

2017 Regular Session

HOUSE BILL NO. 542

BY REPRESENTATIVE STOKES AND SENATOR THOMPSON

1 AN ACT

2 To enact Subpart E of Part IV of Chapter 4 of Title 22 of the Louisiana Revised Statutes of
3 1950, to be comprised of R.S. 22:1351 through 1358, relative to travel insurance; to
4 provide for definitions; to provide for deposits, assessments, fees, and taxes; to
5 provide for sales practices; to provide for travel protection plans; to provide for
6 travel administrators; to provide for promulgation of regulations; and to provide for
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Subpart E of Part IV of Chapter 4 of Title 22 of the Louisiana Revised
10 Statutes of 1950, comprised of R.S. 22:1351 through 1358, is hereby enacted to read as
11 follows:

12 SUBPART E. TRAVEL INSURANCE

13 §1351. Applicability

14 A. This Subpart shall apply to travel insurance where policies or certificates
15 are delivered or issued for delivery in this state.

16 B. This Subpart shall not apply to cancellation fee waivers and travel
17 assistance services, except as expressly provided herein.

18 §1352. Definitions

19 As used in this Subpart, the following definitions apply:

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

23 (2) "Blanket travel insurance" means travel insurance issued to any eligible
24 group providing coverage for specified circumstances and specific classes of persons

1 defined in the policy and issued to a policyholder and not by specifically naming the
2 persons covered, by certificate or otherwise, although a statement of the coverage
3 provided may be given, or required by policy to be given, to eligible persons.

4 (3) "Cancellation fee waiver" means a contractual agreement between a
5 supplier of travel arrangements or travel services and its customer to waive some or
6 all of the nonrefundable cancellation fee or penalty provisions of the underlying
7 travel contract between the supplier and customer. A cancellation fee waiver is not
8 insurance.

9 (4) "Commissioner" means the commissioner of insurance of this state.

10 (5) "Eligible group" means any of the following:

11 (a) Any entity engaged in the business of providing travel or travel services,
12 including but not limited to:

13 (i) Tour operators.

14 (ii) Lodging providers.

15 (iii) Vacation property owners.

16 (iv) Hotels and resorts.

17 (v) Travel clubs.

18 (vi) Property managers.

19 (vii) Cultural exchange programs.

20 (viii) Common carriers of passengers, including but not limited to airlines,
21 cruise lines, railroads, steamship companies, and public bus carriers.

22 (b) Any college, school, or other institution of learning covering students,
23 teachers, or employees defined by reference to specified hazards incident to activities
24 or operations of the institution of learning.

25 (c) Any employer covering any group of employees, contractors, dependents,
26 or guests, defined by reference to specified hazards incident to activities or
27 operations of the employer.

28 (d) Any sports team, camp, or sponsor thereof covering participants,
29 members, campers, employees, officials, supervisors, or volunteers.

1 (e) Any religious, charitable, recreational, educational, or civic organization
2 or branch thereof covering any group of members, participants, or volunteers defined
3 by reference to specified hazards incident to any activity or activities or operations
4 sponsored or supervised by or on the premises of the organization or branch.

5 (f) Any financial institution or financial institution vendor, or parent holding
6 company, trustee, or agent of or designated by one or more financial institutions or
7 financial institution vendors, under which account holders, credit card holders,
8 debtors, guarantors, or purchasers are insured.

9 (g) Any incorporated or unincorporated association, including labor unions,
10 having a common interest, constitution, and bylaws, and organized and maintained
11 in good faith for purposes other than obtaining insurance for members or participants
12 of the association.

13 (h) Any trust or the trustees of a fund established, created, or maintained for
14 the benefit of members or customers of one or more associations meeting the
15 requirements of this Paragraph.

16 (i) Any entertainment production company covering any group of
17 participants, volunteers, audience members, contestants, or workers.

18 (j) Any newspaper or other publisher covering its journalists and carriers.

19 (k) Any volunteer fire department or any first aid, civil defense, or other such
20 volunteer group or agency having jurisdiction thereof, covering all or any group of
21 the members, participants, or volunteers of the fire department or first aid, civil
22 defense, or other group.

23 (l) Any other group for which the commissioner determines that the
24 members are engaged in a common enterprise, or have an economic, educational, or
25 social affinity or relationship, and that issuance of the policy would not be contrary
26 to the best interests of the public.

27 (6) "Fulfillment materials" means documentation sent to the purchaser of a
28 travel protection plan confirming the purchase and providing the travel protection
29 plan's coverage and assistance details, as applicable.

1 (7) "Group travel insurance" means travel insurance issued to any eligible
2 group.

3 (8) "Limited lines travel insurance producer" has the same meaning as in
4 R.S. 22:1782.1.

5 (9) "Offer and disseminate" has the same meaning as in R.S. 22:1782.1.

6 (10) "Travel administrator" means a person who directly or indirectly
7 underwrites, collects charges, collateral, or premiums from, or adjusts or settles
8 claims on residents of this state in connection with travel insurance except that a
9 person shall not be considered a travel administrator if the only circumstance that
10 would otherwise cause him to be considered a travel administrator is one of the
11 following:

12 (a) A person working for a travel administrator to the extent that his
13 activities are subject to the supervision and control of the travel administrator.

14 (b) An insurance producer selling insurance or engaging in administrative
15 and claims-related activities within the scope of the producer's license.

16 (c) A travel retailer offering and disseminating travel insurance and
17 registered under the license of a limited lines travel insurance producer in accordance
18 with the provisions of R.S. 22:1782.2.

19 (d) An individual adjusting or settling claims in the normal course of his
20 practice or employment as an attorney at law and who does not collect charges or
21 premiums in connection with insurance coverage.

22 (e) A business entity that is affiliated with a licensed insurer while acting as
23 a travel administrator for the direct and assumed insurance business of an affiliated
24 insurer. For purposes of this Paragraph, "affiliated business entity" or "affiliated
25 insurer" has the same meaning as "affiliated company" in R.S. 22:550.2.

26 (11) "Travel assistance services" means non-insurance services that may be
27 distributed by limited lines travel insurance producers or other entities and for which
28 there is no indemnification for the travel protection plan customer based on a
29 fortuitous event, nor any transfer or shifting of risk that would constitute the business
30 of insurance. Travel assistance services include but are not limited to security

1 advisories, destination information, vaccination and immunization information
 2 services, travel reservation services, entertainment, activity, and event planning,
 3 translation assistance, emergency messaging, international legal and medical
 4 referrals, medical case monitoring, coordination of transportation arrangements,
 5 emergency cash transfer assistance, medical prescription replacement assistance,
 6 passport and travel document replacement assistance, lost luggage assistance,
 7 concierge services, and any other service that is furnished in connection with planned
 8 travel that is not related to the adjudication of a travel insurance claim unless
 9 otherwise approved by the commissioner in a travel insurance filing. Travel
 10 assistance services are not insurance and not related to insurance.

11 (12) "Travel insurance" has the same meaning as in R.S. 22:1782.1.

12 (13) "Travel protection plan" means a plan that provides any of the
 13 following:

14 (a) Travel insurance.

15 (b) Travel assistance services.

16 (c) Cancellation fee waivers.

17 (14) "Travel retailer" has the same meaning as in R.S. 22:1782.1.

18 §1353. Deposits, assessments, fees, and taxes

19 A. A travel insurer shall be subject to the provisions of Chapter 3 of this
 20 Title, R.S. 22:791 et seq.

21 B. A travel insurer shall pay premium tax, as provided in R.S. 22:837 and
 22 838, on travel insurance premiums paid by any one of the following:

23 (1) An individual policyholder who is a resident of this state.

24 (2) A certificate-holder who is a resident of this state who elects coverage
 25 under a group travel insurance policy.

26 (3) An eligible group policyholder that is resident in, or has its principal
 27 place of business in, this state that purchases a blanket travel insurance policy.

1 §1354. Travel protection plans

2 Travel protection plans may be offered for one price for the combined
3 features that the travel protection plan offers in this state if all of the following are
4 met:

5 A. There is no finding by the commissioner, pursuant to R.S. 22:1453, that
6 the travel insurance market in the state is noncompetitive or that the travel protection
7 plan restricts competition by either significantly decreasing output or efficiency in
8 the market or that a travel insurer or travel retailer is exerting sufficient market
9 power in providing travel insurance or a travel protection plan such that competition
10 is adversely impacted or that the travel protection plan would exact burdensome
11 terms that would not exist in a competitive market.

12 B. The travel insurance, travel assistance services, and cancellation fee
13 waivers are clearly delineated in the travel protection plan's fulfillment materials.
14 The fulfillment materials shall include the travel insurance disclosure requirements
15 required pursuant to state law and the contact information for persons providing
16 travel assistance services and cancellation fee waivers, as applicable.

17 C. The travel protection plan clearly discloses to the consumer at or prior to
18 the time of purchase and fulfillment that it includes travel insurance, travel assistance
19 services, and cancellation fee waivers, as applicable, and provides an opportunity at
20 any time thereafter for the consumer to obtain additional information regarding the
21 features and pricing of each.

22 §1355. Sales practices

23 A. All persons involved in offering, soliciting, or negotiating travel insurance
24 to residents of this state shall be subject to the unfair trade practices provisions of
25 Chapter 7 of this Title, R.S. 22:1901 et seq., except as otherwise provided in this
26 Section.

27 B. It shall not be an unfair trade practice to include blanket travel insurance
28 coverage with the purchase of a trip, provided the coverage is not marketed as free.

29 C. Travel insurance policies or certificates that contain pre-existing condition
30 exclusions shall clearly disclose the exclusion in the coverage's fulfillment materials.

1 D. Policyholders or certificate holders shall have a minimum of ten days
 2 from the date of purchase to review and cancel the policy or certificate for a full
 3 refund of the travel protection plan price, unless the insured has either started the
 4 covered trip or has filed a claim under the travel insurance coverage.

5 E. The travel insurance policy shall disclose in the policy fulfillment
 6 materials whether the travel insurance is primary or secondary to other applicable
 7 coverage. Travel insurance is not subject to coordination of benefits for health
 8 insurance coverage.

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

14 G. Unless otherwise permitted by state or federal law, no person offering
 15 travel insurance or travel protection plans on an individual or group basis may do so
 16 using negative option or opt-out, which would require a consumer to take an
 17 affirmative action such as unchecking a box on an electronic form when he
 18 purchases a trip to deselect coverage.

19 §1356. Travel administrators

20 Notwithstanding any other provisions of this Title, no person shall act or
 21 represent himself as a travel administrator in this state unless that person meets one
 22 of the following conditions:

- 23 (1) Is a licensed producer for property and casualty insurance in this state.
- 24 (2) Holds a valid managing general agent license in this state.

25 §1357. Policy

26 A. Notwithstanding any other provision of this Title, travel insurance shall
 27 be classified and filed for purposes of rates and forms as a marine and transportation
 28 line of insurance as defined in R.S. 22:47(13).

29 B. Travel insurance may be provided by an individual or group master
 30 policy.

1 C. Eligibility and underwriting standards for travel insurance may be
 2 developed and provided based on travel protection plans designed for individual or
 3 identified marketing or distribution channels, and the travel insurance offered as part
 4 of the travel protection plan may be offered as individual travel insurance, group
 5 travel insurance, or blanket travel insurance.

6 §1358. Regulations

7 The commissioner may, in accordance with the Administrative Procedure
 8 Act, R.S. 49:950 et seq., promulgate rules and regulations as he deems necessary to
 9 enforce the provisions of this Subpart.

10 Section 2. This Act shall become effective on January 1, 2018.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____