

Chapter 198

(Senate Bill 652)

AN ACT concerning

Property and Casualty Insurance – Travel Insurance – Regulation

FOR the purpose of specifying that a certain insurer that offers or sells a travel insurance policy is required to pay a certain premium tax on certain premiums paid by certain persons; requiring a travel insurer to document the state of residence or principal place of business of the policyholder or certificate holder for certain purposes; specifying the state of residence for different types of policies; requiring travel insurance to be classified and filed as inland marine insurance; providing for the scope and construction of certain coverage; providing that eligibility and underwriting standards for travel insurance may be developed and provided based on certain travel protection plans and certain applicable provisions of law; providing that a travel protection plan may be offered for one price under certain circumstances; subjecting a person that offers or sells travel insurance to certain provisions of law concerning unfair trade practices, with certain exceptions; making it an unfair or deceptive trade practice for a person to offer or sell a travel insurance policy that could never result in a certain payment; requiring that documents provided to a consumer before the purchase of travel insurance be consistent with certain travel insurance policy documents; requiring that a travel insurance policy or certificate containing a certain preexisting condition exclusion clearly disclose the exclusion in a certain manner; providing that a certain policyholder or certificate holder has at least a certain number of days to review and cancel a certain travel insurance policy or certificate under certain circumstances; requiring an insurer, on the cancellation of the policy or certificate within a certain time period, to provide the policy or certificate holder a certain refund except under certain circumstances; requiring that certain material disclose whether the travel insurance is primary or secondary to other applicable insurance coverage; providing that travel insurance is not subject to coordination of benefits for certain health insurance; providing that it is not an unfair or deceptive trade practice if travel insurance is marketed directly to a consumer through an insurer's website or by others through an aggregator site under certain circumstances; prohibiting a person from offering or selling travel insurance or a travel protection plan using a certain negative option or ~~opt-out~~ opt out provision; providing that it is not an unfair or deceptive trade practice for a person to include blanket travel insurance with the purchase of a trip under certain circumstances; ~~prohibiting a person from acting or representing itself as a travel administrator except under certain circumstances; exempting a travel administrator and certain employees from certain licensing requirements; authorizing the Maryland Insurance Commissioner to conduct certain investigations or examinations and take certain actions following notice and a hearing for certain purposes;~~ authorizing the Commissioner to adopt certain regulations; altering certain definitions; defining certain terms; providing for the construction of certain

terms; providing for the application of this Act; and generally relating to the regulation of travel insurance.

BY repealing and reenacting, without amendments,

Article – Insurance

Section 1–101(a) and 10–101(a), (k), and (p)

Annotated Code of Maryland

(2017 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 1–101(z), 6–102, and 10–101(j) and (o)

Annotated Code of Maryland

(2017 Replacement Volume)

BY adding to

Article – Insurance

Section 11–801 to be under the new subtitle “Subtitle 8. Travel Insurance Premium Rating Review”; and 19–1001 through ~~19–1007~~ 19–1005 to be under the new subtitle “Subtitle 10. Travel Insurance”

Annotated Code of Maryland

(2017 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Insurance

1–101.

(a) In this article the following words have the meanings indicated.

(z) (1) “Marine insurance” includes:

(i) insurance against loss or damage in connection with any risk of navigation, transit, or transportation, including war risks, marine builder’s risks and personal property floater risks, to vessels, craft, aircraft, automobiles, trailers, or vehicles of any kind, as well as all goods, freight, cargoes, merchandise, effects, disbursements, profits, money, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests, and all other kinds of property and interests:

1. on or under water, on land, or in the air;

2. while being assembled, packed, crated, baled, compressed, or similarly prepared for shipment or while awaiting shipment; or

3. during any delay, storage, transshipment, or incidental reshipment;

(ii) except as provided in paragraph (2) of this subsection, insurance against:

1. loss or damage to a person or property in connection with or as part of marine, inland marine, transit, or transportation insurance arising out of or in connection with the construction, repair, operation, maintenance, or use of the subject matter of the insurance; and

2. legal liability of the insured for loss of or damage to the person or property;

(iii) insurance against loss or damage to precious stones, jewels, jewelry, gold, silver and other precious metals, whether used in business or trade or otherwise or whether in course of transportation or otherwise; [and]

(iv) except as provided in paragraph (2) of this subsection, insurance against loss or damage to bridges, tunnels, other instrumentalities of transportation and communication, auxiliary facilities and related equipment, piers, wharves, docks, slips, other aids to navigation and transportation, dry docks, and marine railways; **AND**

(V) TRAVEL INSURANCE, AS DEFINED IN § 10-101 OF THIS ARTICLE.

(2) "Marine insurance" does not include:

(i) life insurance, surety bonds, or insurance against loss because of bodily injury to a person arising out of ownership, maintenance, or use of an automobile, **UNLESS A PART OF TRAVEL INSURANCE, AS DEFINED IN § 10-101 OF THIS ARTICLE;** or

(ii) insurance against loss or damage to buildings that are instrumentalities of transportation and communication, their furniture and furnishings, and fixed contents and supplies stored in the buildings.

6-102.

(a) A tax is imposed on all new and renewal gross direct premiums of each person subject to taxation under this subtitle that are:

(1) allocable to the State; and

(2) written during the preceding calendar year.

(b) Premiums to be taxed include:

(1) the consideration for a surety contract, guaranty contract, or annuity contract;

(2) gross receipts received as a result of capitation payments, supplemental payments, and bonus payments, made to a managed care organization for provider services to an individual who is enrolled in a managed care organization;

(3) subscription charges or other amounts paid to a for-profit health maintenance organization on a predetermined periodic rate basis by a person other than a person subject to the tax under this subtitle as compensation for providing health care services to members;

(4) dividends on life insurance policies that have been applied to buy additional insurance or to shorten the period during which a premium is payable; [and]

(5) the part of the gross receipts of a title insurer that is derived from insurance business or guaranty business; **AND**

(6) THE AMOUNT ALLOCABLE TO TRAVEL INSURANCE, EXCLUDING ANY AMOUNT RECEIVED FOR TRAVEL ASSISTANCE SERVICES OR CANCELLATION FEE WAIVERS, SOLD TO:

(I) AN INDIVIDUAL PRIMARY POLICYHOLDER WHO IS A RESIDENT OF THE STATE;

(II) A PRIMARY CERTIFICATE HOLDER WHO:

1. IS A RESIDENT OF THE STATE; AND

2. ~~WHO~~ ELECTS COVERAGE UNDER A GROUP TRAVEL INSURANCE POLICY; ~~AND~~ OR

(III) A BLANKET TRAVEL INSURANCE POLICYHOLDER THAT:

1. IS A RESIDENT OF THE STATE OR HAS ITS PRINCIPAL PLACE OF BUSINESS OR THE PRINCIPAL PLACE OF AN AFFILIATE OR SUBSIDIARY IN THE STATE; AND

2. HAS PURCHASED BLANKET TRAVEL INSURANCE IN THE STATE FOR ELIGIBLE BLANKET GROUP MEMBERS, SUBJECT TO ANY APPORTIONMENT RULES THAT:

A. APPLY TO THE INSURER ACROSS MULTIPLE TAXING JURISDICTIONS; OR

B. ALLOW THE INSURER TO ALLOCATE PREMIUMS ON AN APPORTIONED BASIS IN A REASONABLE AND EQUITABLE MANNER IN THOSE JURISDICTIONS.

(c) Premiums not to be taxed include:

(1) premiums on policies covering weekly disability benefits on which premiums are payable weekly; or

(2) credits allowed on premiums under policies of industrial insurance because of payment being made to the home office or a branch office of the insurer.

(d) (1) Gross direct premiums or parts of gross direct premiums that are derived from or reasonably attributable to insurance business in the State shall be allocated to the State.

(2) By regulation, the Commissioner may require or allow a method of allocating gross direct premiums written by a person subject to taxation under this subtitle that justly and fairly determines the part of the gross direct premiums that is derived from or reasonably attributable to the person's insurance business in the State.

(e) (1) Funds accepted by a life insurer under a group contract that provides for an accumulation of funds to buy annuities at future dates may be considered as "gross premiums written":

(i) on receipt of the funds; or

(ii) on the actual application of the funds to buy annuities.

(2) Any funds taxed on receipt and any interest later credited to those funds are not subject to taxation on the purchase of annuities.

(3) Any interest credited to funds that are not taxed on receipt also shall be included in "gross premiums written".

(4) Each life insurer shall elect between alternatives in paragraph (1) of this subsection.

(5) A life insurer may not change an election between alternatives in paragraph (1) of this subsection without the consent of the Commissioner.

(6) If funds that have been taxed as gross premiums are withdrawn before actually applied to buy annuities, the funds are eligible to be included as returned premiums if otherwise eligible under § 6-104(a)(1) of this subtitle.

(F) FOR PURPOSES OF DETERMINING THE PREMIUMS SUBJECT TO TAXATION UNDER SUBSECTION (B)(6) OF THIS SECTION, A TRAVEL INSURER SHALL DOCUMENT THE STATE OF RESIDENCE ~~OR PRINCIPAL PLACE OF BUSINESS OF THE POLICYHOLDER OR CERTIFICATE HOLDER~~, WHICH SHALL BE:

(1) FOR INDIVIDUAL POLICIES, THE PRIMARY POLICYHOLDER'S STATE, AS SPECIFIED BY THE PRIMARY POLICYHOLDER DURING THE PURCHASE OF THE POLICY;

(2) FOR GROUP POLICIES, THE PRIMARY CERTIFICATE HOLDER'S STATE, AS SPECIFIED DURING THE PURCHASE OF THE COVERAGE; OR

(3) FOR BLANKET POLICIES, THE STATE OF THE PRINCIPAL PLACE OF BUSINESS OF THE PRIMARY BLANKET POLICYHOLDER, AFFILIATE, OR SUBSIDIARY, AS SPECIFIED DURING THE PURCHASE OF THE POLICY.

10-101.

(a) In this subtitle the following words have the meanings indicated.

(j) "Limited lines travel insurance producer" means, with respect to travel insurance:

(1) a licensed managing general agent ~~or third party administrator~~; ~~[or]~~

(2) a licensed insurance producer [or], INCLUDING A limited lines insurance producer; ~~OR~~

~~(3) A TRAVEL ADMINISTRATOR.~~

(k) "Offer and disseminate" means, with respect to limited lines travel insurance, to:

(1) provide general information, including a description of coverage and price;

(2) process applications; and

(3) collect premiums.

(o) (1) “Travel insurance” means insurance coverage for personal risk incident to planned travel, including:

(i) interruption or cancellation of a trip or an event;

(ii) loss of baggage or personal effects;

(iii) damage to accommodations or a rental vehicle; [or]

(iv) sickness, accident, disability, or death occurring during travel~~;~~, if issued as incidental to the coverage provided by item (i), (ii), ~~or~~ (iii), (V), (VI), OR (VII) of this paragraph~~;~~;

(V) EMERGENCY EVACUATION;

(VI) REPATRIATION OF REMAINS; AND

(VII) ANY OTHER CONTRACTUAL OBLIGATIONS TO INDEMNIFY OR PAY A SPECIFIED AMOUNT TO THE TRAVELER ON DETERMINABLE CONTINGENCIES RELATED TO TRAVEL AS THE COMMISSIONER APPROVES.

(2) “Travel insurance” does not include a major medical plan that provides comprehensive medical protection for a traveler on a trip lasting 6 months or longer, such as an individual working outside the United States or military personnel being deployed.

(p) “Travel retailer” means a business entity that makes, arranges, or offers travel services.

SUBTITLE 8. TRAVEL INSURANCE PREMIUM RATING REVIEW.

11-801.

(A) IN THIS SECTION, “TRAVEL INSURANCE” HAS THE MEANING STATED IN § 10-101 OF THIS ARTICLE.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, TRAVEL INSURANCE SHALL BE CLASSIFIED AND FILED FOR PURPOSES OF RATES AND FORMS UNDER AN INLAND MARINE LINE OF INSURANCE.

(C) TRAVEL INSURANCE MAY BE IN THE FORM OF AN INDIVIDUAL, A GROUP, OR A BLANKET POLICY.

(D) ELIGIBILITY AND UNDERWRITING STANDARDS FOR TRAVEL INSURANCE MAY BE DEVELOPED AND PROVIDED BASED ON TRAVEL PROTECTION PLANS DESIGNED FOR INDIVIDUAL OR IDENTIFIED MARKETING OR DISTRIBUTION

CHANNELS IF THOSE STANDARDS ALSO MEET THE STATE'S UNDERWRITING STANDARDS FOR INLAND MARINE LINES OF INSURANCE AND APPLICABLE PROVISIONS OF § 27-501 OF THIS ARTICLE.

SUBTITLE 10. TRAVEL INSURANCE.

19-1001.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "AFFILIATED INSURER" MEANS:

(1) AN INSURER IN THE SAME CORPORATE SYSTEM AS THE INSURER'S PARENT; OR

(2) A MEMBER ORGANIZATION HAVING COMMON OWNERSHIP, CONTROL, OPERATION, OR MANAGEMENT WITH THE INSURER.

(C) "AGGREGATOR SITE" MEANS A WEBSITE THAT PROVIDES ACCESS TO INFORMATION REGARDING INSURANCE PRODUCTS FROM MORE THAN ONE INSURER, INCLUDING PRODUCT AND INSURER INFORMATION, FOR USE IN COMPARISON SHOPPING.

(D) "BLANKET TRAVEL INSURANCE" MEANS A POLICY OF TRAVEL INSURANCE ISSUED TO ANY ELIGIBLE GROUP PROVIDING COVERAGE FOR SPECIFIC CLASSES OF PERSONS DEFINED IN THE POLICY WITH COVERAGE PROVIDED TO ALL MEMBERS OF THE ELIGIBLE GROUP WITHOUT A SEPARATE CHARGE TO INDIVIDUAL MEMBERS OF THE ELIGIBLE GROUP.

(E) "CANCELLATION FEE WAIVER" MEANS A NONINSURANCE CONTRACTUAL AGREEMENT BETWEEN A PERSON ENGAGED IN THE BUSINESS OF ARRANGING OR SUPPLYING TRAVEL AND THE PERSON'S CUSTOMER TO WAIVE SOME OR ALL OF A NONREFUNDABLE CANCELLATION FEE PROVISION OF THE SUPPLIER'S UNDERLYING TRAVEL CONTRACT, WITH OR WITHOUT REGARD TO THE REASON FOR CANCELLATION OR FORM OF REIMBURSEMENT.

(F) "ELIGIBLE GROUP" MEANS TWO OR MORE PERSONS WHO ARE ENGAGED IN A COMMON ENTERPRISE OR WHO HAVE AN ECONOMIC, EDUCATIONAL, OR SOCIAL AFFINITY OR RELATIONSHIP, INCLUDING:

(1) ~~(1)~~ AN ENTITY ENGAGED IN THE BUSINESS OF PROVIDING TRAVEL OR TRAVEL SERVICES IN WHICH, WITH REGARD TO ANY PARTICULAR

TRAVEL OR TYPE OF TRAVEL OR TRAVELERS, ALL MEMBERS OR CUSTOMERS OF THE GROUP HAVE COMMON EXPOSURE TO RISK ATTENDANT TO THAT TRAVEL, INCLUDING:

- ~~1.~~ (I) A TOUR OPERATOR;
- ~~2.~~ (II) A LODGING PROVIDER;
- ~~3.~~ (III) A VACATION PROPERTY OWNER;
- ~~4.~~ (IV) A HOTEL OR RESORT;
- ~~5.~~ (V) A TRAVEL CLUB;
- ~~6.~~ (VI) A TRAVEL AGENCY;
- ~~7.~~ (VII) A PROPERTY MANAGER;
- ~~8.~~ (VIII) A CULTURAL EXCHANGE PROGRAM; ~~AND~~
- ~~9.~~ (IX) A COMMON CARRIER; AND

~~(H) (X) THE OPERATOR, OWNER, OR LESSOR OF A MEANS OF TRANSPORTATION OF PASSENGERS IN WHICH, WITH REGARD TO ANY PARTICULAR TRAVEL OR TYPE OF TRAVEL OR TRAVELERS, ALL MEMBERS OR CUSTOMERS OF THE GROUP HAVE COMMON EXPOSURE TO RISK ATTENDANT TO THAT TRAVEL, INCLUDING:~~

- 1. AN AIRLINE;
- 2. A CRUISE LINE;
- 3. A RAILROAD;
- 4. A STEAMSHIP COMPANY; AND
- 5. A PUBLIC BUS CARRIER;

(2) A COLLEGE, SCHOOL, OR ANY OTHER INSTITUTION OF LEARNING PROVIDING TRAVEL INSURANCE COVERAGE FOR STUDENTS, TEACHERS, EMPLOYEES, OR VOLUNTEERS;

(3) AN EMPLOYER PROVIDING TRAVEL INSURANCE COVERAGE FOR EMPLOYEES, VOLUNTEERS, CONTRACTORS, BOARDS OF DIRECTORS, OR DEPENDENTS, OR GUESTS OF THOSE PERSONS;

(4) A SPORTS TEAM, CAMP, OR SPONSOR OF A SPORTS TEAM OR CAMP PROVIDING TRAVEL INSURANCE COVERAGE FOR PARTICIPANTS, MEMBERS, CAMPERS, EMPLOYEES, OFFICIALS, SUPERVISORS, OR VOLUNTEERS;

(5) A RELIGIOUS, CHARITABLE, RECREATIONAL, EDUCATIONAL, OR CIVIC ORGANIZATION OR BRANCH OF THE RELIGIOUS, CHARITABLE, RECREATIONAL, EDUCATIONAL, OR CIVIC ORGANIZATION PROVIDING TRAVEL INSURANCE COVERAGE FOR MEMBERS, PARTICIPANTS, OR VOLUNTEERS;

(6) A FINANCIAL INSTITUTION OR FINANCIAL INSTITUTION VENDOR, OR PARENT HOLDING COMPANY, TRUSTEE, OR AGENT OF, OR DESIGNATED BY, A FINANCIAL INSTITUTION OR FINANCIAL INSTITUTION VENDOR, PROVIDING TRAVEL INSURANCE COVERAGE FOR ACCOUNT HOLDERS, CREDIT CARD HOLDERS, DEBTORS, GUARANTORS, OR PURCHASERS;

(7) AN INCORPORATED OR UNINCORPORATED ASSOCIATION, INCLUDING A LABOR UNION, THAT:

(I) HAS A COMMON INTEREST, CONSTITUTION, AND BYLAWS;

(II) IS ORGANIZED AND MAINTAINED IN GOOD FAITH FOR PURPOSES OTHER THAN OBTAINING INSURANCE FOR MEMBERS OR PARTICIPANTS OF THE ASSOCIATION; AND

(III) PROVIDES TRAVEL INSURANCE COVERAGE FOR MEMBERS OF THE ASSOCIATION;

(8) A TRUST OR THE TRUSTEES OF A FUND, SUBJECT TO THE COMMISSIONER'S AUTHORIZING THE USE OF A TRUST AND THE STATE'S PREMIUM TAX PROVISIONS UNDER § 6-102 OF THIS ARTICLE:

(I) ESTABLISHED, CREATED, OR MAINTAINED FOR THE BENEFIT OF MEMBERS, EMPLOYEES, OR CUSTOMERS OF AN ASSOCIATION DESCRIBED UNDER ITEM (7) OF THIS SUBSECTION; AND

(II) PROVIDING TRAVEL INSURANCE COVERAGE FOR MEMBERS, EMPLOYEES, OR CUSTOMERS OF THE ASSOCIATION;

(9) AN ENTERTAINMENT PRODUCTION COMPANY PROVIDING TRAVEL INSURANCE COVERAGE FOR PARTICIPANTS, VOLUNTEERS, AUDIENCE MEMBERS, CONTESTANTS, OR WORKERS;

(10) A VOLUNTEER FIRE DEPARTMENT, AN AMBULANCE, A RESCUE, A POLICE, A COURT, OR ANY OTHER VOLUNTEER AGENCY HAVING JURISDICTION AS A FIRST AID OR CIVIL DEFENSE GROUP AND PROVIDING TRAVEL INSURANCE COVERAGE FOR MEMBERS, PARTICIPANTS, OR VOLUNTEERS;

(11) A PRESCHOOL, A DAY CARE INSTITUTION FOR CHILDREN OR ADULTS, OR A SENIOR CITIZEN CLUB PROVIDING TRAVEL INSURANCE COVERAGE FOR ATTENDEES OR PARTICIPANTS;

(12) AN AUTOMOBILE OR TRUCK RENTAL OR LEASING COMPANY:

(I) PROVIDING TRAVEL INSURANCE COVERAGE FOR INDIVIDUALS WHO MAY BECOME RENTERS, LESSEES, OR PASSENGERS DEFINED BY THE TRAVEL STATUS OF THE INDIVIDUALS ON THE RENTED OR LEASED VEHICLES; AND

(II) IF THE COMMON CARRIER, OPERATOR, OWNER, OR LESSOR OF A MEANS OF TRANSPORTATION, OR THE AUTOMOBILE OR TRUCK RENTAL OR LEASING COMPANY, IS THE POLICYHOLDER OR CERTIFICATE HOLDER OF THE TRAVEL INSURANCE POLICY; AND

(13) ANY OTHER GROUP FOR WHICH THE COMMISSIONER DETERMINES THAT:

(I) THE MEMBERS OF THE GROUP ARE ENGAGED IN A COMMON ENTERPRISE OR HAVE AN ECONOMIC, EDUCATIONAL, OR SOCIAL AFFINITY OR RELATIONSHIP; AND

(II) THE ISSUANCE OF THE POLICY WOULD NOT BE CONTRARY TO THE BEST INTERESTS OF THE PUBLIC.

(G) “FULFILLMENT MATERIAL” MEANS DOCUMENTATION SENT TO THE PURCHASER OF A TRAVEL PROTECTION PLAN CONFIRMING THE PURCHASE AND PROVIDING THE TRAVEL PROTECTION PLAN’S ~~COVERAGE AND~~ ASSISTANCE AND COVERAGE DETAILS, INCLUDING ACCESS TO THE POLICY OR CERTIFICATE OF COVERAGE, AS APPLICABLE.

(H) “GROUP TRAVEL INSURANCE” MEANS TRAVEL INSURANCE THAT PROVIDES COVERAGE FOR CERTIFICATE HOLDERS OF AN ELIGIBLE GROUP UNDER A TRAVEL INSURANCE POLICY ISSUED TO A POLICYHOLDER.

(I) “LIMITED LINES TRAVEL INSURANCE PRODUCER” HAS THE MEANING STATED IN § 10-101 OF THIS ARTICLE.

(J) “OFFER AND DISSEMINATE” HAS THE MEANING STATED IN § 10-101 OF THIS ARTICLE.

~~(K) (1) “TRAVEL ADMINISTRATOR” MEANS A PERSON THAT, IN CONNECTION WITH TRAVEL INSURANCE:~~

~~(I) DIRECTLY OR INDIRECTLY UNDERWRITES POLICIES;~~

~~(II) COLLECTS CHARGES, COLLATERAL, OR PREMIUMS; OR~~

~~(III) ADJUSTS OR SETTLES CLAIMS.~~

~~(2) “TRAVEL ADMINISTRATOR” DOES NOT INCLUDE A PERSON WHOSE ACTIONS IN CONNECTION WITH TRAVEL INSURANCE ARE LIMITED TO:~~

~~(I) WORKING FOR A TRAVEL ADMINISTRATOR TO THE EXTENT THAT THE PERSON’S ACTIVITIES ARE SUBJECT TO THE SUPERVISION AND CONTROL OF THE TRAVEL ADMINISTRATOR;~~

~~(II) AS AN INSURANCE PRODUCER, SELLING INSURANCE OR ENGAGING IN ADMINISTRATIVE AND CLAIMS RELATED ACTIVITIES WITHIN THE SCOPE OF THE PRODUCER’S LICENSE;~~

~~(III) AS A TRAVEL RETAILER, OFFERING AND DISSEMINATING TRAVEL INSURANCE, IF THE TRAVEL RETAILER IS REGISTERED UNDER THE LICENSE OF A LIMITED LINES TRAVEL INSURANCE PRODUCER IN ACCORDANCE WITH THIS SUBTITLE;~~

~~(IV) ADJUSTING OR SETTLING CLAIMS IN THE NORMAL COURSE OF THAT INDIVIDUAL’S PRACTICE OR EMPLOYMENT AS AN ATTORNEY, IF THE INDIVIDUAL DOES NOT COLLECT CHARGES, COLLATERAL, OR PREMIUMS; OR~~

~~(V) WITH RESPECT TO A BUSINESS ENTITY, BEING AFFILIATED WITH A LICENSED INSURER WHILE ACTING AS A TRAVEL ADMINISTRATOR FOR THE DIRECT AND ASSUMED INSURANCE BUSINESS OF AN AFFILIATED INSURER.~~

~~(L)~~ (K) (1) “TRAVEL ASSISTANCE ~~SERVICE~~ SERVICES” MEANS A NONINSURANCE ~~SERVICE~~ SERVICES;

~~(I) FOR WHICH THE CONSUMER IS NOT INDEMNIFIED BASED ON A FORTUITOUS EVENT; AND~~

~~(II) THAT DOES DO NOT RESULT IN ANY TRANSFER OR SHIFTING OF RISK THAT WOULD CONSTITUTE THE BUSINESS OF INSURANCE.~~

(2) "TRAVEL ASSISTANCE ~~SERVICE~~ SERVICES" INCLUDES:

- (I) A SECURITY ADVISORY SERVICE;
- (II) A DESTINATION INFORMATION SERVICE;
- (III) A VACCINATION AND IMMUNIZATION INFORMATION SERVICE;
- (IV) A TRAVEL RESERVATION SERVICE;
- (V) AN ENTERTAINMENT SERVICE;
- (VI) AN ACTIVITY AND EVENT PLANNING SERVICE;
- (VII) A TRANSLATION ASSISTANCE SERVICE;
- (VIII) AN EMERGENCY MESSAGING SERVICE;
- (IX) AN INTERNATIONAL LEGAL AND MEDICAL REFERRAL SERVICE;
- (X) A MEDICAL CASE MONITORING SERVICE;
- (XI) COORDINATION OF TRANSPORTATION ARRANGEMENTS;
- (XII) EMERGENCY CASH TRANSFER ASSISTANCE;
- (XIII) MEDICAL PRESCRIPTION REPLACEMENT ASSISTANCE;
- (XIV) PASSPORT AND TRAVEL DOCUMENT REPLACEMENT ASSISTANCE;
- (XV) LOST LUGGAGE ASSISTANCE;
- (XVI) A CONCIERGE SERVICE; AND

(XVII) ANY OTHER ~~SERVICE SERVICES~~ THAT ~~IS~~ ARE FURNISHED IN CONNECTION WITH PLANNED TRAVEL ~~THAT IS NOT RELATED TO THE ADJUDICATION OF A TRAVEL INSURANCE CLAIM, UNLESS OTHERWISE APPROVED BY THE COMMISSIONER IN A TRAVEL INSURANCE FILING.~~

~~(M)~~ (L) "TRAVEL INSURANCE" HAS THE MEANING STATED IN § 10-101 OF THIS ARTICLE.

~~(N)~~ (M) "TRAVEL PROTECTION PLAN" MEANS A PLAN THAT PROVIDES, IN ADDITION TO TRAVEL INSURANCE:

- (1) ~~A~~ TRAVEL ASSISTANCE ~~SERVICE SERVICES~~; OR
- (2) A CANCELLATION FEE WAIVER.

~~(O)~~ (N) "TRAVEL RETAILER" HAS THE MEANING STATED IN § 10-101 OF THIS ARTICLE.

19-1002.

(A) THE PURPOSE OF THIS SUBTITLE IS TO PROMOTE THE PUBLIC WELFARE BY CREATING A COMPREHENSIVE LEGAL FRAMEWORK WITHIN WHICH TRAVEL INSURANCE MAY BE SOLD IN THE STATE.

(B) (1) THIS SUBTITLE APPLIES TO TRAVEL INSURANCE UNDER POLICIES AND CERTIFICATES DELIVERED OR ISSUED FOR DELIVERY IN THE STATE.

(2) (I) EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS SUBTITLE, THIS SUBTITLE DOES NOT APPLY TO A CANCELLATION FEE WAIVER OR ~~A~~ TRAVEL ASSISTANCE ~~SERVICE SERVICES~~.

(II) THE FOLLOWING MAY NOT BE CONSTRUED TO BE INSURANCE, AS DEFINED IN § 1-101 OF THIS ARTICLE:

1. A CANCELLATION FEE WAIVER; OR
2. ~~A~~ TRAVEL ASSISTANCE ~~SERVICE SERVICES~~.

(C) ALL OTHER APPLICABLE PROVISIONS OF THIS ARTICLE APPLY TO TRAVEL INSURANCE, EXCEPT THAT SPECIFIC PROVISIONS OF THIS SUBTITLE SUPERSEDE ANY GENERAL PROVISIONS OF THIS ARTICLE.

19-1003.

NOTWITHSTANDING § 27-214 OF THIS ARTICLE, TRAVEL PROTECTION PLANS MAY BE OFFERED FOR ONE PRICE FOR THE COMBINED FEATURES THAT THE TRAVEL PROTECTION PLAN OFFERS IN THE STATE IF:

(1) THE TRAVEL PROTECTION PLAN:

(I) CLEARLY DISCLOSES TO THE CONSUMER AT OR BEFORE THE TIME OF PURCHASE THAT THE PLAN INCLUDES TRAVEL INSURANCE AND, AS APPLICABLE, ~~A TRAVEL ASSISTANCE SERVICE~~ SERVICES OR A CANCELLATION FEE WAIVER; AND

(II) PROVIDES INFORMATION AND AN OPPORTUNITY AT OR BEFORE THE TIME OF PURCHASE FOR THE CONSUMER TO OBTAIN ADDITIONAL INFORMATION REGARDING THE FEATURES AND PRICING OF THE TRAVEL INSURANCE, TRAVEL ASSISTANCE ~~SERVICE~~ SERVICES, AND A CANCELLATION FEE WAIVER, AS APPLICABLE; AND

(2) THE FULFILLMENT MATERIAL FOR THE TRAVEL PROTECTION PLAN:

(I) DESCRIBES AND DELINEATES THE TRAVEL INSURANCE, TRAVEL ASSISTANCE ~~SERVICE~~ SERVICES, AND CANCELLATION FEE WAIVER IN THE TRAVEL PROTECTION PLAN;

(II) INCLUDES THE TRAVEL INSURANCE DISCLOSURES REQUIRED UNDER STATE LAW; AND

(III) INCLUDES THE CONTACT INFORMATION FOR THE PERSON PROVIDING THE TRAVEL ASSISTANCE ~~SERVICE~~ SERVICES OR CANCELLATION FEE WAIVER, AS APPLICABLE.

19-1004.

(A) ~~(1)~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON ~~INVOLVED IN OFFERING, SOLICITING, OR NEGOTIATING~~ TRAVEL INSURANCE TO RESIDENTS OF THE STATE IS SUBJECT TO TITLE 27 OF THIS ARTICLE.

~~(2) IF THERE IS A CONFLICT BETWEEN THIS SUBTITLE AND ANY OTHER PROVISION OF THIS ARTICLE CONCERNING THE SALE AND MARKETING OF TRAVEL INSURANCE OR TRAVEL PROTECTION PLANS, THIS SUBTITLE CONTROLS.~~

(B) IT IS AN UNFAIR TRADE PRACTICE UNDER TITLE 27 OF THIS ARTICLE FOR A PERSON TO OFFER OR SELL A TRAVEL INSURANCE POLICY THAT COULD NEVER RESULT IN PAYMENT OF ANY CLAIM FOR ANY INSURED UNDER THE POLICY.

(c) (1) DOCUMENTS PROVIDED TO A CONSUMER BEFORE THE PURCHASE OF TRAVEL INSURANCE, INCLUDING SALES MATERIALS, ADVERTISING MATERIALS, AND MARKETING MATERIALS, SHALL BE CONSISTENT WITH THE TRAVEL INSURANCE POLICY ~~DOCUMENTS~~ ITSELF, INCLUDING FORMS, ENDORSEMENTS, POLICIES, RATE FILINGS, AND CERTIFICATES OF INSURANCE.

(2) ~~A~~ IF A TRAVEL INSURANCE POLICY OR CERTIFICATE ~~THAT~~ CONTAINS A PREEXISTING CONDITION EXCLUSION ~~SHALL CLEARLY DISCLOSE THE EXCLUSION,~~ INFORMATION AND AN OPPORTUNITY TO LEARN MORE ABOUT THE PREEXISTING CONDITION EXCLUSION SHALL BE PROVIDED ANY TIME BEFORE THE TIME OF PURCHASE AND IN THE TRAVEL PROTECTION PLAN'S FULFILLMENT MATERIAL.

(3) (i) AN INSURER SHALL PROVIDE A POLICYHOLDER OR CERTIFICATE HOLDER AT LEAST 10 DAYS AFTER THE LATER OF THE DATE OF PURCHASE OF A TRAVEL PROTECTION PLAN OR THE POLICYHOLDER'S OR CERTIFICATE HOLDER'S RECEIPT, EITHER BY PHYSICAL OR ELECTRONIC MEANS, OF THE TRAVEL PROTECTION PLAN'S FULFILLMENT MATERIAL TO REVIEW AND, IF DESIRED, CANCEL THE POLICY OR CERTIFICATE.

(ii) IF THE POLICYHOLDER OR CERTIFICATE HOLDER CANCELS THE POLICY OR CERTIFICATE WITHIN THE TIME PERIOD UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH, THE INSURER SHALL PROVIDE THE POLICYHOLDER OR CERTIFICATE HOLDER A FULL REFUND OF THE TRAVEL PROTECTION PLAN PRICE UNLESS THE INSURED HAS STARTED THE COVERED TRIP OR FILED A CLAIM UNDER THE TRAVEL INSURANCE COVERAGE.

(4) (i) THE FULFILLMENT MATERIAL SHALL DISCLOSE WHETHER THE TRAVEL INSURANCE IS PRIMARY OR SECONDARY TO OTHER APPLICABLE COVERAGE.

(ii) TRAVEL INSURANCE IS NOT SUBJECT TO COORDINATION OF BENEFITS FOR HEALTH INSURANCE COVERAGE.

(5) SUBJECT TO § 10-122 OF THIS ARTICLE, AN ACTION MAY NOT BE DEEMED AN UNFAIR TRADE PRACTICE IN VIOLATION OF TITLE 27 OF THIS ARTICLE OR OTHER VIOLATION OF LAW IF:

(i) TRAVEL INSURANCE IS MARKETED DIRECTLY TO A CONSUMER THROUGH AN INSURER'S WEBSITE OR BY ANOTHER PERSON THROUGH AN AGGREGATOR SITE;

(II) THE INSURER'S WEBSITE OR AGGREGATOR SITE PROVIDES AN ACCURATE SUMMARY OR SHORT DESCRIPTION OF TRAVEL INSURANCE COVERAGE; AND

(III) THE CONSUMER HAS ACCESS TO THE FULL PROVISIONS OF THE TRAVEL INSURANCE POLICY THROUGH ELECTRONIC MEANS.

~~(D) UNLESS OTHERWISE AUTHORIZED BY FEDERAL OR STATE LAW, A~~ A PERSON OFFERING OR SELLING TRAVEL INSURANCE OR A TRAVEL PROTECTION PLAN MAY NOT OFFER OR SELL THE TRAVEL INSURANCE OR TRAVEL PROTECTION PLAN ON AN INDIVIDUAL OR GROUP BASIS BY USING A NEGATIVE OPTION OR AN ~~OPT-OUT~~ OPT OUT PROVISION THAT REQUIRES A CONSUMER TO TAKE AN AFFIRMATIVE ACTION TO REFUSE COVERAGE, INCLUDING UNCHECKING A BOX ON AN ELECTRONIC FORM, WHEN THE CONSUMER PURCHASES A TRIP.

(E) IT IS NOT AN UNFAIR TRADE PRACTICE UNDER TITLE 27 OF THIS ARTICLE FOR A PERSON TO INCLUDE BLANKET TRAVEL INSURANCE WITH THE PURCHASE OF A TRIP IF THE BLANKET TRAVEL INSURANCE IS NOT MARKETED AS FREE OF CHARGE.

~~19-1005.~~

~~(A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A PERSON MAY NOT ACT AS, OR REPRESENT THAT THE PERSON IS, A TRAVEL ADMINISTRATOR IN THE STATE UNLESS THE PERSON:~~

~~(1) IS A LICENSED PRODUCER FOR PROPERTY AND CASUALTY INSURANCE IN THE STATE WITH AN INLAND MARINE LINE OF AUTHORITY FOR ACTIVITIES PERMITTED UNDER A PRODUCER LICENSE;~~

~~(2) HOLDS A CERTIFICATE OF QUALIFICATION AS A MANAGING GENERAL AGENT UNDER TITLE 8, SUBTITLE 2 OF THIS ARTICLE; OR~~

~~(3) IS REGISTERED AS A THIRD PARTY ADMINISTRATOR UNDER TITLE 8, SUBTITLE 3 OF THIS ARTICLE.~~

~~(B) A TRAVEL ADMINISTRATOR AND THE EMPLOYEES OF THE TRAVEL ADMINISTRATOR ARE EXEMPT FROM THE LICENSING REQUIREMENTS UNDER TITLE 10, SUBTITLE 4 OF THIS ARTICLE FOR TRAVEL INSURANCE CLAIMS.~~

~~19-1006.~~

~~(A) THE COMMISSIONER MAY CONDUCT INVESTIGATIONS OR EXAMINATIONS OF TRAVEL INSURERS, LIMITED LINES TRAVEL INSURANCE~~

~~PRODUCERS, TRAVEL RETAILERS, AND TRAVEL ADMINISTRATORS IN ORDER TO ENFORCE THIS SUBTITLE.~~

~~(B) THE COMMISSIONER MAY TAKE ACTION, FOLLOWING NOTICE AND A HEARING, NECESSARY OR APPROPRIATE TO ENFORCE THIS SUBTITLE, THE COMMISSIONER'S ORDERS, AND STATE LAWS TO PROTECT CONSUMERS OF TRAVEL INSURANCE IN THE STATE IN ACCORDANCE WITH § 2-201 OF THIS ARTICLE.~~

~~19-1007.~~

THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018, and shall apply to all policies of travel insurance and travel protection plans offered, sold, or issued in the State on or after that date.

Approved by the Governor, April 24, 2018.