House Bill 205 (AS PASSED HOUSE AND SENATE)
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

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in Code Section 33-7-5, relating to marine and transportation insurance, by deleting "and" at the end of paragraph (6), by replacing the period at the end of paragraph (7) with "; and", and by adding a new paragraph to read as follows:

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

SECTION 2.
Said title is further amended in Article 1 of Chapter 23, relating to licensing of agents, agencies, subagents, counselors, and adjusters, by revising subsection (f) of Code Section 33-23-12, relating to limited licenses, as follows:

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

(A) '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.

(B) '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.

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

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

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

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

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

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

(ii) Any college, school, or other institution of learning covering students, teachers, employees, or volunteers;
(iii) Any employer covering any group of employees, volunteers, contractors, board of directors, dependents, or guests;
(iv) Any sports team, camp, or sponsor thereof covering participants, members, campers, employees, officials, supervisors, or volunteers;
(v) Any religious, charitable, recreational, educational, or civic organization or branch thereof covering any group of members, participants, or volunteers;
(vi) Any financial institution or financial institution vendor, or any parent holding company, trustee, or agent of or designated by one or more financial institutions or financial institution vendors, including account holders, credit card holders, debtors, guarantors, or purchasers;
(vii) Any incorporated or unincorporated association, including labor unions, that has a common interest, a constitution, and bylaws and that is organized and maintained in good faith for purposes other than obtaining insurance for members or participants of such association in covering its members;
(viii) Any trust or the trustees of a fund established, created, or maintained for the benefit of and for covering members, employees, or customers, subject to the Commissioner permitting the use of a trust and the state's premium tax provisions provided in Code Section 33-8-4 for one or more associations meeting the requirements of division (vii) of this subparagraph;
(ix) Any entertainment production company covering any group of participants, volunteers, audience members, contestants, or workers;
(x) Any volunteer fire department, ambulance, rescue, police, court, first aid, civil defense, or other such volunteer group;
(xi) Any preschool, day-care institution for children or adults, or senior citizen club;
(xii) Any automobile or truck rental or leasing company covering a group of individuals who may become renters, lessees, or passengers as defined by their travel status on the rented or leased vehicles;
(xiii) The common carrier; the operator, owner, or lessor of a means of transportation; or the automobile or truck rental or leasing company that is the policyholder under a policy to which this subsection applies; and
(xiv) Any other group to which the Commissioner has determined that issuance of the policy would not be contrary to the public interest and in which the members are engaged in a common enterprise or have an economic, educational, or social affinity or relationship.

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

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

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

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

(i) Licensed managing general underwriter;
(ii) Licensed managing general agent or third-party administrator; or
(iii) Licensed insurance producer, including a limited licensee, designated by an insurer as the travel insurance supervising entity as set forth in division (2)(C)(iii) of this subsection; or
(iv) Travel administrator.

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

(J) 'Primary certificate holder' means an individual or person that elects and purchases travel insurance under a group policy.
(K) 'Travel administrator' means each person that directly or indirectly underwrites; collects charges, collateral, or premiums from; or adjusts or settles claims for residents of this state in connection with travel insurance; provided, however, that a person shall not be considered a travel administrator if such person's only actions that would otherwise cause it to be considered a travel administrator are among the following:

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

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

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

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

(L) 'Travel assistance services' means:

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

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

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

(i) Interruption or cancellation of trip or event;
(ii) Loss of baggage or personal effects;
(iii) Damage to accommodations or rental vehicles; or
(iv) Sickness, accident, disability, or death occurring during travel;
(v) Emergency evacuation;
(vi) Repatriation of remains; or
(vii) Any other contractual obligations to indemnify or pay a specified amount to the
traveler upon determinable contingencies related to travel as approved by the
Commissioner.

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

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

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

(2)(A) Notwithstanding any other provision of law, the Commissioner may issue to an
individual or business entity that has complied with the requirements of this subsection
a limited lines travel insurance producer license which authorizes the limited lines
travel insurance producer to sell, solicit, or negotiate travel insurance through a licensed
insurer.

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

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

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

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

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

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

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

(ii) At the time of licensure, the limited lines travel insurance producer shall establish
and maintain a register on a form prescribed by the Commissioner of each travel
retailer that offers travel insurance on the limited lines travel insurance producer's
behalf. The register shall be maintained and updated by the limited lines travel
insurance producer and shall include the name, address, and contact information of
the travel retailer and an officer or person who directs or controls the travel retailer's
operations and the travel retailer's federal tax identification number. The limited lines
travel insurance producer shall submit such register to the Insurance Department upon
reasonable request. The limited lines travel insurance producer shall also certify that
the travel retailer registered complies with 18 U.S.C. Section 1033. The grounds for
the suspension and revocation and the penalties applicable to resident insurance
providers shall be applicable to limited lines travel insurance producers and travel
retailers;

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

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

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

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

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

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

(i) Provide the identity and contact information of the insurer and the limited lines
travel insurance producer;
(ii) Explain that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and

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

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

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

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

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

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

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

(5)(4) As the insurer designee, the limited lines travel insurance producer shall be responsible for the acts of the travel retailer and authorized representative and shall use reasonable means to ensure compliance by the travel retailer with this subsection.
The limited lines travel insurance producer and any travel retailer or authorized representative offering and disseminating travel insurance under the limited lines travel insurance producer's license shall be subject to the unfair trade practices provisions under Article 1 of Chapter 6 of this title and to the other provisions of this article relating to insurance producers.

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

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

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

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

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

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

(iii) A blanket travel insurance policyholder that is a resident in or has its principal place of business or the principal place of business of an affiliate or subsidiary that has purchased blanket travel insurance in this state for eligible blanket group members, subject to any apportionment rules which apply to the insurer across
multiple taxing jurisdictions or that permits the insurer to allocate premiums on an
apportioned basis in a reasonable and equitable manner in such jurisdictions.

(B) Each travel insurer shall:

(i) Document the state of residence or principal place of business of the policyholder
or certificate holder, as described in subparagraph (A) of this paragraph; and
(ii) Report as premiums only the amount allocable to travel insurance and shall not
report any amounts received for travel assistance services or cancellation fee waivers.

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

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

(B) The fulfillment materials:

(i) Describe and delineate the travel insurance, travel assistance services, and
cancellation fee waivers in the travel protection plan; and
(ii) Include the travel insurance disclosures and the contact information for persons
providing travel assistance services and cancellation fee waivers, as applicable.

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

(B)(i) All documents provided to consumers prior to the purchase of travel insurance,
including but not limited to sales materials, advertising materials, and marketing
materials, shall be consistent with the travel insurance policy itself, which shall
include but not be limited to respective forms, endorsements, policies, rate filings, and
certificates of insurance.
(ii) For travel insurance policies or certificates that contain preexisting condition exclusions, information and an opportunity to learn more about the preexisting condition exclusions shall be provided at some point prior to the time of purchase and in the coverage's fulfillment materials.

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

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

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

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

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

(v) If travel insurance is marketed directly to a consumer through an insurer's website or by others through an aggregator site, it shall not be considered an unfair trade practice or other violation of law if an accurate summary or short description of coverage is provided on the website, so long as the consumer has electronic access to the full provisions of the policy.
(C) A person offering, soliciting, or negotiating travel insurance or travel protection plans on an individual or group basis shall not do so by using negative option or opt out that would require a consumer to take an affirmative action to deselect coverage such as unchecking a box on an electronic form when the consumer purchases a trip.

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

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

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

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

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

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

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

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

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

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

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

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

(C) 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, provided that those standards also meet the state's
underwriting standards for marine and transportation insurance.”

SECTION 3.

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

SECTION 4.

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