

## **BILL ANALYSIS**

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S.B. 1672  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The United States Travel Insurance Association seeks to correct inconsistencies among the states relating to “non-insurance travel retailers” licensing and sales, while also providing greater consumer protection.

This legislation is framed from National Conference of Insurance Legislators (NCOIL) model legislation that is also being passed in numerous other states to provide consistency among the states regarding travel insurance retailers. Non-insurance travel retailers (travel agents) that distribute travel products are not in the business of insurance, nor are they considered so by consumers. The National Association of Insurance Commissioners and NCOIL have both taken steps to provide a workable solution to resolve the problems and regulatory inconsistencies across the states for travel insurance providers and travel retailers. This legislation establishes a licensing framework that reflects the unique distribution system of travel insurance in the travel industry and appropriately places much of the regulatory burden not on the retail travel agent (who is not, after all, an insurance agent), but on the insurer or managing general agent who develops and distributes the product. The licensed insurance provider is normally clearly identified in the pre-packaged ancillary insurance materials that are distributed to consumers by the non-insurance travel retailer. These materials are identical or nearly identical to the materials the consumer would get directly from the licensed insurance provider. Moreover, the insurance product is a discretionary purchase. It is first party, short-duration coverage, and is offered as an add-on to a retail product or service.

This legislation will improve consumer protection by requiring clearer accountability and notice to the consumer and regulator with respect to who is responsible for the sale. It will also help bridge the gap between widely accepted regulatory practices in the states and the actual state rules. Moreover, it more clearly distinguishes licensable and non-licensable activities for limited lines products such as travel insurance, and promotes uniformity to help the state more effectively govern these products.

The bill provides that non-insurance retailers may offer and disseminate travel insurance under a licensed insurance provider, if and only if certain consumer protections are met.

As proposed, S.B. 1672 amends current law relating to the business of travel insurance and authorizes penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 5 (Section 4055.155, Insurance Code) and SECTION 6 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Subchapter D, Chapter 4055, Insurance Code, to read as follows:

#### SUBCHAPTER D. TRAVEL INSURANCE

SECTION 2. Amends Section 4055.151, Insurance Code, by adding Subdivisions (1-b) and (2-b), to define "supervising entity" and "travel retailer."

SECTION 3. Amends Subchapter D, Chapter 4055, Insurance Code, by adding Section 4055.1515, as follows:

Sec. 4055.1515. TRAVEL INSURANCE SUPERVISING ENTITY. Authorizes an insurer authorized to engage in the business of travel insurance in this state to designate a travel insurance supervising entity for purposes of this subchapter. Requires the supervising entity to be a licensed managing general agent; a licensed third-party administrator; or a licensed insurance agent.

SECTION 4. Amends Sections 4055.152 and 4055.153, Insurance Code, as follows:

Sec. 4055.152. New heading: SPECIALTY LICENSE NOT REQUIRED. Provides that, notwithstanding any other provision of this chapter or this code, a travel retailer does not require a license issued under this title. Deletes existing text authorizing the commissioner of insurance (commissioner) to issue a specialty license to a travel agency, the franchisee of a travel agency, or a public carrier that complies with this subchapter. Deletes existing text authorizing the specialty license to be issued only for the limited purposes specified by this subchapter.

Sec. 4055.153. New heading: AUTHORITY OF TRAVEL RETAILER. (a) Creates this subsection from existing text. Authorizes a travel retailer to offer and disseminate travel insurance as a service to the retailer's customers on behalf of and under the direction of a supervising entity only with respect to travel insurance that includes among certain provisions, insurance that provides coverage for damage to accommodations or rental vehicles, rather than life insurance not exceeding \$150,000 on any one life covering risks of travel during a planned trip. Deletes existing text authorizing a travel agency or franchisee licensed under this chapter to act as an agent for an authorized insurer only under certain circumstances.

(b) Provides that travel insurance does not include major medical expense coverage for a traveler on a planned trip for six months or more, including an individual working abroad; an expatriate; and a military service member on deployment.

SECTION 5. Amends Subchapter D, Chapter 4055, Insurance Code, by adding Sections 4055.154, 4055.155, 4055.156, and 4055.157, as follows:

Sec. 4055.154. TRAVEL INSURANCE GENERALLY. (a) Requires a travel retailer, or the supervising entity, to provide to a traveler seeking to purchase travel insurance a description of the material terms or the actual terms of the coverage; a description of the claims filing process; a description of the review and cancellation process for the insurance policy; and the name and contact information for the insurer and the supervising entity.

(b) Authorizes travel insurance coverage to be provided under an individual policy or a group or master policy.

Sec. 4055.155. DUTIES OF INSURERS AND SUPERVISING ENTITIES. (a) Authorizes a supervising entity designated by an insurer that provides travel insurance to authorize a travel retailer to offer and disseminate a travel insurance policy on behalf of the supervising entity by establishing a retailer registry.

(b) Requires the registry established under Subsection (a) to be maintained and updated on an ongoing basis in a form prescribed by the commissioner by rule. Requires that the registry include the name, address, and contact information, and federal employer identification number, if any, of each registered travel retailer and an individual contact person at the retailer.

(c) Requires that the registry be submitted to the Texas Department of Insurance (TDI) on the request of the commissioner.

(d) Requires the supervising entity to certify in a form prescribed by the commissioner by rule that each registered travel retailer is in compliance with 18 U.S.C. Section 1033.

(e) Requires the supervising entity to designate an individual licensed agent as the compliance officer responsible for compliance with insurance laws and rules related to travel insurance.

(f) Requires the compliance officer, the officers of the supervising entity, and any individual that directs or controls the travel insurance business of the supervising entity to submit fingerprints as required by the commissioner by rule.

(g) Requires the supervising entity to provide travel insurance instruction and training to each employee of a registered travel retailer whose duties include offering and disseminating travel insurance. Provides that the instruction and training material are subject to review by the commissioner and are required to include instruction relating to the insurance offered, ethical sales practices, and required disclosures to travelers.

(h) Provides that the supervising entity is responsible for the acts of a travel retailer and is required to use reasonable means to ensure each registered retailer's compliance with this subchapter.

Sec. 4055.156. DUTIES OF TRAVEL RETAILERS. (a) Requires a travel retailer offering and disseminating travel insurance under this subchapter to register with an insurer in a registry established under Section 4055.155.

(b) Requires the travel retailer to make available to travelers brochures or other written materials that provide the name, address, and contact information of the authorized insurer and the supervising entity; explain that the purchase of travel insurance is not required for the purchase from the travel retailer of any other product or service; and disclose that the travel retailer is authorized to provide general information about travel insurance, including a description of coverage and the price for coverage, but is not qualified or authorized to provide answers to questions about specific policy terms or to evaluate the adequacy of the traveler's existing insurance coverage.

(c) Prohibits a travel retailer from evaluating or interpret technical words or phrases used in a travel insurance policy or benefits under or terms of the policy; evaluating or providing advice related to a traveler's existing insurance coverage; or advertising or otherwise holding out the travel retailer as a license holder or an insurance expert.

(d) Authorizes a travel retailer that complies with this subchapter to receive compensation for offering and disseminating travel insurance on behalf of a supervising entity on or after the date the retailer registers with the insurer under this subchapter.

Sec. 4055.157. ENFORCEMENT. Provides that a supervising entity and a travel retailer registered with the supervising entity are subject to Chapters 82 (Sanctions) and 83 (Emergency Cease and Desist Orders) and Subtitle C, Title 5.

SECTION 6. Requires the commissioner to promulgate forms described by Section 4055.155, Insurance Code, as added by this Act, as soon as practicable after the effective date of this Act, but not later than January 1, 2014.

SECTION 7. Makes application of this Act prospective to January 1, 2014.

SECTION 8. Effective date: September 1, 2013.