

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL DRH50083-MH-20A

Short Title: Travel Insurance Amendments. (Public)

Sponsors: Representatives Corbin, Hardister, and Hunter (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO CREATE A COMPREHENSIVE FRAMEWORK FOR THE SALE OF TRAVEL  
3 INSURANCE IN NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 58-33-19 reads as rewritten:

6 "§ 58-33-19. Limited lines travel insurance.

7 (a) As used in this ~~Article, section,~~ the following definitions apply:

8 (1) Limited lines travel insurance producer. – Any of the following:

9 a. A licensed managing general underwriter.

10 b. A licensed managing general agent or third-party administrator.

11 c. A licensed insurance producer as defined by G.S. 58-33-10(7),  
12 including:

13 1. A limited lines producer designated by an insurer as the travel  
14 insurance supervising entity, as set forth in subsection (h) of  
15 this section.

16 2. A limited lines producer appointed by an insurer, as set forth  
17 in G.S. 58-33-40, who acts as a landlord or real estate broker  
18 engaged in the rental or management of residential property for  
19 vacation rental as defined in Chapter 42A of the General  
20 Statutes.

21 d. A travel administrator, as defined in G.S. 58-44B-2.

22 (2) Offer and disseminate. – Providing general information, including a  
23 description of the coverage and price, as well as processing the application,  
24 collecting premiums, and performing other activities that do not require a  
25 license and are permitted by the Department.

26 (3) Travel insurance. – Insurance coverage for the personal risks incident to  
27 planned travel that includes, but is not limited to, the ~~coverages listed in sub-~~  
28 ~~subdivisions a. through d. of this subdivision. Travel insurance does not~~  
29 ~~include major medical plans that provide comprehensive medical protection~~  
30 ~~for travelers with trips lasting six months or longer, including deployed~~  
31 ~~military personnel or those U.S. citizens working overseas as expatriates.~~  
32 ~~{Travel insurance includes:}following coverages:~~

33 a. Interruption or cancellation of trip or event.

34 b. Loss of baggage or personal effects.

35 c. Damages to accommodations or rental vehicles.

36 d. Sickness, accident, disability, or death occurring during travel.



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- 1 e. Emergency evacuation.  
2 f. Repatriation of remains.  
3 g. Any other contractual obligations to indemnify or pay a specified  
4 amount to the traveler upon determinable contingencies related to  
5 travel as approved by the Commissioner.

6 Travel insurance does not include major medical plans that provide  
7 comprehensive medical protection for travelers with trips lasting longer than  
8 six months, including, for example, those working or residing overseas as an  
9 expatriate, or any other product that requires another specific insurance  
10 producer license.

- 11 ~~(4)~~(5) Travel retailer. – A business entity that makes, arranges, or offers ~~travel~~  
12 ~~services~~ planned travel and may offer and disseminate travel insurance as a  
13 service to its customers on behalf of and under the direction of a limited lines  
14 travel insurance producer.

15 (b) An individual or business entity may apply for a limited lines travel insurance  
16 producer license by filing with the Department an application in a form and manner prescribed  
17 by the Commissioner. If issued, the license authorizes the limited lines travel insurance producer  
18 to sell, solicit, or negotiate travel insurance through a licensed insurer.

19 (c) A travel retailer may offer and disseminate travel insurance under a limited lines  
20 travel insurance producer business entity license only if the following conditions are met:

- 21 (1) The limited lines producer or travel retailer provides all of the following to  
22 purchasers of travel insurance:  
23 a. A description of the material terms or the actual material terms of the  
24 insurance coverage.  
25 b. A description of the process for filing a claim.  
26 c. A description of the review or cancellation process for the travel  
27 insurance policy.  
28 d. The identity and contact information of the insurer and limited lines  
29 travel insurance producer.

- 30 (2) At the time of licensure, the limited lines travel insurance producer shall  
31 establish and maintain a register on a form prescribed by the Commissioner  
32 of each travel retailer that offers travel insurance on the limited lines travel  
33 insurance producer's behalf. The register shall be maintained and updated  
34 annually by the limited lines travel insurance producer and shall include the  
35 name, address, and contact information of the travel retailer and an officer or  
36 person who directs or controls the travel retailer's operations, and the travel  
37 retailer's federal Tax Identification Number. The limited lines travel insurance  
38 producer shall submit the register to the Department upon request. The limited  
39 lines producer shall also certify that the travel ~~retailer register complies~~  
40 retailers registered comply with 18 U.S.C. § 1033. The grounds for the  
41 suspension, revocation, and the penalties applicable to resident insurance  
42 producers shall be applicable to the limited lines travel insurance producers  
43 and travel retailers.

- 44 (3) The limited lines travel insurance producer has designated one of its  
45 employees who is a licensed individual producer as the person responsible for  
46 the limited lines travel insurance producer's compliance with this Chapter and  
47 administrative rules adopted by the Commissioner.

- 48 (4) The person designated in subdivision (3) of this subsection and the president,  
49 secretary, treasurer, and any other officer or person who directs or controls the  
50 limited lines travel insurance producer's insurance operations comply with the

- 1 fingerprinting requirements applicable to insurance producers in the resident  
2 state of the limited lines travel insurance producer.
- 3 (5) The limited lines travel insurance producer has paid all applicable insurance  
4 producer licensing fees as set forth in applicable State law.
- 5 (6) The limited lines travel insurance producer requires each employee and  
6 authorized representative of the travel retailer whose duties include offering  
7 and disseminating travel insurance to receive a program of instruction or  
8 training, which may be subject to review by the Commissioner. The training  
9 material shall, at a minimum, contain instructions on the types of insurance  
10 offered, ethical sales practices, and required disclosures to prospective  
11 customers.
- 12 (7) Limited lines travel insurance producers, and those registered under its  
13 license, are exempt from the examination and continuing education  
14 requirements under G.S. 58-33-30, 58-33-32, and 58-33-130.
- 15 (d) Any travel retailer offering or disseminating travel insurance shall make available to  
16 prospective purchasers brochures or other written materials that have been approved by the travel  
17 insurer and include all of the following:
- 18 (1) The identity and contact information of the insurer and the limited lines travel  
19 insurance producer.
- 20 (2) An explanation that the purchase of travel insurance is not required in order  
21 to purchase any other product or service from the travel retailer.
- 22 (3) A disclaimer that an unlicensed travel retailer is permitted to provide general  
23 information about the insurance offered by the travel retailer, including a  
24 description of the coverage and price, but is not qualified or authorized to  
25 answer technical questions about the terms and conditions of the insurance  
26 offered by the travel retailer or to evaluate the adequacy of the customer's  
27 existing insurance coverage.
- 28 (e) A travel retailer's employee or authorized representative who is not licensed as a  
29 limited lines travel insurance producer shall not do any of the following:
- 30 (1) Evaluate or interpret the technical terms, benefits, and conditions of the  
31 offered travel insurance coverage.
- 32 (2) Evaluate or provide advice concerning a prospective purchaser's existing  
33 insurance coverage.
- 34 (3) Hold himself or herself out as a licensed insurer, licensed producer, or  
35 insurance expert.
- 36 (f) ~~A~~ Notwithstanding any other provision in law, a travel retailer, whose insurance  
37 related activities and the activities of its employees and authorized representatives are limited to  
38 offering ~~or~~ and disseminating travel insurance on behalf of and under the direction of a limited  
39 lines travel insurance producer meeting the conditions stated in this section, is authorized to do  
40 so and receive related compensation upon compliance with subdivision (c)(2) of this section by  
41 the limited lines travel insurance producer.
- 42 (g) Travel insurance may be provided ~~under~~ in the form of an individual policy  
43 individual, group, or under a group or master blanket policy.
- 44 (h) As the travel insurance supervising entity, the limited lines travel insurance producer  
45 is responsible for the acts of the travel retailer and shall use reasonable means to ensure  
46 compliance by the travel retailer with this section.
- 47 (i) The limited lines travel insurance producer and any travel retailer offering or  
48 disseminating travel insurance under the limited lines travel insurance producer license shall be  
49 subject to the provisions of Article 63 of this Chapter and to the full enforcement powers of the  
50 Commissioner granted by Article 2 of this Chapter.

1 (j) Any person licensed in a major line of authority as an insurance producer is authorized  
2 to sell, solicit, and negotiate travel insurance. A property and casualty insurance producer is not  
3 required to become appointed by an insurer in order to sell, solicit, or negotiate travel insurance."

4 **SECTION 2.** Chapter 58 of the General Statutes is amended by adding a new Article  
5 to read:

6 "Article 44B.

7 "Travel Insurance.

8 **"§ 58-44B-1. Scope and purpose.**

9 (a) The purpose of this Article is to create a comprehensive legal framework within which  
10 travel insurance may be sold in this State.

11 (b) The requirements of this Article shall apply to travel insurance which covers any  
12 resident of this State sold, solicited, negotiated, or offered in this State and where policies and  
13 certificates are delivered or issued for delivery in this State. It shall not apply to cancellation fee  
14 waivers and travel assistance services, except as expressly provided herein.

15 (c) All other applicable provisions of this Chapter shall continue to apply to travel  
16 insurance except that (i) the specific provisions of this Article shall supersede any general  
17 provisions of law that would otherwise be applicable to travel insurance and (ii) in the event of a  
18 conflict between this Article and other provisions of this Chapter regarding the sale and  
19 marketing of travel insurance and travel protection plans, the provisions of this Article shall  
20 control.

21 **"58-44B-2. Definitions.**

22 As used in this Article, in addition to the definitions in G.S. 58-33-19, the following  
23 definitions apply:

24 (1) **Aggregator site.** – A Web site that provides access to information regarding  
25 insurance products from more than one insurer, including product and insurer  
26 information, for use in comparison shopping.

27 (2) **Blanket travel insurance.** – A policy of travel insurance issued to any eligible  
28 group providing coverage for specific classes of persons defined in the policy  
29 with coverage provided to all members of the eligible group without a separate  
30 charge to individual members of the eligible group.

31 (3) **Cancellation fee waiver.** – A contractual agreement between a supplier of  
32 travel services and its customer to waive some or all of the non-refundable  
33 cancellation fee provisions of the supplier's underlying travel contract with or  
34 without regard to the reason for the cancellation or form of reimbursement. A  
35 cancellation fee waiver is not insurance.

36 (4) **Eligible group.** – Solely for the purposes of travel insurance, two or more  
37 persons who are engaged in a common enterprise, or have an economic,  
38 educational, or social affinity or relationship, including, but not limited to, any  
39 of the following:

40 a. **Any entity engaged in the business of providing travel or travel**  
41 **services, including, but not limited to, tour operators, lodging**  
42 **providers, vacation property owners, hotels and resorts, travel clubs,**  
43 **travel agencies, property managers, cultural exchange programs, and**  
44 **common carriers or the operator, owner, or lessor of a means of**  
45 **transportation of passengers, including, but not limited to, airlines,**  
46 **cruise lines, railroads, steamship companies, and public bus carriers,**  
47 **wherein with regard to any particular travel or type of travel or**  
48 **travelers, all members or customers of the group must have a common**  
49 **exposure to risk attendant to such travel.**

50 b. **Any college, school, or other institution of learning covering students,**  
51 **teachers, or employees or volunteers.**

- 1           c.    Any employer covering any group of employees, volunteers,  
2           contractors, board of directors, dependents, or guests.
- 3           d.    Any sports team, camp, or sponsor thereof covering participants,  
4           members, campers, employees, officials, supervisors, or volunteers.
- 5           e.    Any religious, charitable, recreational, educational, or civic  
6           organization or branch thereof covering any group of members,  
7           participants, or volunteers.
- 8           f.    Any financial institution or financial institution vendor, or parent  
9           holding company, trustee, or agent of or designated by one or more  
10          financial institutions or financial institution vendors, including  
11          accountholders, credit card holders, debtors, guarantors, or purchasers.
- 12          g.    Any incorporated or unincorporated association, including labor  
13          unions, having a common interest, constitution, and bylaws, and  
14          organized and maintained in good faith for purposes other than  
15          obtaining insurance for members or participants of such association  
16          covering its members.
- 17          h.    Any trust or the trustees of a fund established, created or maintained  
18          for the benefit of and covering members, employees, or customers,  
19          subject to the Commissioner's permitting the use of a trust and the  
20          State's premium tax provisions in G.S. 58-44B-3 of one or more  
21          associations meeting the above requirements of sub-subdivision g. of  
22          this subdivision.
- 23          i.    Any entertainment production company covering any group of  
24          participants, volunteers, audience members, contestants, or workers.
- 25          j.    Any volunteer fire department, ambulance, rescue, police, court, or  
26          any first aid, civil defense, or other such volunteer group.
- 27          k.    Preschools, daycare institutions for children or adults, and senior  
28          citizen clubs.
- 29          l.    Any automobile or truck rental or leasing company covering a group  
30          of individuals who may become renters, lessees, or passengers defined  
31          by their travel status on the rented or leased vehicles. The common  
32          carrier, the operator, owner, or lessor of a means of transportation, or  
33          the automobile or truck rental or leasing company, is the policyholder  
34          under a policy to which this section applies.
- 35          m.    Any other group where the Commissioner has determined that the  
36          members are engaged in a common enterprise, or have an economic,  
37          educational, or social affinity or relationship, and that issuance of the  
38          policy would not be contrary to the public interest.
- 39          (5)   Fulfillment materials. – Documentation sent to the purchaser of a travel  
40          protection plan confirming the purchase and providing the travel protection  
41          plan's coverage and assistance details.
- 42          (6)   Group travel insurance. – Travel insurance issued to any eligible group.
- 43          (7)   Primary certificate holder. – Specific to G.S. 58-44B-3, an individual person  
44          who elects and purchases travel insurance under a group policy.
- 45          (8)   Primary policyholder. – Specific to G.S. 58-44B-3, an individual person who  
46          elects and purchases individual travel insurance.
- 47          (9)   Travel administrator. – A person who directly or indirectly underwrites,  
48          collects charges, collateral, or premiums from, or adjusts or settles claims on  
49          residents of this State, in connection with travel insurance, except that a person  
50          shall not be considered a travel administrator if that person's only actions that

1 would otherwise cause it to be considered a travel administrator are among  
2 the following:

- 3 a. A person working for a travel administrator to the extent that the  
4 person's activities are subject to the supervision and control of the  
5 travel administrator.  
6 b. An insurance producer selling insurance or engaged in administrative  
7 and claims related activities within the scope of the producer's license.  
8 c. A travel retailer offering and disseminating travel insurance and  
9 registered under the license of a limited lines travel insurance producer  
10 in accordance with this Article.  
11 d. An individual adjusting or settling claims in the normal course of that  
12 individual's practice or employment as an attorney at law and who  
13 does not collect charges or premiums in connection with insurance  
14 coverage.  
15 e. A business entity that is affiliated with a licensed insurer while acting  
16 as a travel administrator for the direct and assumed insurance business  
17 of an affiliated insurer.

18 (10) Travel assistance services. – Non-insurance services for which the consumer  
19 is not indemnified based on a fortuitous event, and where providing the service  
20 does not result in the transfer or shifting of risk that would constitute the  
21 business of insurance. Travel assistance services include, but are not limited  
22 to, security advisories, destination information, vaccination and immunization  
23 information services, travel reservation services, entertainment, activity and  
24 event planning, translation assistance, emergency messaging, international  
25 legal and medical referrals, medical case monitoring, coordination of  
26 transportation arrangements, emergency cash transfer assistance, medical  
27 prescription replacement assistance, passport and travel document  
28 replacement assistance, lost luggage assistance, concierge services, and any  
29 other service that is furnished in connection with planned travel. Travel  
30 assistance services are not insurance and not related to insurance.

31 (11) Travel protection plans. – Plans that provide one or more of the following:  
32 travel insurance, travel assistance services, and cancellation fee waivers.

33 **§58-44B-3. Premium tax.**

34 (a) A travel insurer shall pay premium tax, as provided in G.S. 105-228.5, on travel  
35 insurance premiums paid by any of the following:

- 36 (1) An individual primary policyholder who is a resident of this State.  
37 (2) A primary certificate holder who is a resident of this State who elects coverage  
38 under a group travel insurance policy.  
39 (3) A blanket travel insurance policyholder that is a resident in, or has its principal  
40 place of business or the principal place of business of an affiliate or subsidiary  
41 that has purchased blanket travel insurance in, this State for eligible blanket  
42 group members, subject to any apportionment rules which apply to the insurer  
43 across multiple taxing jurisdictions or that permits the insurer to allocate  
44 premium on an apportioned basis in a reasonable and equitable manner in  
45 those jurisdictions.

46 (b) A travel insurer shall do all of the following:

- 47 (1) Document the state of residence or principal place of business of the  
48 policyholder or certificate holder, as required in subsection (a).  
49 (2) Report as premium only the amount allocable to travel insurance and not any  
50 amounts received for travel assistance services or cancellation fee waivers.

51 **§58-44B-4. Travel protection plans.**

1 Travel protection plans may be offered for one price for the combined permitted features as  
2 defined in G.S. 58-44B-2 if the plan meets all of the following requirements:

- 3 (1) The travel protection plan clearly discloses to the consumer at or prior to the  
4 time of purchase that it includes travel insurance, travel assistance services,  
5 and cancellation fee waivers as applicable, and provides information and an  
6 opportunity at or prior to the time of purchase for the consumer to obtain  
7 additional information regarding the features and pricing of each.
- 8 (2) The fulfillment materials:
- 9 a. Describe and delineate the travel insurance, travel assistance services,  
10 and cancellation fee waivers in the travel protection plan.
- 11 b. Include the travel insurance disclosures and the contact information  
12 for persons providing travel assistance services and cancellation fee  
13 wavers, as applicable.

14 **"§58-44B-5. Sales practices.**

15 (a) All persons offering travel insurance to residents of this State are subject to Article  
16 63 of this Chapter, except as otherwise provided in this section.

17 (b) Offering or selling a travel insurance policy that could never result in payment of any  
18 claims for any insured under the policy is an unfair trade practice under Article 63 of this Chapter.

19 (c) The following requirements apply to the marketing of travel insurance:

- 20 (1) All documents provided to consumers prior to the purchase of travel  
21 insurance, including, but not limited to, sales materials, advertising materials,  
22 and marketing materials, shall be consistent with the travel insurance policy  
23 itself, including, but not limited to, forms, endorsements, policies, rate filings,  
24 and certificates of insurance.
- 25 (2) For travel insurance policies or certificates that contain pre-existing condition  
26 exclusions, information and an opportunity to learn more about the  
27 pre-existing condition exclusions shall be provided any time prior to the time  
28 of purchase and in the coverage's fulfillment materials.
- 29 (3) The fulfillment materials and the information described in  
30 G.S. 58-33-19(c)(1) shall be provided to a policyholder or certificate holder  
31 as soon as practicable following the purchase of a travel protection plan.  
32 Unless the insured has either started a covered trip or filed a claim under the  
33 travel insurance coverage, a policyholder or certificate holder may cancel a  
34 policy or certificate for a full refund of the travel protection plan price from  
35 the date of purchase of a travel protection plan until at least the earlier of the  
36 following:
- 37 a. Fifteen days following the date of delivery of the travel protection  
38 plan's fulfillment materials by postal mail.
- 39 b. Ten days following the date of delivery of the travel protection plan's  
40 fulfillment materials by means other than postal mail.
- 41 For the purposes of this subdivision, delivery means handing fulfillment  
42 materials to the policyholder or certificate holder or sending fulfillment  
43 materials by postal mail or electronic means to the policyholder or certificate  
44 holder.
- 45 (4) The company shall disclose in the policy documentation and fulfillment  
46 materials whether the travel insurance is primary or secondary to other  
47 applicable coverage.
- 48 (5) Where travel insurance is marketed directly to a consumer through an insurer's  
49 Web site or by others through an aggregator site, it shall not be an unfair trade  
50 practice or other violation of law to provide an accurate summary or short

1 description of coverage on the Web page, so long as the consumer has access  
2 to the full provisions of the policy through electronic means.

3 (d) No person offering, soliciting, or negotiating travel insurance or travel protection  
4 plans on an individual or group basis may do so by using negative option or opt out, which would  
5 require a consumer to take an affirmative action to deselect coverage such as unchecking a box  
6 on an electronic form when the consumer purchases a trip.

7 (e) It shall be an unfair trade practice to market blanket travel insurance coverage as free.

8 (f) Where a consumer's destination jurisdiction requires insurance coverage, it shall not  
9 be an unfair trade practice to require that a consumer choose between the following options as a  
10 condition of purchasing a trip or travel package:

11 (1) Purchasing the coverage required by the destination jurisdiction through the  
12 travel retailer or limited lines travel insurance producer supplying the trip or  
13 travel package.

14 (2) Agreeing to obtain and provide proof of coverage that meets the destination  
15 jurisdiction's requirements prior to departure.

16 **"§ 58-44B-6. Travel administrators.**

17 (a) Notwithstanding any other provisions of this Chapter, no person shall act or represent  
18 itself as a travel administrator for travel insurance in this State unless that person:

19 (1) Is a licensed property and casualty insurance producer in this State for  
20 activities permitted under that producer license.

21 (2) Holds a valid managing general agent license in this State.

22 (3) Holds a valid third-party administrator license in this State.

23 (b) A travel administrator and its employees are exempt from the licensing requirements  
24 of G.S. 58-33-70 for travel insurance it administers.

25 (c) An insurer is responsible for the acts of a travel administrator administering travel  
26 insurance underwritten by the insurer and is responsible for ensuring that the travel administrator  
27 maintains all books and records relevant to the insurer to be made available by the travel  
28 administrator to the Commissioner upon request.

29 **"§ 58-44B-7. Policy.**

30 (a) Notwithstanding any other provision of this Chapter, travel insurance shall be  
31 classified and filed for purposes of rates and forms under an inland marine line of insurance,  
32 provided, however, that travel insurance that provides coverage for sickness, accident, disability,  
33 or death occurring during travel, either exclusively or in conjunction with related coverages of  
34 emergency evacuation, repatriation of remains, or incidental limited property and casualty  
35 benefits such as baggage or trip cancellation, may be filed by an authorized insurer under either  
36 an accident and health line of insurance or an inland marine line of insurance.

37 (b) Eligibility and underwriting standards for travel insurance may be developed and  
38 provided based on travel protection plans designed for individual or identified marketing or  
39 distribution channels, provided those standards also meet the State's underwriting standards for  
40 inland marine.

41 **"§ 58-44B-8. Rule-making authority.**

42 The Commissioner may issue rules to implement the provisions of this Article."

43 **SECTION 3.** This act becomes effective January 1, 2020.