ACT 256

H.B. NO. 97

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 the State.

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

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

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

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

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

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

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

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

"Cancellation fee waiver" means a contractual agreement between a supplier of travel services and the supplier's customer to waive some or all of the nonrefundable cancellation fee provisions of the supplier's underlying travel contract regardless of the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance.

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

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

(1) Any entity engaged in the business of providing travel or travel services, including but not limited to tour operators, lodging providers, vacation property owners, hotels and resorts, travel clubs, travel

agencies, property managers, cultural exchange programs, and common carriers, or the operator, owner, or lessor of a means of transportation of passengers, including but not limited to airlines, cruise lines, railroads, steamship companies, and public bus carriers, wherein all members or customers of the group have common exposure to risk attendant to any particular travel or type of travel or travelers;

(2) Any college, school, or other institution of learning covering students, teachers, employees, or volunteers;

(3) Any employer covering any group of employees, volunteers, contractors, boards of directors, dependents, or guests;

(4) Any sports team, camp, or sponsor thereof covering participants, members, campers, employees, officials, supervisors, or volunteers;

(5) Any religious, charitable, recreational, educational, or civic organization, or branch thereof covering any group of members, participants, or volunteers;

(6) Any financial institution or financial institution vendor or parent holding company, trustee, or agent of, or designated by, one or more financial institutions or financial institution vendors, including account holders, credit card holders, debtors, guarantors, or purchasers;

(7) Any incorporated or unincorporated association, including labor unions, having a common interest, constitution, and bylaws, and that is organized and maintained in good faith for purposes other than obtaining insurance for members or participants of the association covering its members;

(8) Any trust or the trustees of a fund established, created, or maintained for the benefit of and covering members, employees, or customers, subject to the commissioner's permitting the use of a trust and the State's premium tax provisions in section 431:   -105 of one or more associations meeting the requirements of paragraph (7);

(9) Any entertainment production company covering any group of participants, volunteers, audience members, contestants, or workers;

(10) Any volunteer fire department, ambulance, rescue, police, court, or any first aid, civil defense, or other such volunteer group;

(11) Preschools, daycare institutions for children or adults, and senior citizen clubs; or

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

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

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

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

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

"Limited lines travel insurance producer" means a:

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

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

(3) Travel administrator.

"Offer and disseminate" means the act of providing general information, including a description of the coverage and price, processing an application, and collecting premiums for travel insurance.

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

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

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

(1) A person working for a travel administrator to the extent that the person's activities are subject to the supervision and control of the travel administrator;
(2) An insurance producer selling insurance or engaged in administrative and claims-related activities within the scope of the producer's license;
(3) A travel retailer offering and disseminating travel insurance and registered under the license of a limited lines travel insurance producer in accordance with this article;
(4) An individual adjusting or settling claims in the normal course of that individual's practice or employment as an attorney and who does not collect charges or premiums in connection with insurance coverage; or
(5) A business entity that is affiliated with a licensed travel insurer while acting as a travel administrator for the direct and assumed insurance business of an affiliated travel insurer.

"Travel assistance services" means non-insurance services:

(1) For which the consumer is not indemnified based on a fortuitous event; and
(2) The provision of which does not result in the transfer or shifting of risk that would constitute the business of insurance.

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

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

"Travel protection plan" means a plan that provides travel insurance, travel assistance services, or cancellation fee waivers, or any combination of the foregoing.

"Travel retailer" means a business entity that:

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

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

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

(1) The limited lines travel insurance producer or travel retailer provides to purchasers of travel insurance:
   (A) A description of the material terms or the actual material terms of the insurance coverage;
   (B) A description of the process for filing a claim;
   (C) A description of the review or cancellation 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;
(3) The limited lines travel insurance producer has designated one of its employees who is a licensed individual producer as the designated responsible producer;
(4) The designated responsible producer, president, secretary, treasurer, or other officer or person who directs or controls the limited lines travel insurance producer's insurance operations complies with any fingerprinting requirements applicable to insurance producers in the resident state of the limited lines travel insurance producer;
(5) The limited lines travel insurance producer has paid all applicable licensing fees; and
(6) The limited lines travel insurance producer requires each employee and authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training that is subject, at the discretion of the commissioner, to review and approval; provided that the training material shall contain adequate instructions on the types of travel insurance offered, ethical sales practices, and required disclosures to prospective customers.

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

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

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

(3) Explains that an unlicensed travel retailer may provide only general information about the travel insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the travel insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

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

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

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

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

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

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

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

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

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

(1) An individual primary policyholder who is a resident of the State;

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

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

(A) Is a resident of the State;
(B) Has its principal place of business in the State; or
(C) For an affiliate or subsidiary that has purchased blanket travel insurance in the State for eligible blanket group members, has the affiliate's or subsidiary's principal place of business in the State.

(b) Each travel insurer shall:
(1) Document the state of residence or principal place of business of the primary policyholder or primary 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 the 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 the 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;
(2) For travel insurance policies or certificates that contain preexisting condition exclusions, information and an opportunity to learn more about the preexisting condition exclusions shall be provided to the consumer at any time before the time of purchase and in the coverage's fulfillment materials;
(3) As soon as practicable following the purchase of a travel protection plan, the fulfillment materials and the information described in section 431: -104(b)(1) shall be provided to the primary policyholder or primary certificate holder; provided that if the insured

has neither started a covered trip nor filed a claim under the travel insurance coverage, the relevant policyholder or certificate holder may cancel the policy or certificate for a full refund of the travel protection plan price at any time after the date of purchase of a travel protection plan and before either:

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

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

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

provided that if travel insurance is marketed directly to a consumer through a travel insurer's website or by others through an aggregator site, it shall not be deemed to be an unfair trade practice or other violation of law if an accurate summary or short description of coverage is provided on the web page as long as that consumer has access to the full provisions of the policy through electronic means.

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3. This Act shall take effect upon its approval.

(Approved July 1, 2025.)