

2017 Regular Session

HOUSE BILL NO. 542

BY REPRESENTATIVE STOKES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE: Provides for travel insurance

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.

1           (2) "Blanket travel insurance" means travel insurance issued to any eligible  
2           group providing coverage for specified circumstances and specific classes of persons  
3           defined in the policy and issued to a policyholder and not by specifically naming the  
4           persons covered, by certificate or otherwise, although a statement of the coverage  
5           provided may be given, or required by policy to be given, to eligible persons.

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

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

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

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

15               (i) Tour operators.

16               (ii) Lodging providers.

17               (iii) Vacation property owners.

18               (iv) Hotels and resorts.

19               (v) Travel clubs.

20               (vi) Property managers.

21               (vii) Cultural exchange programs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6           (9) "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 his only action that would  
10          otherwise cause him to be considered a travel administrator is one of the following:

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

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

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

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

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

25          (10) "Travel assistance services" means non-insurance services that may be  
26          distributed by limited lines travel insurance producers or other entities and for which  
27          there is no indemnification for the travel protection plan customer based on a  
28          fortuitous event, nor any transfer or shifting of risk that would constitute the business  
29          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 (11) "Travel insurance" has the same meaning as in R.S. 22:1782.1.

12 (12) "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 (13) "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.

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

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

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

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

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

21          §1356. Travel administrators

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

25                 (1) Is a licensed producer for property and casualty insurance in this state.

26                 (2) Holds a valid managing general agent license in this state.

1        §1357. Policy  
2                A. Notwithstanding any other provision of this Title, travel insurance shall  
3        be classified and filed for purposes of rates and forms as a marine and transportation  
4        line of insurance as defined in R.S. 22:47(13).

5                B. Travel insurance may be provided by an individual or group master  
6        policy.

7                C. Eligibility and underwriting standards for travel insurance may be  
8        developed and provided based on travel protection plans designed for individual or  
9        identified marketing or distribution channels, and the travel insurance offered as part  
10       of the travel protection plan may be offered as individual travel insurance, group  
11       travel insurance, or blanket travel insurance.

12        §1358. Regulations

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

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

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 542 Reengrossed                      2017 Regular Session                      Stokes

**Abstract:** Provides for the line of travel insurance to be offered in Louisiana.

Proposed law applies to travel insurance where policies and certificates are delivered or issued for delivery in La.

Proposed law provides for definitions.

Proposed law subjects travel insurers to the provisions of the Insurance Code in regards to requirements for deposits, assessments, fees, and taxes, including the premium tax.

Proposed law allows for the offering of travel protection plans for one price if there is no finding that the travel insurance market is noncompetitive, certain waivers are clearly delineated in the plan's materials, and the plan clearly discloses that it includes travel insurance, travel assistance services, and cancellation fee waivers.

Proposed law allows the inclusion of blanket travel insurance coverage with the purchase of a trip.



Proposed law allows travel insurance to be provided by an individual policy or under a group or master policy.

Proposed law requires disclosure of pre-existing condition exclusions.

Proposed law requires disclosure of whether the policy is primary or secondary to other applicable coverage.

Proposed law provides policyholders with 10 days from the date of purchase to cancel the policy, unless a covered trip has commenced or a claim under the policy has been filed.

Proposed law provides that travel insurance shall be classified and filed as a marine and transportation line of insurance.

Proposed law allows the commissioner to promulgate rules and regulations under the APA.

Effective Jan. 1, 2018.

(Adds R.S. 22:1351-1358)

#### Summary of Amendments Adopted by House

##### The House Floor Amendments to the engrossed bill:

1. Clarify that a travel insurer shall pay premium tax on travel insurance premiums paid by any one of the following:
  - (a) An individual policyholder who is a resident of Louisiana;
  - (b) A certificate-holder who is a resident of Louisiana who elects coverage under a group travel insurance policy; or
  - (c) An eligible group policyholder that resides in Louisiana or has its principal place of business in Louisiana, and purchases a blanket travel insurance policy.
2. Require disclosure of pre-existing condition exclusions.
3. Provide policyholders with a minimum of 10 days from the date of purchase to review and cancel the policy, unless a covered trip has started or a claim under the policy has been filed.
4. Require disclosure of whether a travel insurance policy is primary or secondary to other applicable coverage.
5. Provide that an accurate summary or short description of coverage provided on a web page is not an unfair trade practice if the consumer has access to the full provisions of the policy through electronic means.
6. Prohibit use of a negative option or opt-out that would require a consumer to take an affirmative action to decline a travel insurance policy.
7. Provide that travel insurance shall be classified and filed as a marine and transportation line of insurance.
8. Provide that travel insurance may be provided by an individual or group master policy.
9. Clarify that travel insurance offered as part of a travel protection plan may be offered as an individual policy, group policy, or blanket policy.

10. Define "offer and disseminate" in accordance with present law (R.S. 22:1782.1.)
11. Define "affiliated business entity" and "affiliated insurer" in accordance with the definition of "affiliated company" in present law (R.S. 22:550.2).
12. Define "travel retailer" in accordance with present law (R.S. 22:1782.1).
13. Clarify that all persons involved in offering, soliciting, or negotiating travel insurance to residents of Louisiana are subject to the unfair trade practices provision of present law (R.S. 22:1901 et seq.)
14. Make technical changes.