

House Bill 205

By: Representatives Williams of the 148th, Lumsden of the 12th, Hatchett of the 150th, Taylor of the 173rd, Rhodes of the 120th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 provide a framework for regulating the offering or issuance of travel insurance in this state;
3 to revise and provide for definitions; to provide for related matters; to provide for an
4 effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in Code
8 Section 33-7-5, relating to marine and transportation insurance, by deleting "and" at the end
9 of paragraph (6), by replacing the period at the end of paragraph (7) with "; and", and by
10 adding a new paragraph to read as follows:

11 "(8) Travel insurance as such term is defined in subsection (f) of Code Section 33-23-12."

12 **SECTION 2.**

13 Said title is further amended in Article 1 of Chapter 23, relating to licensing of agents,
14 agencies, subagents, counselors, and adjusters, by revising subsection (f) of Code
15 Section 33-23-12, relating to limited licenses, as follows:

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16 (f)(1) As used in this subsection, the term:

17 (A) 'Aggregator site' means a website that provides access to information regarding
18 insurance products from more than one insurer, including product and insurer
19 information, for use in comparison shopping.

20 (B) 'Blanket travel insurance' means a policy of travel insurance issued to any eligible
21 group providing coverage for specific classes of persons defined in the policy with
22 coverage provided to all members of the eligible group without a separate charge to
23 individual members of the eligible group.

24 (C) 'Cancellation fee waiver' means a contractual agreement between a supplier of
25 travel services and its customer to waive some or all of the nonrefundable cancellation
26 fee provisions of the supplier's underlying travel contract with or without regard to the
27 reason for the cancellation or form of reimbursement. Such term shall not be
28 considered insurance.

29 (D) 'Eligible group' means two or more persons that are engaged in a common
30 enterprise or have an economic, educational, or social affinity or relationship, including
31 but not limited to any of the following:

32 (i) Any entity engaged in the business of providing travel or travel services, including
33 but not limited to:

34 (I) Tour operators, lodging providers, vacation property owners, hotels and resorts,
35 travel clubs, travel agencies, property managers, or cultural exchange programs; or

36 (II) Common carriers or the operator, owner, or lessor of a means of transportation
37 of passengers, including but not limited to airlines, cruise lines, railroads, steamship
38 companies, and public bus carriers,

39 wherein, with regard to any particular travel or type of travel or travelers, all members
40 or customers of the group share a common exposure to risk attendant to such travel;

41 (ii) Any college, school, or other institution of learning covering students, teachers,
42 employees, or volunteers;

- 43 (iii) Any employer covering any group of employees, volunteers, contractors, board
44 of directors, dependents, or guests;
- 45 (iv) Any sports team, camp, or sponsor thereof covering participants, members,
46 campers, employees, officials, supervisors, or volunteers;
- 47 (v) Any religious, charitable, recreational, educational, or civic organization or
48 branch thereof covering any group of members, participants, or volunteers;
- 49 (vi) Any financial institution or financial institution vendor, or any parent holding
50 company, trustee, or agent of or designated by one or more financial institutions or
51 financial institution vendors, including account holders, credit card holders, debtors,
52 guarantors, or purchasers;
- 53 (vii) Any incorporated or unincorporated association, including labor unions, that has
54 a common interest, a constitution, and bylaws and that is organized and maintained
55 in good faith for purposes other than obtaining insurance for members or participants
56 of such association in covering its members;
- 57 (viii) Any trust or the trustees of a fund established, created, or maintained for the
58 benefit of and for covering members, employees, or customers, subject to the
59 Commissioner permitting the use of a trust and the state's premium tax provisions
60 provided in Code Section 33-8-4 for one or more associations meeting the
61 requirements of division (vii) of this subparagraph;
- 62 (ix) Any entertainment production company covering any group of participants,
63 volunteers, audience members, contestants, or workers;
- 64 (x) Any volunteer fire department, ambulance, rescue, police, court, first aid, civil
65 defense, or other such volunteer group;
- 66 (xi) Any preschool, day-care institution for children or adults, or senior citizen club;
- 67 (xii) Any automobile or truck rental or leasing company covering a group of
68 individuals who may become renters, lessees, or passengers as defined by their travel
69 status on the rented or leased vehicles;

70 (xiii) The common carrier; the operator, owner, or lessor of a means of
 71 transportation; or the automobile or truck rental or leasing company that is the
 72 policyholder under a policy to which this subsection applies; and

73 (xiv) Any other group to which the Commissioner has determined that issuance of
 74 the policy would not be contrary to the public interest and in which the members are
 75 engaged in a common enterprise or have an economic, educational, or social affinity
 76 or relationship.

77 (E) 'Fulfillment materials' means documentation sent to the purchaser of a travel
 78 protection plan confirming the purchase and providing the travel protection plan's
 79 coverage and assistance details.

80 (F) 'Group travel insurance' means travel insurance issued to any eligible group.

81 (G) 'Limited licensee' means a person or entity authorized to sell certain coverages
 82 related to travel pursuant to the provisions of this subsection.

83 ~~(B)~~(H) 'Limited lines travel insurance producer' means a:

84 (i) Licensed managing general underwriter;

85 (ii) Licensed managing general agent or third-party administrator; ~~or~~

86 (iii) Licensed insurance producer, including a limited licensee, ~~designated by an~~
 87 ~~insurer as the travel insurance supervising entity as set forth in division (2)(C)(iii) of~~
 88 ~~this subsection; or~~

89 (iv) Travel administrator.

90 ~~(C)~~(I) 'Offer and disseminate' means providing general information, including a
 91 description of the coverage and price, as well as processing the application; and
 92 collecting premiums, and performing other nonlicensable activities permitted by this
 93 state.

94 (J) 'Primary certificate holder' means an individual or person that elects and purchases
 95 travel insurance under a group policy.

96 (K) 'Travel administrator' means each person that directly or indirectly underwrites;
97 collects charges, collateral, or premiums from; or adjusts or settles claims for residents
98 of this state in connection with travel insurance; provided, however, that a person shall
99 not be considered a travel administrator if such person's only actions that would
100 otherwise cause it to be considered a travel administrator are among the following:

101 (i) An insurance producer selling insurance or engaged in administrative and claims
102 related activities within the scope of the producer's license;

103 (ii) A travel retailer offering and disseminating travel insurance and registered under
104 the license of a limited lines travel insurance producer in accordance with this
105 subsection;

106 (iii) An individual adjusting or settling claims in the normal course of such
107 individual's practice or employment as an attorney at law and who does not collect
108 charges or premiums in connection with insurance coverage; or

109 (iv) A business entity that is affiliated with a licensed insurer while acting as a travel
110 administrator for the direct and assumed insurance business of an affiliated insurer.

111 (L) 'Travel assistance services' means:

112 (i) Noninsurance services for which the consumer is not indemnified based on a
113 fortuitous event and the provision of the service does not result in the transfer or
114 shifting of risk that would constitute the business of insurance;

115 (ii) Such term shall include, but not be limited to, security advisories; destination
116 information; vaccination and immunization information services; travel reservation
117 services; entertainment; activity and event planning; translation assistance; emergency
118 messaging; international legal and medical referrals; medical case monitoring;
119 coordination of transportation arrangements; emergency cash transfer assistance;
120 medical prescription replacement assistance; passport and travel document
121 replacement assistance; lost luggage assistance; concierge services; and any similar
122 service that is furnished in connection with planned travel; and

123 (iii) Such term shall not include assistance services that are insurance or related to
 124 insurance.

125 ~~(D)~~(M) 'Travel insurance' means insurance coverage for personal risks incident to
 126 planned travel, including, ~~but not limited to:~~

127 (i) Interruption or cancellation of trip or event;

128 (ii) Loss of baggage or personal effects;

129 (iii) ~~Damage~~ Damages to accommodations or rental vehicles; ~~or~~

130 (iv) Sickness, accident, disability, or death occurring during travel;

131 (v) Emergency evacuation;

132 (vi) Repatriation of remains; or

133 (vii) Any other contractual obligations to indemnify or pay a specified amount to the
 134 traveler upon determinable contingencies related to travel as approved by the
 135 Commissioner.

136 Travel insurance shall not include major medical plans which provide comprehensive
 137 medical protection for travelers with trips lasting six months or longer, including, but
 138 not limited to, those working or residing overseas as an expatriate, ~~or military personnel~~
 139 ~~being deployed~~ any other product that requires a specific insurance producer license.

140 (N) 'Travel protection plan' means any plan that provides for travel insurance, travel
 141 assistance services, or cancellation fee waivers.

142 ~~(E)~~ (O) 'Travel retailer' means a business entity that makes, arranges, or offers travel
 143 services and that may offer and disseminate travel insurance as a service to its
 144 customers on behalf of and under the direction of a limited lines travel insurance
 145 producer.

146 (2)(A) Notwithstanding any other provision of law, the Commissioner may issue to an
 147 individual or business entity that has complied with the requirements of this subsection
 148 a limited lines travel insurance producer license which authorizes the limited lines

149 travel insurance producer to sell, solicit, or negotiate travel insurance through a licensed
150 insurer.

151 (B) As a prerequisite for issuance of a limited license under this subsection, there shall
152 be filed with the Commissioner an application for such limited license in a form and
153 manner prescribed by the Commissioner.

154 (C) Notwithstanding any other provision of law, a travel retailer may offer and
155 disseminate travel insurance under a limited lines travel insurance producer business
156 entity license only if the following conditions are met:

157 (i) The limited lines travel insurance producer or travel retailer provides to purchasers
158 of travel insurance:

159 (I) A description of the material terms or the actual material terms of the insurance
160 coverage;

161 (II) A description of the process for filing a claim;

162 (III) A description of the review or cancellation process for the travel insurance
163 policy; and

164 (IV) The identity and contact information of the insurer and limited lines travel
165 insurance producer;

166 (ii) At the time of licensure, the limited lines travel insurance producer shall establish
167 and maintain a register on a form prescribed by the Commissioner of each travel
168 retailer that offers travel insurance on the limited lines travel insurance producer's
169 behalf. The register shall be maintained and updated by the limited lines travel
170 insurance producer and shall include the name, address, and contact information of
171 the travel retailer and an officer or person who directs or controls the travel retailer's
172 operations and the travel retailer's federal tax identification number. The limited lines
173 travel insurance producer shall submit such register to the Insurance Department upon
174 reasonable request. The limited lines travel insurance producer shall also certify that
175 the travel retailer registered complies with 18 U.S.C. Section 1033. The grounds for

176 the suspension and revocation and the penalties applicable to resident insurance
177 providers shall be applicable to limited lines travel insurance producers and travel
178 retailers;

179 (iii) The limited lines travel insurance producer shall designate one of its employees
180 who is a licensed individual producer as the person responsible for the limited lines
181 travel insurance producer's compliance with the travel insurance laws and rules and
182 regulations of this state;

183 (iv) The employee designated as provided in division (iii) of this subparagraph,
184 president, secretary, treasurer, and any other officer or person who directs or controls
185 the limited lines travel insurance producer's insurance operations shall comply with
186 the fingerprinting requirements applicable to insurance producers in the resident state
187 of the limited lines travel insurance producer;

188 (v) The limited lines travel insurance producer shall pay all applicable insurance
189 producer licensing fees as set forth in applicable state law;

190 (vi) The limited lines travel insurance producer shall require each employee or
191 authorized representative of the travel retailer whose duties include offering and
192 disseminating travel insurance to receive a program of instruction or training, which
193 may be subject to review by the Commissioner. The training material shall, at a
194 minimum, contain instructions on the types of insurance offered, ethical sales
195 practices, and required disclosures to prospective customers; and

196 (vii) No prelicensing examination or continuing education shall be required for
197 issuance of a limited license pursuant to this subsection.

198 (D) Any travel retailer offering or disseminating travel insurance shall make available
199 to prospective purchasers brochures or other written materials that:

200 (i) Provide the identity and contact information of the insurer and the limited lines
201 travel insurance producer;

202 (ii) Explain that the purchase of travel insurance is not required in order to purchase
203 any other product or service from the travel retailer; and

204 (iii) Explain that an unlicensed travel retailer is permitted to provide general
205 information about the insurance offered by the travel retailer, including a description
206 of the coverage and price, but is not qualified or authorized to answer technical
207 questions about the terms and conditions of the insurance offered by the travel retailer
208 or to evaluate the adequacy of the customer's existing insurance coverage.

209 (E) A travel retailer employee or authorized representative that is not licensed as an
210 insurance producer shall not:

211 (i) Evaluate or interpret the technical terms, benefits, and conditions of the offered
212 travel insurance coverage;

213 (ii) Evaluate or provide advice concerning a prospective purchaser's existing
214 insurance coverage; or

215 (iii) Hold itself out as a licensed insurer, licensed producer, or insurance expert.

216 (3) Notwithstanding any other provision of law, a travel retailer whose insurance related
217 activities, and those of its employees or authorized representatives, are limited to offering
218 and disseminating travel insurance on behalf of and under the direction of a limited lines
219 travel insurance producer meeting the conditions stated in this subsection shall be
220 authorized to do so and receive related compensation upon registration by the limited
221 lines travel insurance producer as provided in subparagraph (C) of paragraph (2) of this
222 subsection.

223 ~~(4) Travel insurance may be provided under an individual policy or under a group or~~
224 ~~master policy.~~

225 ~~(5)~~(4) As the insurer designee, the limited lines travel insurance producer shall be
226 responsible for the acts of the travel retailer and authorized representative and shall use
227 reasonable means to ensure compliance by the travel retailer with this subsection.

228 ~~(6)~~(5) The limited lines travel insurance producer and any travel retailer or authorized
229 representative offering and disseminating travel insurance under the limited lines travel
230 insurance producer's license shall be subject to the unfair trade practices provisions under
231 Article 1 of Chapter 6 of this title and to the other provisions of this article relating to
232 insurance producers.

233 (6)(A) The requirements of this subsection shall apply to travel insurance which covers
234 any resident of this state; is sold, solicited, negotiated, or offered in this state; or for
235 which policies and certificates are delivered or issued for delivery in this state;
236 provided, however, that such requirements shall not apply to cancellation fee waivers
237 and travel assistance services, except as expressly provided in this subsection.

238 (B) All other applicable provisions of the state's insurance laws shall continue to apply
239 to travel insurance except that the specific provisions of this subsection shall supersede
240 any general provisions of law that would otherwise be applicable to travel insurance.

241 (7) Any person licensed in a major line of authority as an insurance producer shall be
242 authorized to sell, solicit, and negotiate travel insurance. A property and casualty
243 insurance producer shall not be required to become appointed by an insurer in order to
244 sell, solicit, or negotiate travel insurance.

245 (8)(A) Each travel insurer shall pay the tax levied by Code Section 33-8-4 with respect
246 to travel insurance premiums paid by any of the following:

247 (i) An individual primary policyholder who is a resident of this state;

248 (ii) A primary certificate holder who is a resident of this state who elects coverage
249 under a group travel insurance policy; or

250 (iii) A blanket travel insurance policyholder that is a resident in or has its principal
251 place of business or the principal place of business of an affiliate or subsidiary that
252 has purchased blanket travel insurance in this state for eligible blanket group
253 members, subject to any apportionment rules which apply to the insurer across

254 multiple taxing jurisdictions or that permits the insurer to allocate premiums on an
255 apportioned basis in a reasonable and equitable manner in such jurisdictions.

256 (B) Each travel insurer shall:

257 (i) Document the state of residence or principal place of business of the policyholder
258 or certificate holder, as described in subparagraph (A) of this paragraph; and

259 (ii) Report as premiums only the amount allocable to travel insurance and shall not
260 report any amounts received for travel assistance services or cancellation fee waivers.

261 (9) A travel protection plan may be offered for one price for the combined features that
262 the travel protection plan offers in this state if:

263 (A) The travel protection plan clearly discloses to the consumer at or prior to the time
264 of purchase that it includes travel insurance, travel assistance services, and cancellation
265 fee waivers, as applicable, and provides information and an opportunity at or prior to
266 the time of purchase for the consumer to obtain additional information regarding the
267 features and pricing of each; and

268 (B) The fulfillment materials:

269 (i) Describe and delineate the travel insurance, travel assistance services, and
270 cancellation fee waivers in the travel protection plan; and

271 (ii) Include the travel insurance disclosures and the contact information for persons
272 providing travel assistance services and cancellation fee waivers, as applicable.

273 (10)(A) Offering or selling a travel insurance policy that could never result in payment
274 of any claims for any insured under the policy is considered an unfair trade practice
275 under Chapter 6 of this title.

276 (B)(i) All documents provided to consumers prior to the purchase of travel insurance,
277 including but not limited to sales materials, advertising materials, and marketing
278 materials, shall be consistent with the travel insurance policy itself, which shall
279 include but not be limited to respective forms, endorsements, policies, rate filings, and
280 certificates of insurance.

281 (ii) For travel insurance policies or certificates that contain preexisting condition
282 exclusions, information and an opportunity to learn more about the preexisting
283 condition exclusions shall be provided at some point prior to the time of purchase and
284 in the coverage's fulfillment materials.

285 (iii) The fulfillment materials and the information described in division (f)(2)(c)(i)
286 of this Code section shall be provided to a policyholder or primary certificate holder
287 as soon as practicable following the purchase of a travel protection plan. Unless the
288 insured has either started a covered trip or filed a claim under the travel insurance
289 coverage, a policyholder or primary certificate holder may cancel a policy or
290 certificate for a full refund of the travel protection plan price from the date of
291 purchase of a travel protection plan until at least:

292 (I) Fifteen days following the date of delivery of the travel protection plan's
293 fulfillment materials by postal mail; or

294 (II) Ten days following the date of delivery of the travel protection plan's
295 fulfillment materials by means other than postal mail.

296 For the purposes of this division, the term 'delivery' means handing fulfillment
297 materials to the policyholder or primary certificate holder or sending fulfillment
298 materials by postal mail or electronically to the policyholder or primary certificate
299 holder.

300 (iv) Each company shall disclose in the policy documentation and fulfillment
301 materials whether the travel insurance is primary or secondary to other applicable
302 coverage.

303 (v) If travel insurance is marketed directly to a consumer through an insurer's website
304 or by others through an aggregator site, it shall not be considered an unfair trade
305 practice or other violation of law if an accurate summary or short description of
306 coverage is provided on the website, so long as the consumer has electronic access to
307 the full provisions of the policy.

308 (C) A person offering, soliciting, or negotiating travel insurance or travel protection
309 plans on an individual or group basis shall not do so by using negative option or opt out
310 that would require a consumer to take an affirmative action to deselect coverage such
311 as unchecking a box on an electronic form when the consumer purchases a trip.

312 (D) It shall be considered an unfair trade practice to market blanket travel insurance
313 coverage as being free.

314 (E) If a consumer's destination jurisdiction requires insurance coverage, it shall not be
315 considered an unfair trade practice to require such consumer to choose between the
316 following options as a condition of purchasing a trip or travel package:

317 (i) Purchasing the coverage required by the destination jurisdiction through the travel
318 retailer or limited lines travel insurance producer supplying the trip or travel package;

319 or

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

322 (11)(A) Notwithstanding any provision of this title to the contrary, a person shall not
323 act or represent itself as a travel administrator for travel insurance in this state unless
324 such person:

325 (i) Is a licensed property and casualty insurance producer in this state for activities
326 permitted under such producer's license;

327 (ii) Holds a valid managing general agent (M.A.) license in this state; or

328 (iii) Holds a valid third-party administrator (TA) license in this state.

329 (B) A travel administrator and its employees shall be exempt from the licensing
330 requirements provided in paragraph (4) of subsection (a) of Code Section 33-23-4,
331 relating to adjuster licensing, for travel insurance that such travel administrator and its
332 employees administer.

333 (C) An insurer is responsible for the acts of a travel administrator administering travel
334 insurance underwritten by the insurer and ensuring that the travel administrator

335 maintains all books and records relevant to the insurer to be made available by the
336 travel administrator to the Commissioner upon request.

337 (12)(A) Notwithstanding any provision of this title to the contrary, travel insurance
338 shall be classified and filed for purposes of rates and forms as marine and transportation
339 insurance; provided, however, that travel insurance that provides coverage for sickness,
340 accident, disability, or death occurring during travel, either exclusively or in
341 conjunction with related coverages of emergency evacuation or repatriation of remains,
342 or incidental limited property and casualty benefits, such as baggage or trip
343 cancellation, may be filed by an authorized insurer under either an accident and health
344 line of insurance or as marine and transportation insurance.

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

346 (C) Eligibility and underwriting standards for travel insurance may be developed and
347 provided based on travel protection plans designed for individual or identified
348 marketing or distribution channels, provided that those standards also meet the state's
349 underwriting standards for marine and transportation insurance."

350

351 **SECTION 3.**

352 This Act shall become effective upon its approval by the Governor or upon its becoming law
353 without such approval.

354 **SECTION 4.**

355 All laws and parts of laws in conflict with this Act are repealed.