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# A BILL FOR AN ACT

RELATING TO TRAVEL INSURANCE.

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

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

**"ARTICLE**

**TRAVEL INSURANCE**

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

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

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

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

(2) Policies and certificates that are delivered or issued for delivery in this 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; or

20 (12) Any other group for which the commissioner has  
21 determined that:



1 (A) The members are engaged in a common enterprise or  
2 have an economic, educational, or social affinity  
3 or relationship; and

4 (B) Issuance of the policy would not be contrary to  
5 the public interest.

6 "Fulfillment materials" means documentation sent to the  
7 purchaser of a travel protection plan confirming the purchase  
8 and providing the travel protection plan's coverage and  
9 assistance details.

10 "Group travel insurance" means travel insurance issued to  
11 any eligible group.

12 "Limited lines travel insurance producer" means a:

13 (1) Licensed managing general agent with property and  
14 casualty lines of authority or third-party  
15 administrator;

16 (2) Licensed insurance producer with property and casualty  
17 lines of authority, including a limited lines producer  
18 licensed under section 431:9A-107.5(a)(1); or

19 (3) Travel administrator.



1 "Offer and disseminate" means the act of providing general  
2 information, including a description of the coverage and price,  
3 processing an application, and collecting premiums.

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

6 "Primary policyholder" means a person who elects and  
7 purchases individual travel insurance.

8 "Travel administrator" means a person who directly or  
9 indirectly underwrites, collects charges, collateral, or  
10 premiums from, or adjusts or settles claims on, residents of the  
11 State, in connection with travel insurance. "Travel  
12 administrator" does not include:

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

16 (2) An insurance producer selling insurance or engaged in  
17 administrative and claims-related activities within  
18 the scope of the producer's license;

19 (3) A travel retailer offering and disseminating travel  
20 insurance and registered under the license of a



1 limited lines travel insurance producer in accordance  
2 with this article;

3 (4) An individual adjusting or settling claims in the  
4 normal course of that individual's practice or  
5 employment as an attorney and who does not collect  
6 charges or premiums in connection with insurance  
7 coverage; or

8 (5) A business entity that is affiliated with a licensed  
9 travel insurer while acting as a travel administrator  
10 for the direct and assumed insurance business of an  
11 affiliated travel insurer.

12 "Travel assistance services" means non-insurance services:

13 (1) For which the consumer is not indemnified based on a  
14 fortuitous event; and

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

18 "Travel assistance services" includes but is not limited to  
19 security advisories, destination information, vaccination and  
20 immunization information services, travel reservation services,  
21 entertainment, activity and event planning, translation



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

9 "Travel insurance" has the same meaning as in section  
10 431:9A-107.5(a)(1).

11 "Travel protection plans" means plans that provide travel  
12 insurance, travel assistance services, or cancellation fee  
13 waivers, or any combination of the foregoing.

14 "Travel retailer" means a business entity that:

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

20 **\$431: -104 Licensing and registration.** (a) In  
21 accordance with sections 431:9A-103 and 431:9A-107.5, the



1 commissioner may issue a limited lines travel insurance producer  
2 license to an individual or a business entity that has filed  
3 with the commissioner an application for a limited lines travel  
4 insurance producer license in a form and manner prescribed by  
5 the commissioner. Each limited lines travel insurance producer  
6 shall be licensed to sell, solicit, or negotiate travel  
7 insurance through a licensed travel insurer. No person shall  
8 act as a limited lines travel insurance producer or travel  
9 retailer unless properly licensed or registered, respectively.

10 (b) No travel retailer shall offer and disseminate travel  
11 insurance under a limited lines travel insurance producer  
12 business entity license unless:

13 (1) The limited lines travel insurance producer or travel  
14 retailer provides to purchasers of travel insurance:

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; and



(D) The identity and contact information of the travel insurer and limited lines travel insurance producer;

(2) At the time of licensure, the limited lines travel insurance producer establishes and maintains a register, on a form prescribed by the commissioner, of each travel retailer offering travel insurance on behalf of the limited lines travel insurance producer. The register shall be maintained and updated by the limited lines travel insurance producer and shall include the name, address, and contact information of the travel retailer and an officer or a person who directs or controls the travel retailer's operations, and the travel retailer's federal tax identification number. Upon request, the limited lines travel insurance producer shall submit the register to the insurance division of the department of commerce and consumer affairs. The limited lines travel insurance producer shall certify that the travel retailer registered complies with title 18 United States Code section 1033;



- 1           (3) The limited lines travel insurance producer has  
2           designated one of its employees who is a licensed  
3           individual producer as the designated responsible  
4           producer;
- 5           (4) The designated responsible producer, president,  
6           secretary, treasurer, or other officer or person who  
7           directs or controls the limited lines travel insurance  
8           producer's insurance operations complies with any  
9           fingerprinting requirements applicable to insurance  
10          producers in the resident state of the limited lines  
11          travel insurance producer;
- 12          (5) The limited lines travel insurance producer has paid  
13          all applicable licensing fees; and
- 14          (6) The limited lines travel insurance producer requires  
15          each employee and authorized representative of the  
16          travel retailer whose duties include offering and  
17          disseminating travel insurance to receive a program of  
18          instruction or training that is subject, at the  
19          discretion of the commissioner, to review and  
20          approval; provided that the training material shall  
21          contain adequate instructions on the types of travel



1 insurance offered, ethical sales practices, and  
2 required disclosures to prospective customers.

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

8 (1) Provides the identity and contact information of the  
9 travel insurer and limited lines travel insurance  
10 producer;

11 (2) Explains that the purchase of travel insurance is not  
12 required to purchase any other product or service from  
13 the travel retailer; and

14 (3) Explains that an unlicensed travel retailer may  
15 provide only general information about the travel  
16 insurance offered by the travel retailer, including a  
17 description of the coverage and price, but is not  
18 qualified or authorized to answer technical questions  
19 about the terms and conditions of the travel insurance  
20 offered by the travel retailer or to evaluate the



1           adequacy of the customer's existing insurance  
2           coverage.

3           (d) No travel retailer employee or authorized  
4 representative who is not licensed as an insurance producer  
5 shall:

6           (1) Evaluate or interpret the technical terms, benefits,  
7           and conditions of the offered travel insurance  
8           coverage;

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

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

13          (e) Notwithstanding any other provision of law to the  
14 contrary, each travel retailer whose insurance-related  
15 activities, and those of the travel retailer's employees and  
16 authorized representatives, are limited to offering and  
17 disseminating travel insurance on behalf of and under the  
18 direction of a limited lines travel insurance producer meeting  
19 the conditions stated in this article may, upon registration by  
20 the limited lines travel insurance producer as described in  
21 subsection (b) (2), receive related compensation.



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

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

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

16 **§431: -105 Tax on premiums.** (a) Each travel insurer  
17 shall pay the tax on premiums provided for in section 431:7-202  
18 on all travel insurance premiums paid by:

19 (1) An individual primary policyholder who is a resident  
20 of this State;



1 (2) A primary certificate holder who is a resident of this  
2 State and elects coverage under a group travel  
3 insurance policy; or

4 (3) A blanket travel insurance policyholder, subject to  
5 any apportionment rules that may apply to the travel  
6 insurer across multiple taxing jurisdictions or that  
7 permit the travel insurer to allocate premiums on an  
8 apportioned basis in a reasonable and equitable manner  
9 in those jurisdictions:

10 (A) That is a resident of this State;

11 (B) That has its principal place of business in this  
12 State; or

13 (C) For an affiliate or subsidiary that has purchased  
14 blanket travel insurance in this State for  
15 eligible blanket group members, that has the  
16 affiliate's or subsidiary's principal place of  
17 business in this State.

18 (b) Each travel insurer shall:

19 (1) Document the state of residence or principal place of  
20 business of the primary policyholder or primary  
21 certificate holder; and



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

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

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

(2) The fulfillment materials:

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



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

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

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

(c) For each travel insurance or travel protection plan to which this section applies:

(1) All documents provided to the relevant consumer before the purchase of travel insurance, including but not limited to sales materials, advertising materials, and marketing materials, shall be consistent with the travel policy itself, including but not limited to forms, endorsements, policies, rate filings, and certificates of insurance;



1           (2) For travel insurance policies or certificates that  
2           contain pre-existing condition exclusions, information  
3           and an opportunity to learn more about the  
4           pre-existing condition exclusions shall be provided to  
5           the consumer at any time before the time of purchase  
6           and in the coverage's fulfillment materials;

7           (3) As soon as practicable following the purchase of a  
8           travel protection plan, the fulfillment materials and  
9           the information described in section 431: -104(b)(1)  
10          shall be provided to the primary policyholder or  
11          primary certificate holder; provided that if the  
12          insured has neither started a covered trip nor filed a  
13          claim under the travel insurance coverage, the  
14          relevant policyholder or certificate holder may cancel  
15          the policy or certificate for a full refund of the  
16          travel protection plan price at any time after the  
17          date of purchase of a travel protection plan and  
18          before either:

19          (A) Fifteen days following the date of delivery of  
20               the travel protection plan's fulfillment  
21               materials by postal mail; or



1 (B) Ten days following the date of handing  
2 fulfillment materials to the policyholder or  
3 certificate holder or sending by electronic means  
4 the travel protection plan's fulfillment  
5 materials; and

6 (4) The policy documentation and fulfillment materials  
7 shall disclose whether the travel insurance is primary  
8 or secondary to other applicable coverage;  
9 provided that if travel insurance is marketed directly to a  
10 consumer through a travel insurer's website or by others through  
11 an aggregator site, it shall not be deemed to be an unfair trade  
12 practice or other violation of law if an accurate summary or  
13 short description of coverage is provided on the web page as  
14 long as that consumer has access to the full provisions of the  
15 policy through electronic means.

16 (d) No person shall offer, solicit, or negotiate travel  
17 insurance or travel protection plans on an individual or group  
18 basis by using a negative or opt-out option that would require  
19 the consumer to take an affirmative action to deselect coverage  
20 when the consumer purchases a trip, including unchecking a box  
21 on an electronic form.



1 (e) Marketing blanket travel insurance coverage as being  
2 free of charge shall be deemed to be an unfair trade practice.

3 (f) If a consumer's destination jurisdiction requires  
4 insurance coverage, requiring the consumer to choose between the  
5 following options as a condition of purchasing a trip or travel  
6 package shall not be deemed to be an unfair trade practice:

7 (1) Purchasing the coverage required by the destination  
8 jurisdiction through the travel retailer or limited  
9 lines travel insurance producer supplying the trip or  
10 travel package; or

11 (2) Agreeing to obtain and provide proof of coverage that  
12 meets the destination jurisdiction's requirements  
13 before departure.

14 **§431: -108 Travel administrators.** (a) Notwithstanding  
15 any other provision of this chapter to the contrary, no person  
16 shall act or represent the person's self as a travel  
17 administrator for travel insurance in this State unless that  
18 person:

19 (1) Is a licensed property and casualty insurance producer  
20 in this State for activities permitted under the  
21 applicable producer license;



(2) Holds a valid property and casualty managing general agent license; or

(3) Holds a valid third-party administrator license in this State.

(b) Each travel insurer shall:

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

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

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

**§431: -109 Policy.** (a) Notwithstanding any other provision of this chapter to the contrary, travel insurance shall be classified and filed for purposes of rates and forms under an inland marine line of insurance; provided that repatriation of remains shall be filed under an accident and health or sickness line of insurance.



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

3 (c) Eligibility and underwriting standards for travel  
4 insurance may be developed and provided based on travel  
5 protection plans designed for individual or identified marketing  
6 or distribution channels; provided that the standards shall meet  
7 any of this State's underwriting standards for inland marine.

8 **§431: -110 Rulemaking.** The commissioner may adopt rules  
9 pursuant to chapter 91 to effectuate this article."

10 SECTION 2. This Act does not affect rights and duties that  
11 matured, penalties that were incurred, and proceedings that were  
12 begun before its effective date.

13 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. (HD2)

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