- 18 (1) For which the consumer is not indemnified based on a
19 fortuitous event; and



1 (2) The provision of which does not result in the transfer
2 or shifting of risk that would constitute the business
3 of insurance.

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

16 "Travel insurance" has the same meaning as in section
17 431:9A-107.5(a)(1).

18 "Travel protection plans" means plans that provide travel
19 insurance, travel assistance services, or cancellation fee
20 waivers, or any combination of the foregoing.

21 "Travel retailer" means a business entity that:



- 1 (1) Makes, arranges, or offers planned travel; and
- 2 (2) May offer and disseminate travel insurance as a
- 3 service to the business entity's customers on behalf
- 4 of and under the direction of a limited lines travel
- 5 insurance producer.

6 **§431: -104 Licensing and registration.** (a) In
 7 accordance with sections 431:9A-103 and 431:9A-107.5, the
 8 commissioner may issue a limited lines travel insurance producer
 9 license to an individual or business entity that has filed with
 10 the commissioner an application for a limited lines travel
 11 insurance producer license in a form and manner prescribed by
 12 the commissioner. Each limited lines travel insurance producer
 13 shall be licensed to sell, solicit, or negotiate travel
 14 insurance through a licensed travel insurer. No person shall
 15 act as a limited lines travel insurance producer or travel
 16 retailer unless properly licensed or registered, respectively.

17 (b) No travel retailer shall offer and disseminate travel
 18 insurance under a limited lines travel insurance producer
 19 business entity license unless:

- 20 (1) The limited lines travel insurance producer or travel
- 21 retailer provides to purchasers of travel insurance:



- 1 (A) A description of the material terms or the actual
2 material terms of the insurance coverage;
- 3 (B) A description of the process for filing a claim;
- 4 (C) A description of the review or cancellation
5 process for the travel insurance policy; and
- 6 (D) The identity and contact information of the
7 travel insurer and limited lines travel insurance
8 producer;
- 9 (2) At the time of licensure, the limited lines travel
10 insurance producer establishes and maintains a
11 register, on a form prescribed by the commissioner, of
12 each travel retailer offering travel insurance on
13 behalf of the limited lines travel insurance producer.
14 The register shall be maintained and updated by the
15 limited lines travel insurance producer and shall
16 include the name, address, and contact information of
17 the travel retailer and an officer or person who
18 directs or controls the travel retailer's operations,
19 and the travel retailer's federal tax identification
20 number. Upon request, the limited lines travel
21 insurance producer shall submit the register to the



1 insurance division of the department of commerce and
2 consumer affairs. The limited lines travel insurance
3 producer shall certify that the travel retailer
4 registered complies with title 18 United States Code
5 section 1033;

6 (3) The limited lines travel insurance producer has
7 designated one of its employees who is a licensed
8 individual producer as the designated responsible
9 producer;

10 (4) The designated responsible producer, president,
11 secretary, treasurer, or other officer or person who
12 directs or controls the limited lines travel insurance
13 producer's insurance operations complies with any
14 fingerprinting requirements applicable to insurance
15 producers;

16 (5) The limited lines travel insurance producer has paid
17 all applicable licensing fees; and

18 (6) The limited lines travel insurance producer requires
19 each employee and authorized representative of the
20 travel retailer whose duties include offering and
21 disseminating travel insurance to receive a program of



1 instruction or training that is subject, at the
2 discretion of the commissioner, to review and
3 approval; provided that the training material shall
4 contain adequate instructions on the types of travel
5 insurance offered, ethical sales practices, and
6 required disclosures to prospective customers.

7 (c) Any travel retailer offering or disseminating travel
8 insurance shall make available to prospective purchasers any
9 brochures or other written materials that have been approved by
10 the travel insurer. The materials shall include information
11 that:

- 12 (1) Provides the identity and contact information of the
13 travel insurer and limited lines travel insurance
14 producer;
- 15 (2) Explains that the purchase of travel insurance is not
16 required to purchase any other product or service from
17 the travel retailer; and
- 18 (3) Explains that an unlicensed travel retailer may
19 provide only general information about the travel
20 insurance offered by the travel retailer, including a
21 description of the coverage and price, but is not



1 qualified or authorized to answer technical questions
2 about the terms and conditions of the travel insurance
3 offered by the travel retailer or to evaluate the
4 adequacy of the customer's existing insurance
5 coverage.

6 (d) No travel retailer employee or authorized
7 representative who is not licensed as an insurance producer
8 shall:

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

12 (2) Evaluate or provide advice concerning a prospective
13 purchaser's existing insurance coverage; or

14 (3) Hold the person's self out as a licensed insurer,
15 licensed producer, or insurance expert.

16 (e) Notwithstanding any other provision of law to the
17 contrary, each travel retailer whose insurance-related
18 activities, and those of the travel retailer's employees and
19 authorized representatives, are limited to offering and
20 disseminating travel insurance on behalf of and under the
21 direction of a limited lines travel insurance producer meeting



1 the conditions stated in this article may, upon registration by
2 the limited lines travel insurance producer as described in
3 subsection (b) (2), receive related compensation.

4 (f) Each limited lines travel insurance producer shall be
5 responsible for the acts of each applicable travel retailer and
6 use reasonable means to ensure compliance by the travel retailer
7 with this article.

8 (g) Any person licensed in a major line of authority as an
9 insurance producer may sell, solicit, and negotiate travel
10 insurance; provided that no property or casualty insurance
11 producer shall be required to become appointed by a travel
12 insurer to sell, solicit, or negotiate travel insurance.

13 (h) Any limited lines travel insurance producer or travel
14 retailer conducting business pursuant to this article shall be
15 subject to any applicable provisions of this chapter relating to
16 the revocation, suspension, or nonrenewal of licenses and the
17 imposition of criminal or civil penalties.

18 **§431: -105 Tax on premiums.** (a) Each travel insurer
19 shall pay the tax on premiums provided for in section 431:7-202
20 on all travel insurance premiums paid by:



- 1 (1) An individual primary policyholder who is a resident
- 2 of this State;
- 3 (2) A primary certificate holder who is a resident of this
- 4 State and elects coverage under a group travel
- 5 insurance policy; or
- 6 (3) A blanket travel insurance policyholder, subject to
- 7 any apportionment rules that may apply to the travel
- 8 insurer across multiple taxing jurisdictions or that
- 9 permit the travel insurer to allocate premiums on an
- 10 apportioned basis in a reasonable and equitable manner
- 11 in those jurisdictions:
- 12 (A) That is a resident of this State;
- 13 (B) That has its principal place of business in this
- 14 State; or
- 15 (C) For an affiliate or subsidiary that has purchased
- 16 blanket travel insurance in this State for
- 17 eligible blanket group members, that has the
- 18 affiliate's or subsidiary's principal place of
- 19 business in this State.
- 20 (b) Each travel insurer shall:



1 (1) Document the state of residence or principal place of
2 business of the primary policyholder or primary
3 certificate holder; and

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

8 **§431: -106 Travel protection plans.** Travel protection
9 plans may be offered for one price for the combined features
10 that the travel protection plan offers in the State if:

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

21 (2) The fulfillment materials:



1 (A) Describe and delineate the travel insurance,
2 travel assistance services, and cancellation fee
3 waivers in the travel protection plan; and

4 (B) Include any applicable travel insurance
5 disclosures and contact information for persons
6 providing travel assistance services and
7 cancellation fee waivers.

8 **§431: -107 Sales practices.** (a) Except as otherwise
9 provided in this section, any person offering travel insurance
10 to a resident of the State shall be subject to article 13.

11 (b) If a conflict arises between this article and any
12 other provision of this chapter regarding the sale and marketing
13 of travel insurance and travel protection plans, the provisions
14 of this article shall control.

15 (c) Offering or selling a travel insurance policy that
16 could never result in payment of any claims for any insured
17 under the policy shall be deemed to be an unfair trade practice
18 under article 13.

19 (d) For each travel insurance or travel protection plan to
20 which this section applies:



- 1 (1) All documents provided to the relevant consumer before
2 the purchase of travel insurance, including but not
3 limited to sales materials, advertising materials, and
4 marketing materials, shall be consistent with the
5 travel policy itself, including but not limited to
6 forms, endorsements, policies, rate filings, and
7 certificates of insurance;
- 8 (2) For travel insurance policies or certificates that
9 contain pre-existing condition exclusions, information
10 and an opportunity to learn more about the
11 pre-existing condition exclusions shall be provided to
12 the consumer at any time before the time of purchase
13 and in the coverage's fulfillment materials;
- 14 (3) As soon as practicable following the purchase of a
15 travel protection plan, the fulfillment materials and
16 the information described in section 431: -104(b)(1)
17 shall be provided to the primary policyholder or
18 primary certificate holder; provided that if the
19 insured has neither started a covered trip nor filed a
20 claim under the travel insurance coverage, the
21 relevant policyholder or certificate holder may cancel



1 the policy or certificate for a full refund of the
2 travel protection plan price at any time after the
3 date of purchase of a travel protection plan and
4 before either:

5 (A) Fifteen days following the date of delivery of
6 the travel protection plan's fulfillment
7 materials by postal mail; or

8 (B) Ten days following the date of handing
9 fulfillment materials to the policyholder or
10 certificate holder or sending by electronic means
11 the travel protection plan's fulfillment
12 materials; and

13 (4) The policy documentation and fulfillment materials
14 shall disclose whether the travel insurance is primary
15 or secondary to other applicable coverage;

16 provided that if travel insurance is marketed directly to a
17 consumer through a travel insurer's website or by others through
18 an aggregator site, it shall not be deemed to be an unfair trade
19 practice or other violation of law if an accurate summary or
20 short description of coverage is provided on the web page as



1 long as that consumer has access to the full provisions of the
2 policy through electronic means.

3 (e) No person shall offer, solicit, or negotiate travel
4 insurance or travel protection plans on an individual or group
5 basis by using a negative or opt-out option that would require
6 the consumer to take an affirmative action to deselect coverage
7 when the consumer purchases a trip, including unchecking a box
8 on an electronic form.

9 (f) Marketing blanket travel insurance coverage as being
10 free of charge shall be deemed to be an unfair trade practice.

11 (g) If a consumer's destination jurisdiction requires
12 insurance coverage, requiring the consumer to choose between the
13 following options as a condition of purchasing a trip or travel
14 package shall not be deemed to be an unfair trade practice:

15 (1) Purchasing the coverage required by the destination
16 jurisdiction through the travel retailer or limited
17 lines travel insurance producer supplying the trip or
18 travel package; or

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



1 **§431: -108 Travel administrators.** (a) Notwithstanding
2 any other provision of this chapter to the contrary, no person
3 shall act or represent the person's self as a travel
4 administrator for travel insurance in the State unless that
5 person:

6 (1) Is a licensed property and casualty insurance producer
7 in the State for activities permitted under the
8 applicable producer license;

9 (2) Holds a valid managing general agent license in the
10 State; or

11 (3) Holds a valid third-party administrator license in the
12 State.

13 (b) Each travel insurer shall:

14 (1) Be responsible for the acts of any travel
15 administrator administering travel insurance
16 underwritten by the travel insurer; and

17 (2) Ensure that the travel administrator maintains all
18 books and records relevant to the travel insurer, to
19 be made available by the travel administrator to the
20 commissioner upon request.



1 (c) A travel administrator and its employees shall be
2 exempt from section 431:9-201 for travel insurance it
3 administers.

4 **§431: -109 Policy.** (a) Notwithstanding any other
5 provision of this chapter to the contrary, travel insurance
6 shall be classified and filed for purposes of rates and forms
7 under an inland marine line of insurance; provided that travel
8 insurance that provides coverage for sickness, accident,
9 disability, death occurring during travel, either exclusively or
10 in conjunction with related coverages of emergency evacuation or
11 repatriation of remains, or incidental limited property and
12 casualty benefits such as baggage or trip cancellation, may be
13 filed under either an accident and health line of insurance or
14 an inland marine line of insurance.

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

17 (c) Eligibility and underwriting standards for travel
18 insurance may be developed and provided based on travel
19 protection plans designed for individual or identified marketing
20 or distribution channels; provided that the standards shall meet
21 any of the State's underwriting standards for inland marine.



1 **§431: -110 Rulemaking.** The commissioner may adopt rules
2 pursuant to chapter 91 to effectuate this article."

3 SECTION 2. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 3. This Act shall take effect on October 1, 3000.



Report Title:

Travel Insurance; Limited Lines Travel Insurance Producers;
Regulatory Framework; Licensing; Registration

Description:

Establishes a new regulatory framework for the sale of travel insurance in the State, including licensing and registration requirements for limited lines travel insurance producers. Effective 10/1/3000. (HD1)

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