

INSURANCE MODIFICATIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill modifies the Insurance Code to address travel insurance.

Highlighted Provisions:

This bill:

- ▶ enacts the Travel Insurance Act, including:
 - defining terms;
 - providing for the issuance of a limited lines insurance producer license;
 - establishing requirements related to travel retailers;
 - addressing offering or disseminating travel insurance;
 - providing that travel insurance can be an individual, group, or master policy;
- and
 - addressing market conduct and penalties;
- ▶ addresses sharing of commissions; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 [31A-23a-106](#), as last amended by Laws of Utah 2013, Chapter 319

29 [31A-23a-504](#), as last amended by Laws of Utah 2013, Chapter 319

30 ENACTS:

31 [31A-23a-901](#), Utah Code Annotated 1953

32 [31A-23a-902](#), Utah Code Annotated 1953

33 [31A-23a-903](#), Utah Code Annotated 1953

34 [31A-23a-904](#), Utah Code Annotated 1953

35 [31A-23a-905](#), Utah Code Annotated 1953

36 [31A-23a-906](#), Utah Code Annotated 1953

37 [31A-23a-907](#), Utah Code Annotated 1953



39 *Be it enacted by the Legislature of the state of Utah:*

40 Section 1. Section **31A-23a-106** is amended to read:

41 **31A-23a-106. License types.**

42 (1) (a) A resident or nonresident license issued under this chapter shall be issued under
43 the license types described under Subsection (2).

44 (b) A license type and a line of authority pertaining to a license type describe the type
45 of licensee and the lines of business that a licensee may sell, solicit, or negotiate. A license
46 type is intended to describe the matters to be considered under any education, examination, and
47 training required of a license applicant under Sections [31A-23a-108](#), [31A-23a-202](#), and
48 [31A-23a-203](#).

49 (2) (a) A producer license type includes the following lines of authority:

50 (i) life insurance, including a nonvariable contract;

51 (ii) variable contracts, including variable life and annuity, if the producer has the life
52 insurance line of authority;

53 (iii) accident and health insurance, including a contract issued to a policyholder under
54 Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance
55 Organizations and Limited Health Plans;

56 (iv) property insurance;

57 (v) casualty insurance, including a surety or other bond;

58 (vi) title insurance under one or more of the following categories:

- 59 (A) search, including authority to act as a title marketing representative;
- 60 (B) escrow, including authority to act as a title marketing representative; and
- 61 (C) title marketing representative only; and
- 62 (vii) personal lines insurance.
- 63 (b) A surplus lines producer license type includes the following lines of authority:
- 64 (i) property insurance, if the person holds an underlying producer license with the
- 65 property line of insurance; and
- 66 (ii) casualty insurance, if the person holds an underlying producer license with the
- 67 casualty line of authority.
- 68 (c) A limited line producer license type includes the following limited lines of
- 69 authority:
- 70 (i) limited line credit insurance;
- 71 (ii) travel insurance, as set forth in Part 9, Travel Insurance Act;
- 72 (iii) motor club insurance;
- 73 (iv) car rental related insurance;
- 74 (v) legal expense insurance;
- 75 (vi) crop insurance;
- 76 (vii) self-service storage insurance;
- 77 (viii) bail bond producer;
- 78 (ix) guaranteed asset protection waiver; and
- 79 (x) portable electronics insurance.
- 80 (d) A consultant license type includes the following lines of authority:
- 81 (i) life insurance, including a nonvariable contract;
- 82 (ii) variable contracts, including variable life and annuity, if the consultant has the life
- 83 insurance line of authority;
- 84 (iii) accident and health insurance, including a contract issued to a policyholder under
- 85 Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance
- 86 Organizations and Limited Health Plans;
- 87 (iv) property insurance;
- 88 (v) casualty insurance, including a surety or other bond; and
- 89 (vi) personal lines insurance.

90 (e) A managing general agent license type includes the following lines of authority:

91 (i) life insurance, including a nonvariable contract;

92 (ii) variable contracts, including variable life and annuity, if the managing general
93 agent has the life insurance line of authority;

94 (iii) accident and health insurance, including a contract issued to a policyholder under
95 Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance
96 Organizations and Limited Health Plans;

97 (iv) property insurance;

98 (v) casualty insurance, including a surety or other bond; and

99 (vi) personal lines insurance.

100 (f) A reinsurance intermediary license type includes the following lines of authority:

101 (i) life insurance, including a nonvariable contract;

102 (ii) variable contracts, including variable life and annuity, if the reinsurance
103 intermediary has the life insurance line of authority;

104 (iii) accident and health insurance, including a contract issued to a policyholder under
105 Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance
106 Organizations and Limited Health Plans;

107 (iv) property insurance;

108 (v) casualty insurance, including a surety or other bond; and

109 (vi) personal lines insurance.

110 (g) A person who holds a license under Subsection (2)(a) has the qualifications
111 necessary to act as a holder of a license under Subsection (2)(c), except that the person may not
112 act under Subsection (2)(c)(viii) or (ix).

113 (3) (a) The commissioner may by rule recognize other producer, surplus lines producer,
114 limited line producer, consultant, managing general agent, or reinsurance intermediary lines of
115 authority as to kinds of insurance not listed under Subsections (2)(a) through (f).

116 (b) Notwithstanding Subsection (3)(a), for purposes of title insurance the Title and
117 Escrow Commission may by rule, with the concurrence of the commissioner and subject to
118 Section [31A-2-404](#), recognize other categories for an individual title insurance producer or
119 agency title insurance producer line of authority not listed under Subsection (2)(a)(vi).

120 (4) The variable contracts line of authority requires:

121 (a) for a producer, licensure by the Financial Industry Regulatory Authority as a:

122 (i) registered broker-dealer; or

123 (ii) broker-dealer agent, with a current registration with a broker-dealer; and

124 (b) for a consultant, registration with the Securities and Exchange Commission or

125 licensure by the Utah Division of Securities as an:

126 (i) investment adviser; or

127 (ii) investment adviser representative, with a current association with an investment
128 adviser.

129 (5) A surplus lines producer is a producer who has a surplus lines license.

130 Section 2. Section **31A-23a-504** is amended to read:

131 **31A-23a-504. Sharing commissions.**

132 (1) (a) Except as provided in Subsection **31A-15-103(3)**, a licensee under this chapter
133 or an insurer may only pay consideration or reimburse out-of-pocket expenses to a person if the
134 licensee knows that the person is licensed under this chapter as to the particular type of
135 insurance to act in Utah as:

136 (i) a producer;

137 (ii) a limited line producer;

138 (iii) a consultant;

139 (iv) a managing general agent; or

140 (v) a reinsurance intermediary.

141 (b) A person may only accept commission compensation or other compensation as a
142 person described in Subsections (1)(a)(i) through (v) that is directly or indirectly the result of
143 an insurance transaction if that person is licensed under this chapter to act as described in
144 Subsection (1)(a).

145 (2) (a) Except as provided in Section **31A-23a-501**, a consultant may not pay or receive
146 a commission or other compensation that is directly or indirectly the result of an insurance
147 transaction.

148 (b) A consultant may share a consultant fee or other compensation received for
149 consulting services performed within Utah only:

150 (i) with another consultant licensed under this chapter; and

151 (ii) to the extent that the other consultant contributed to the services performed.

- 152 (3) This section does not prohibit:
- 153 (a) the payment of renewal commissions to former licensees under this chapter, former
154 Title 31, Chapter 17, or their successors in interest under a deferred compensation or agency
155 sales agreement;
- 156 (b) compensation paid to or received by a person for referral of a potential customer
157 that seeks to purchase or obtain an opinion or advice on an insurance product if:
- 158 (i) the person is not licensed to sell insurance;
- 159 (ii) the person does not sell or provide opinions or advice on the product; and
- 160 (iii) the compensation does not depend on whether the referral results in a purchase or
161 sale; or
- 162 (c) the payment or assignment of a commission, service fee, brokerage, or other
163 valuable consideration to an agency or a person who does not sell, solicit, or negotiate
164 insurance in this state, unless the payment would constitute an inducement or commission
165 rebate under Section 31A-23a-402 or 31A-23a-402.5.
- 166 (4) (a) In selling a policy of title insurance, sharing of commissions under Subsection
167 (1) may not occur if it will result in:
- 168 (i) an unlawful rebate;
- 169 (ii) compensation in connection with controlled business; or
- 170 (iii) payment of a forwarding fee or finder's fee.
- 171 (b) A person may share compensation for the issuance of a title insurance policy only
172 to the extent that the person contributed to the search and examination of the title or other
173 services connected with the title insurance policy.
- 174 (5) This section does not apply to:
- 175 (a) a bail bond producer or bail enforcement agent as defined in Section 31A-35-102
176 and as described in Subsection 31A-23a-106(2)(c);
- 177 (b) a travel retailer registered pursuant to Part 9, Travel Insurance Act; or
- 178 (c) a nonlicensed individual employee or authorized representative of a licensed
179 limited line producer who holds one or more of the following limited lines of authority as
180 described in Subsection 31A-23a-106(2)(c):
- 181 [~~(a)~~] (i) car rental related insurance;
- 182 [~~(b)~~] (ii) self-service storage insurance; [~~(c)~~]

183 ~~(e)~~ (iii) portable electronics insurance[-]; or
184 (iv) travel insurance.

185 Section 3. Section 31A-23a-901 is enacted to read:

186 **Part 9. Travel Insurance Act**

187 **31A-23a-901. Title.**

188 This part is known as the "Travel Insurance Act."

189 Section 4. Section 31A-23a-902 is enacted to read:

190 **31A-23a-902. Definitions.**

191 As used in this part, unless the context requires otherwise:

192 (1) "Limited lines travel insurance producer" means one of the following designated by
193 an insurer as the travel insurance supervising entity as provided in Subsection 31A-23a-905(4):

194 (a) a licensed managing general underwriter;

195 (b) a licensed managing general agent or third party administrator; or

196 (c) a licensed insurance producer, including a limited lines producer.

197 (2) "Offer and disseminate" means:

198 (a) providing general information, including a description of the coverage and price;

199 (b) processing an application;

200 (c) collecting a premium; and

201 (d) performing activities that the state permits to be done by a person who is not
202 licensed.

203 (3) (a) "Travel insurance" means insurance coverage for personal risks incident to
204 planned travel, including:

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

206 (ii) loss of baggage or personal effects;

207 (iii) damages to accommodations or rental vehicles; or

208 (iv) sickness, accident, disability, or death during travel.

209 (b) "Travel insurance" does not include a major medical plan that provides
210 comprehensive medical protection for a traveler with a trip lasting six months or longer,
211 including an individual working overseas or military personnel being deployed.

212 (4) "Travel retailer" means a business entity that makes, arranges, or offers travel
213 services and may offer and disseminate travel insurance as a service to its customers on behalf

214 of and under the direction of a limited lines travel insurance producer.

215 Section 5. Section **31A-23a-903** is enacted to read:

216 **31A-23a-903. Issuance of limited lines travel insurance producer license.**

217 Notwithstanding any other provision of this chapter:

218 (1) The commissioner may issue to an individual or business entity that has filed with
219 the commissioner an application in a form and manner prescribed by the commissioner a
220 limited lines travel insurance producer license that authorizes the limited lines travel insurance
221 producer to sell, solicit, or negotiate travel insurance through a licensed insurer.

222 (2) A limited lines travel insurance producer, and those registered under the license of
223 the limited lines travel producer, are exempt from:

224 (a) the examination requirements under Section [31A-23a-108](#); and

225 (b) the continuing education requirements under Section [31A-23a-202](#).

226 Section 6. Section **31A-23a-904** is enacted to read:

227 **31A-23a-904. Travel retailers.**

228 Notwithstanding any other provision of this chapter, a travel retailer may offer and
229 disseminate travel insurance under a limited lines travel insurance producer business entity
230 license only if the following conditions are met:

231 (1) The limited lines travel insurance producer or travel retailer shall provide to a
232 purchaser of travel insurance:

233 (a) a description of the material terms or the actual material terms of the insurance
234 coverage;

235 (b) a description of the process for filing a claim;

236 (c) a description of the review or cancellation process for the travel insurance policy;

237 and

238 (d) the identity and contact information of the insurer and limited lines travel insurance
239 producer.

240 (2) (a) At the time of licensure, the limited lines travel insurance producer shall
241 establish and maintain a register on a form prescribed by the commissioner of each travel
242 retailer that offers travel insurance on the limited lines travel insurance producer's behalf.

243 (b) The limited lines travel insurance producer shall maintain and update the register
244 annually and include:

245 (i) the name, address, and contact information of the travel retailer;
246 (ii) the name, address, and contact information of an officer or person who directs or
247 controls the travel retailer's operations; and

248 (iii) the travel retailer's federal tax identification number.

249 (c) The limited lines travel insurance producer shall submit the register to the
250 department upon reasonable request by the department.

251 (d) The limited lines travel insurance producer shall certify that the travel retailer
252 registered with the limited lines travel insurance producer has not violated 18 U.S.C. Sec.
253 1033.

254 (3) The limited lines travel insurance producer shall designate one of its employees
255 who is a licensed individual travel insurance producer as the designated responsible producer
256 who is responsible for the limited lines travel insurance producer's compliance with the travel
257 insurance laws and rules of the state.

258 (4) The designated responsible producer, president, secretary, treasurer, and any other
259 officer or person who directs or controls the limited lines travel insurance producer's insurance
260 operations shall comply with the fingerprinting requirements applicable to insurance producers
261 in the resident state of the limited lines travel insurance producer.

262 (5) The limited lines travel insurance producer shall pay all applicable insurance
263 producer licensing fees imposed in accordance with Section [31A-3-103](#).

264 (6) The limited lines travel insurance producer shall require an employee or authorized
265 representative of a travel retailer whose duties include offering and disseminating travel
266 insurance to receive a program of instruction or training that may be subject to review by the
267 commissioner. The training materials shall, at a minimum, contain instructions on the types of
268 insurance offered, ethical sales practices, and required disclosures to prospective customers.

269 Section 7. Section **31A-23a-905** is enacted to read:

270 **31A-23a-905. Offering or disseminating travel insurance.**

271 (1) A travel retailer offering or disseminating travel insurance shall make available to a
272 prospective purchaser a brochure or other written material that:

273 (a) provides the identity and contact information of the insurer and the limited lines
274 travel insurance producer;

275 (b) explains that the purchase of travel insurance is not required to purchase any other

276 product or service from the travel retailer; and

277 (c) explains that an unlicensed travel retailer is permitted to provide general
278 information about the insurance offered by the travel retailer, including a description of the
279 coverage and price, but is not qualified or authorized to answer technical questions about the
280 terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy
281 of the prospective purchaser's existing insurance coverage.

282 (2) A travel retailer's employee or authorized representative who is not licensed as an
283 insurance producer may not:

284 (a) evaluate or interpret the technical terms, benefits, and conditions of the offered
285 travel insurance coverage;

286 (b) evaluate or provide advice concerning a prospective purchaser's existing insurance
287 coverage; or

288 (c) hold the person out as a licensed insurer, licensed producer, or insurance expert.

289 (3) Notwithstanding any other provision of this chapter, a travel retailer whose
290 insurance-related activities, and those of its employees and authorized representatives, are
291 limited to offering and disseminating travel insurance on behalf of and under the direction of a
292 limited lines travel insurance producer meeting the conditions stated in this part, is authorized
293 to do so and receive related compensation for services, upon registration of the limited lines
294 travel insurance producer as described in Subsection [31A-23a-904\(2\)](#).

295 (4) As the insurer designee, the limited lines travel insurance producer is responsible
296 for the acts of the travel retailer and shall use responsible means to ensure compliance by the
297 travel retailer under this part.

298 Section 8. Section **31A-23a-906** is enacted to read:

299 **31A-23a-906. Travel insurance.**

300 Travel insurance may be provided under an individual policy or under a group or master
301 policy.

302 Section 9. Section **31A-23a-907** is enacted to read:

303 **31A-23a-907. Market conduct and penalties.**

304 A limited lines travel insurance producer and any travel retailer offering and
305 disseminating travel insurance under the limited lines travel insurance producer license are
306 subject to Sections [31A-2-308](#), [31A-23a-402](#), and [31A-23a-402.5](#).

Legislative Review Note
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Office of Legislative Research and General Counsel