

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SESSION LAW 2019-128
HOUSE BILL 755

AN ACT TO CREATE A COMPREHENSIVE FRAMEWORK FOR THE SALE OF TRAVEL
INSURANCE IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-33-19 reads as rewritten:

"§ 58-33-19. Limited lines travel insurance.

- (a) As used in this ~~Article, section,~~ the following definitions apply:
- (1) Limited lines travel insurance producer. – Any of the following:
- a. A licensed managing general underwriter.
 - b. A licensed managing general agent or third-party administrator.
 - c. A licensed insurance producer as defined by G.S. 58-33-10(7), including:
 - 1. A limited lines producer designated by an insurer as the travel insurance supervising entity, as set forth in subsection (h) of this section.
 - 2. A limited lines producer appointed by an insurer, as set forth in G.S. 58-33-40, who acts as a landlord or real estate broker engaged in the rental or management of residential property for vacation rental as defined in Chapter 42A of the General Statutes.
 - d. A travel administrator, as defined in G.S. 58-44B-2.
- (2) Offer and disseminate. – Providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other activities that do not require a license and are permitted by the Department.
- (3) Travel insurance. – Insurance coverage for the personal risks incident to planned travel that ~~includes, but is not limited to, the coverages listed in subdivisions a. through d. of this subdivision. Travel insurance does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting six months or longer, including deployed military personnel or those U.S. citizens working overseas as expatriates. [Travel insurance includes:]~~ may include any of the following:
- a. Interruption or cancellation of a trip or event.
 - b. Loss of baggage or personal effects.
 - c. Damages to accommodations or rental vehicles.
 - d. Sickness, accident, disability, or death occurring during travel.
 - e. Emergency evacuation.
 - f. Repatriation of remains.
 - g. Any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the Commissioner.



Travel insurance does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting longer than six months, including, for example, those working or residing overseas as an expatriate, or any other product that requires another specific insurance producer license.

(4) Travel retailer. – A business entity that makes, arranges, or offers ~~travel services~~ planned travel and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a limited lines travel insurance producer.

(b) An individual or business entity may apply for a limited lines travel insurance producer license by filing with the Department an application in a form and manner prescribed by the Commissioner. If issued, the license authorizes the limited lines travel insurance producer to sell, solicit, or negotiate travel insurance through a licensed insurer.

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

(1) The limited lines producer or travel retailer provides all of the following 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.
- d. The identity and contact information of the insurer and limited lines travel insurance producer.

(2) At the time of licensure, the limited lines travel insurance producer shall establish and maintain a register on a form prescribed by the Commissioner of each travel retailer that offers travel insurance on the limited lines travel insurance producer's behalf. The register shall be maintained and updated annually by the limited lines travel insurance producer and shall include the name, address, and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operations, and the travel retailer's federal Tax Identification Number. The limited lines travel insurance producer shall submit the register to the Department upon request. The limited lines producer shall also certify that the travel ~~retailer register~~ retailer's register complies with 18 U.S.C. § 1033. The grounds for the suspension, revocation, and the penalties applicable to resident insurance producers shall be applicable to the limited lines travel insurance producers and travel retailers.

(3) The limited lines travel insurance producer has designated one of its employees who is a licensed individual producer as the person responsible for the limited lines travel insurance producer's compliance with this Chapter and administrative rules adopted by the Commissioner.

(4) The person designated in subdivision (3) of this subsection and the president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance producer's insurance operations comply with the 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 insurance producer licensing fees as set forth in applicable State law.

(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, which may be subject to review by the Commissioner. The training material shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

- (7) Limited lines travel insurance producers, and those registered under its license, are exempt from the examination and continuing education requirements under G.S. 58-33-30, 58-33-32, and 58-33-130.

(d) Any travel retailer offering or disseminating travel insurance shall make available to prospective purchasers brochures or other written materials that have been approved by the travel insurer and include all of the following:

- (1) The identity and contact information of the insurer and the limited lines travel insurance producer.
- (2) An explanation that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer.
- (3) A disclaimer that an unlicensed travel retailer is permitted to provide general information about the 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 insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

(e) A travel retailer's employee or authorized representative who is not licensed as a limited lines travel insurance producer shall not do any of the following:

- (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.
- (3) Hold himself or herself out as a licensed insurer, licensed producer, or insurance expert.

(f) ~~A~~ Notwithstanding any other provision in law, a travel retailer, whose insurance related activities and the activities of its employees and authorized representatives are limited to offering ~~or~~ and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer meeting the conditions stated in this section, is authorized to do so and receive related compensation upon compliance with subdivision (c)(2) of this section by the limited lines travel insurance producer.

(g) Travel insurance may be provided ~~under in the form of an individual policy~~ individual, group, or under a group or master blanket policy.

(h) As the travel insurance supervising entity, the limited lines travel insurance producer is responsible for the acts of the travel retailer and shall use reasonable means to ensure compliance by the travel retailer with this section.

(i) The limited lines travel insurance producer and any travel retailer offering or disseminating travel insurance under the limited lines travel insurance producer license shall be subject to the provisions of Article 63 of this Chapter and to the full enforcement powers of the Commissioner granted by Article 2 of this Chapter.

(j) Any person licensed in a major line of authority as an insurance producer is authorized to sell, solicit, and negotiate travel insurance. A property and casualty insurance producer is not required to become appointed by an insurer in order to sell, solicit, or negotiate travel insurance."

SECTION 2. Chapter 58 of the General Statutes is amended by adding a new Article to read:

"Article 44B.
"Travel Insurance.

"§ 58-44B-1. Scope and purpose.

(a) The purpose of this Article is to create a comprehensive legal framework within which travel insurance may be sold in this State.

(b) The requirements of this Article shall apply to travel insurance which covers any resident of this State and is sold, solicited, negotiated, or offered in this State and where policies and certificates are delivered or issued for delivery in this State. It shall not apply to cancellation fee waivers and travel assistance services, except as expressly provided herein.

(c) All other applicable provisions of this Chapter shall continue to apply to travel insurance except that (i) the specific provisions of this Article shall supersede any general provisions of law that would otherwise be applicable to travel insurance and (ii) in the event of a conflict between this Article and other provisions of this Chapter regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this Article shall control.

"58-44B-2. Definitions.

As used in this Article, in addition to the definitions in G.S. 58-33-19, the following definitions apply:

- (1) Aggregator site. – A Web site that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping.
- (2) Blanket travel insurance. – A policy of travel insurance 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.
- (3) Cancellation fee waiver. – A contractual agreement between a supplier of travel services and its customer to waive some or all of the non-refundable cancellation fee provisions of the supplier's underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance.
- (4) Eligible group. – Solely for the purposes of travel insurance, two or more persons who are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, including any of the following:
 - a. Any entity engaged in the business of providing travel or travel services, including 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 airlines, cruise lines, railroads, steamship companies, and public bus carriers, wherein with regard to any particular travel or type of travel or travelers, all members or customers of the group must have a common exposure to risk attendant to such travel.
 - b. Any college, school, or other institution of learning covering students, teachers, or employees or volunteers.
 - c. Any employer covering any group of employees, volunteers, contractors, board of directors, dependents, or guests.
 - d. Any sports team, camp, or sponsor thereof covering participants, members, campers, employees, officials, supervisors, or volunteers.
 - e. Any religious, charitable, recreational, educational, or civic organization or branch thereof covering any group of members, participants, or volunteers.

- f. 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 accountholders, credit card holders, debtors, guarantors, or purchasers.
 - g. Any incorporated or unincorporated association, including labor unions, having a common interest, constitution, and bylaws, and organized and maintained in good faith for purposes other than obtaining insurance for members or participants of such association covering its members.
 - h. 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 G.S. 58-44B-3 of one or more associations meeting the above requirements of sub-subdivision g. of this subdivision.
 - i. Any entertainment production company covering any group of participants, volunteers, audience members, contestants, or workers.
 - j. Any volunteer fire department, ambulance, rescue, police, court, or any first aid, civil defense, or other such volunteer group.
 - k. Preschools, daycare institutions for children or adults, and senior citizen clubs.
 - l. Any automobile or truck rental or leasing company covering a group of individuals who may become renters, lessees, or passengers defined by their travel status on the rented or leased vehicles. The common carrier, the operator, owner, or lessor of a means of transportation, or the automobile or truck rental or leasing company, is the policyholder under a policy to which this section applies.
 - m. Any other group where the Commissioner has determined that the members are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, and that issuance of the policy would not be contrary to the public interest.
- (5) Fulfillment materials. – Documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's coverage and assistance details.
- (6) Group travel insurance. – Travel insurance issued to any eligible group.
- (7) Primary certificate holder. – Specific to G.S. 58-44B-3, an individual person who elects and purchases travel insurance under a group policy.
- (8) Primary policyholder. – Specific to G.S. 58-44B-3, an individual person who elects and purchases individual travel insurance.
- (9) Travel administrator. – A person who directly or indirectly underwrites, collects, or charges collateral, or premiums from, or adjusts or settles claims on residents of this State, in connection with travel insurance, except that a person shall not be considered a travel administrator if that person's only actions that would otherwise cause it to be considered a travel administrator are among the following:
- a. 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.
 - b. An insurance producer selling insurance or engaged in administrative and claims related activities within the scope of the producer's license.

- c. 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.
 - d. An individual adjusting or settling claims in the normal course of that individual's practice or employment as an attorney at law and who does not collect charges or premiums in connection with insurance coverage.
 - e. A business entity that is affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of an affiliated insurer.
- (10) Travel assistance services. – Non-insurance services for which the consumer is not indemnified based on a fortuitous event, and where providing the service does not result in the transfer or shifting of risk that would constitute the business of insurance. Travel assistance services may include 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 are not insurance and not related to insurance.
- (11) Travel insurer. – An insurer as defined in G.S. 58-1-5 engaging in the business of travel insurance.
- (12) Travel protection plans. – Plans that provide one or more of the following: travel insurance, travel assistance services, and cancellation fee waivers.
- (13) Travel retailer. – As defined in G.S. 58-33-19.

"§58-44B-3. Premium tax.

(a) A travel insurer shall pay premium tax, as provided in G.S. 105-228.5, on travel insurance premiums paid by any of the following:

- (1) An individual primary policyholder who is a resident of this State.
- (2) A primary certificate holder who is a resident of this State who elects coverage under a group travel insurance policy.
- (3) A blanket travel insurance policyholder that is a resident in, or has its principal place of business or the principal place of business of an affiliate or subsidiary that has purchased blanket travel insurance in, this State for eligible blanket group members, subject to any apportionment rules which apply to the insurer across multiple taxing jurisdictions or that permits the insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions.

(b) A travel insurer shall do all of the following:

- (1) Document the state of residence or principal place of business of the policyholder or certificate holder, as required in subsection (a) of this section.
- (2) Report as premium only the amount allocable to travel insurance and not any amounts received for travel assistance services or cancellation fee waivers.

"§58-44B-4. Travel protection plans.

Travel protection plans may be offered for one price for the combined permitted features as defined in G.S. 58-44B-2 if the plan meets all of the following requirements:

- (1) The travel protection plan clearly discloses to the consumer at or prior to the time of purchase that it includes travel insurance, travel assistance services,

and cancellation fee waivers as applicable, and provides information and an opportunity at or prior to the time of purchase for the consumer to obtain additional information regarding the features and pricing of each.

- (2) The fulfillment materials:
 - a. Describe and delineate the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan.
 - b. Include the travel insurance disclosures and the contact information for persons providing travel assistance services and cancellation fee waivers, as applicable.

"§58-44B-5. Sales practices.

(a) All persons offering travel insurance to residents of this State are subject to Article 63 of this Chapter, except as otherwise provided in this section.

(b) Offering or selling a travel insurance policy that could never result in payment of any claims for any insured under the policy is an unfair trade practice under Article 63 of this Chapter.

(c) The following requirements apply to the marketing of travel insurance:

(1) All documents, sales materials, advertising materials, and marketing materials provided to consumers prior to the purchase of travel insurance shall be consistent with the travel insurance policy itself including forms, endorsements, policies, rate filings, and certificates of insurance.

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

(3) The fulfillment materials and the information described in G.S. 58-33-19(c)(1) shall be provided to a policyholder or certificate holder as soon as practicable following the purchase of a travel protection plan. Unless the insured has either started a covered trip or filed a claim under the travel insurance coverage, a policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until at least the earlier of the following:

a. Fifteen days following the date of delivery of the travel protection plan's fulfillment materials by postal mail.

b. Ten days following the date of delivery of the travel protection plan's fulfillment materials by means other than postal mail.

For the purposes of this subdivision, delivery means handing fulfillment materials to the policyholder or certificate holder or sending fulfillment materials by postal mail or electronic means to the policyholder or certificate holder.

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

(5) Where travel insurance is marketed directly to a consumer through an insurer's Web site or by others through an aggregator site, it shall not be an unfair trade practice or other violation of law to provide an accurate summary or short description of coverage on the Web page, so long as the consumer has access to the full provisions of the policy through electronic means.

(d) No person offering, soliciting, or negotiating travel insurance or travel protection plans on an individual or group basis may do so by using negative option or opt out, which would require a consumer to take an affirmative action to deselect coverage such as unchecking a box on an electronic form when the consumer purchases a trip.

(e) It shall be an unfair trade practice to market blanket travel insurance coverage as free.
(f) Where a consumer's destination jurisdiction requires insurance coverage, it shall not be an unfair trade practice to require that a consumer choose between the following options as a condition of purchasing a trip or travel package:

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

"§ 58-44B-6. Travel administrators.

(a) Notwithstanding any other provisions of this Chapter, no person shall act or represent himself or herself as a travel administrator for travel insurance in this State unless that person:

- (1) Is a licensed property and casualty insurance producer in this State for activities permitted under that producer license.
- (2) Holds a valid managing general agent license in this State.
- (3) Holds a valid third-party administrator license in this State.

(b) A travel administrator and his or her employees are exempt from the licensing requirements of G.S. 58-33-19 for travel insurance he or she administers.

(c) An insurer is responsible for the acts of a travel administrator administering travel insurance underwritten by the insurer and is responsible for ensuring that the travel administrator maintains all books and records relevant to the insurer to be made available by the travel administrator to the Commissioner upon request.

"§ 58-44B-7. Policy.

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

(b) 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 those standards also meet the State's underwriting standards for inland marine.

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

"§ 58-44B-8. Rule-making authority.

The Commissioner may issue rules to implement the provisions of this Article."

SECTION 3. This act becomes effective January 1, 2020.
In the General Assembly read three times and ratified this the 9th day of July, 2019.

s/ Ralph E. Hise
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 1:31 p.m. this 19th day of July, 2019