

BILL ANALYSIS

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C.S.S.B. 1672
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Committee Report (Substituted)

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.

C.S.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, including a specialty license holder and a person described by Section 4055.002(a) (relating to providing that a person who holds a certain license is not required to obtain a specialty license).

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

Sec. 4055.152. New heading: SPECIALTY LICENSE; LICENSED NOT REQUIRED FOR TRAVEL RETAILER. (a) Creates this subsection from existing text. Authorizes the commissioner of insurance (commissioner) to issue to an applicant under this chapter a specialty license that authorizes the license holder to sell, solicit, or negotiate travel insurance through a licensed insurer.

(b) Provides that, notwithstanding any other provision of this chapter or this code, a travel retailer that operates on behalf of and under the license and direction of a supervising entity does not require a license issued under this title, subsection to Section 4055.153. Deletes existing text authorizing the 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:

(1) in connection with the sale or arrangement of transportation, accommodations, or events for travelers; and

(2) with respect to travel insurance that includes:

(A) accident and health insurance that provides coverage to a traveler for accidental death or dismemberment and for medical expenses resulting from an accident or sickness involving the traveler that occurs during the planned trip;

(B) insurance that provides coverage to a traveler for expenses incurred as a result of trip cancellation or interruption of a planned trip or event;

(C) personal effects insurance that provides coverage to a traveler for loss of or damage to personal effects during the planned trip or event;

(D) 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; or

(E) Makes no change to this subparagraph.

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) Requires an insurer to notify the Texas Department of Insurance (TDI) in the manner prescribed by the commissioner by rule of the designation of a supervising entity described by Subsection (b).

(b) 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.

(c) Requires that the registry established under Subsection (b) 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.

(d) Requires that the registry be submitted to TDI on the request of the commissioner.

(e) 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.

(f) Requires the supervising entity to designate an individual who is an officer of the entity and a licensed agent as the compliance officer responsible for compliance with insurance laws, rules, and regulations related to travel insurance.

(g) Requires the compliance officer and the officers of the supervising entity that direct or control the travel insurance business of the supervising entity to submit fingerprints as required by the commissioner by rule.

(h) 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.

(i) 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 interpreting 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 (Deceptive, Unfair, and Prohibited Practices), 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.