
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 the
11 State.

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

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



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,



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 the
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.

20 "Offer and disseminate" means the act of providing general
21 information, including a description of the coverage and price,



1 processing an application, and collecting premiums for travel
2 insurance.

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

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

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

- 12 (1) A person working for a travel administrator to the
13 extent that the person's activities are subject to the
14 supervision and control of the travel administrator;
- 15 (2) An insurance producer selling insurance or engaged in
16 administrative and claims-related activities within
17 the scope of the producer's license;
- 18 (3) A travel retailer offering and disseminating travel
19 insurance and registered under the license of a
20 limited lines travel insurance producer in accordance
21 with this article;



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

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

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

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

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

16 "Travel assistance services" includes but is not limited to
17 security advisories, destination information, vaccination and
18 immunization information services, travel reservation services,
19 entertainment, activity and event planning, translation
20 assistance, emergency messaging, international legal and medical
21 referrals, medical case monitoring, coordination of



1 transportation arrangements, emergency cash transfer assistance,
2 medical prescription replacement assistance, passport and travel
3 document replacement assistance, lost luggage assistance,
4 concierge services, and any other service that is furnished in
5 connection with planned travel. "Travel assistance services" is
6 not insurance and not related to insurance.

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

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

12 "Travel retailer" means a business entity that:

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

18 **§431: -104 Licensing and registration.** (a) In
19 accordance with sections 431:9A-103 and 431:9A-107.5, the
20 commissioner may issue a limited lines travel insurance producer
21 license to an individual or a business entity that has filed



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

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

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

13 (A) A description of the material terms or the actual
14 material terms of the insurance coverage;

15 (B) A description of the process for filing a claim;

16 (C) A description of the review or cancellation
17 process for the travel insurance policy; and

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



1 (2) At the time of licensure, the limited lines travel
2 insurance producer establishes and maintains a
3 register, on a form prescribed by the commissioner, of
4 each travel retailer offering travel insurance on
5 behalf of the limited lines travel insurance producer.
6 The register shall be maintained and updated by the
7 limited lines travel insurance producer and shall
8 include the name, address, and contact information of
9 the travel retailer and an officer or a person who
10 directs or controls the travel retailer's operations,
11 and the travel retailer's federal tax identification
12 number. Upon request, the limited lines travel
13 insurance producer shall submit the register to the
14 insurance division of the department of commerce and
15 consumer affairs. The limited lines travel insurance
16 producer shall certify that the travel retailer
17 registered complies with title 18 United States Code
18 section 1033;
19 (3) The limited lines travel insurance producer has
20 designated one of its employees who is a licensed



1 individual producer as the designated responsible
2 producer;

3 (4) The designated responsible producer, president,
4 secretary, treasurer, or other officer or person who
5 directs or controls the limited lines travel insurance
6 producer's insurance operations complies with any
7 fingerprinting requirements applicable to insurance
8 producers in the resident state of the limited lines
9 travel insurance producer;

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

12 (6) The limited lines travel insurance producer requires
13 each employee and authorized representative of the
14 travel retailer whose duties include offering and
15 disseminating travel insurance to receive a program of
16 instruction or training that is subject, at the
17 discretion of the commissioner, to review and
18 approval; provided that the training material shall
19 contain adequate instructions on the types of travel
20 insurance offered, ethical sales practices, and
21 required disclosures to prospective customers.



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

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

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

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



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

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

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

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

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

20 (f) Each limited lines travel insurance producer shall be
21 responsible for the acts of each applicable travel retailer and



1 use reasonable means to ensure compliance by the travel retailer
2 with this article.

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

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

14 **§431: -105 Tax on premiums.** (a) Each travel insurer
15 shall pay the tax on premiums provided for in section 431:7-202
16 on all travel insurance premiums paid by:

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

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



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

7 (A) Is a resident of the State;

8 (B) Has its principal place of business in the State;
9 or

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

15 (b) Each travel insurer shall:

16 (1) Document the state of residence or principal place of
17 business of the primary policyholder or primary
18 certificate holder; and

19 (2) Report as premiums only the amounts allocable to
20 travel insurance and not any amounts received for



1 travel assistance services or cancellation fee
2 waivers.

3 **§431: -106 Travel protection plans.** Travel protection
4 plans may be offered for one price for the combined features
5 that the travel protection plan offers in the State if:

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

16 (2) The fulfillment materials:

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

20 (B) Include any applicable travel insurance
21 disclosures and contact information for persons



1 providing travel assistance services and
2 cancellation fee waivers.

3 **§431: -107 Sales practices.** (a) Except as otherwise
4 provided in this section, any person offering travel insurance
5 to a resident of the State shall be subject to article 13.

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

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

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

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



1 condition exclusions shall be provided to the consumer
2 at any time before the time of purchase and in the
3 coverage's fulfillment materials;

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

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

19 (B) Ten days following the date of handing
20 fulfillment materials to the policyholder or
21 certificate holder or sending by electronic means



1 the travel protection plan's fulfillment
2 materials; and

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

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

19 (e) Marketing blanket travel insurance coverage as being
20 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



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

3 (b) Each travel insurer shall:

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

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

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

14 **§431: -109 Policy.** (a) Notwithstanding any other
15 provision of this chapter to the contrary, travel insurance
16 shall be classified and filed for purposes of rates and forms
17 under an inland marine line of insurance.

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

20 (c) Eligibility and underwriting standards for travel
21 insurance may be developed and provided based on travel



1 protection plans designed for individual or identified marketing
2 or distribution channels; provided that the standards shall meet
3 any of the State's underwriting standards for inland marine.

4 **§431: -110 Rulemaking.** The commissioner may adopt rules
5 pursuant to chapter 91 to effectuate this article."

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

9 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. (SD2)

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