

Effective 5/13/2014

**Part 9
Travel Insurance Act**

31A-23a-901 Title.

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

Enacted by Chapter 277, 2014 General Session

31A-23a-902 Definitions.

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

- (1) "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.
- (2) "Blanket travel insurance" means a travel insurance policy that:
 - (a) an insurer issues to an eligible group; and
 - (b) covers:
 - (i) a specific class of persons defined in the policy; and
 - (ii) all members of the eligible group without a separate charge to an individual member of the eligible group.
- (3) "Cancellation fee waiver" means a contractual agreement that:
 - (a) is between a supplier of a travel assistance service and the supplier's customer; and
 - (b) waives a non-refundable cancellation fee provision of the supplier's underlying travel contract, with or without regard to:
 - (i) the reason for the cancellation; or
 - (ii) the form of reimbursement.
- (4)
 - (a) "Eligible group" means a group of two or more persons who:
 - (i) are engaged in a common enterprise; or
 - (ii) have an economic, educational, or social affinity or relationship.
 - (b) "Eligible group" includes:
 - (i) an entity engaged in the business of providing travel or a travel service in which, with regard to the particular travel or travel service or type of travel or travelers, all members or customers of the group have common exposure to risk attendant to that travel, including:
 - (A) a tour operator;
 - (B) a lodging provider;
 - (C) a vacation property owner;
 - (D) a hotel or resort;
 - (E) a travel club;
 - (F) a travel agency;
 - (G) a property manager;
 - (H) a cultural exchange program;
 - (I) a common carrier; and
 - (J) the operator, owner, or lessor of a means of transportation of passengers, including an airline, a cruise line, a railroad, a steamship company, and a public bus carrier;
 - (ii) a college, school, or other institution of learning, covering students, teachers, employees, or volunteers;

- (iii) an employer covering employees, volunteers, contractors, a board of directors, dependents, or guests;
 - (iv) a sports team, camp, or a sponsor of a sports team or camp, covering participants, members, campers, employees, officials, supervisors, or volunteers;
 - (v) a religious, charitable, recreational, educational, or civic organization, or a branch of a religious, charitable, recreational, educational, or civic organization, covering members, participants, or volunteers;
 - (vi) a financial institution, a financial institution vendor, or a parent holding company, trustee, or agent of or designated by a financial institution or a financial institution vendor, covering accountholders, credit card holders, debtors, guarantors, or purchasers;
 - (vii) an incorporated or unincorporated association, including a labor union, that:
 - (A) has a common interest, constitution, and bylaws;
 - (B) is organized and maintained in good faith for a purpose other than to cover members or participants of the association; and
 - (C) covers members of the association;
 - (viii) an entertainment production company covering participants, volunteers, audience members, contestants, or workers;
 - (ix) a volunteer fire department, ambulance, rescue, police, or court or a volunteer first aid, civil defense, or other volunteer group similar to first aid or civil defense, covering members, participants, or volunteers;
 - (x) a preschool, a daycare institution for children or adults, or a senior citizen club, covering attendees or participants;
 - (xi) an automobile or truck rental or leasing company:
 - (A) covering individuals who may become renters, lessees, or passengers depending on the travel status of the individual on a rented or leased vehicle; and
 - (B) if the common carrier, operator, owner or lessor of the means of transportation, or the automobile or truck rental or leasing company is the policyholder; and
 - (xii) a group not described in Subsections (4)(b)(i) through (xi), if the commissioner determines that:
 - (A) the members of the group are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship; and
 - (B) issuance of the policy would not be contrary to the public interest.
- (5) "Fulfillment material" means documentation that:
- (a) is sent to the purchaser of a travel protection plan;
 - (b) confirms the purchase of the travel protection plan; and
 - (c) provides the travel protection plan's coverage and assistance details.
- (6) "Group travel insurance" means travel insurance issued to an eligible group, covering each certificate holder in the eligible group.
- (7) "Limited lines travel insurance producer" means one of the following designated by an insurer as the travel insurance supervising entity as provided in Subsection 31A-23a-905(4):
- (a) a licensed managing general agent or third party administrator; or
 - (b) a licensed insurance producer, including a limited lines producer.
- (8) "Offer and disseminate" means:
- (a) providing general information, including a description of the coverage and price;
 - (b) processing an application;
 - (c) collecting a premium; and
 - (d) performing activities that the state permits to be done by a person who is not licensed.
- (9)

- (a) "Travel administrator" means a person who, in connection with travel insurance, directly or indirectly:
 - (i) underwrites;
 - (ii) collects a charge, collateral, or a premium from a resident of this state; or
 - (iii) adjusts or settles a claim on a resident of this state.
 - (b) "Travel administrator" does not include a person whose action that would otherwise cause the person to be considered a travel administrator is among the following:
 - (i) a person 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) a travel retailer that, in accordance with this part:
 - (A) offers and disseminates travel insurance; and
 - (B) is registered under the license of a limited lines travel insurance producer;
 - (iii) an individual adjusting or settling claims:
 - (A) in the normal course of that individual's practice or employment as an attorney; and
 - (B) who does not collect a charge or premium 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.
- (10)
- (a) "Travel assistance service" means a service:
 - (i) for which the consumer is not indemnified based on a fortuitous event;
 - (ii) where providing the service does not result in transfer or shifting of risk that would constitute the business of insurance; and
 - (iii) that is furnished in connection with planned travel.
 - (b) "Travel assistance service" includes:
 - (i) a security advisory;
 - (ii) destination information;
 - (iii) a vaccination and immunization information service;
 - (iv) a travel reservation service;
 - (v) entertainment;
 - (vi) activity and event planning;
 - (vii) translation assistance;
 - (viii) emergency messaging;
 - (ix) an international legal or medical referral;
 - (x) medical case monitoring;
 - (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; and
 - (xvi) a concierge service.
- (11)
- (a) "Travel insurance" means insurance coverage for personal risks incident to planned travel, including:
 - (i) interruption or cancellation of a trip or event;
 - (ii) loss of baggage or personal effects;
 - (iii) damages to accommodations or rental vehicles;
 - (iv) sickness, accident, disability, or death during travel;
 - (v) emergency evacuation;

- (vi) repatriation of remains; or
- (vii) a contractual obligation that indemnifies or pays a specified amount to the traveler upon a determinable contingency related to travel.
- (b) "Travel insurance" does not include a major medical plan that provides comprehensive medical protection for a traveler with a trip lasting six months or longer, including an individual working overseas or military personnel being deployed.
- (12) "Travel protection plan" means a plan that provides:
 - (a) travel insurance;
 - (b) a travel assistance service; or
 - (c) a cancellation fee waiver.
- (13) "Travel retailer" means a business entity that:
 - (a) makes, arranges, or offers a travel service; and
 - (b) may offer and disseminate travel insurance as a service to the entity's customers on behalf of and under the direction of a limited lines travel insurance producer.

Amended by Chapter 364, 2022 General Session

31A-23a-902.1 Scope.

- (1) The requirements under this part:
 - (a) apply to travel insurance:
 - (i) that covers a resident of this state;
 - (ii) that is sold, solicited, negotiated, or offered in this state; and
 - (iii) for which policies and certificates are delivered or issued for delivery in this state; and
 - (b) do not apply, except as expressly provided, to:
 - (i) a cancellation fee waiver; or
 - (ii) a travel assistance service.
- (2) If there is a conflict between a provision of this part and another provision under this title, this part governs.

Enacted by Chapter 364, 2022 General Session

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

Notwithstanding any other provision of this chapter:

- (1) The commissioner may issue to an individual or business entity that has filed with the commissioner an application in a form and manner prescribed by the commissioner a limited lines travel insurance producer license that authorizes the limited lines travel insurance producer to sell, solicit, or negotiate travel insurance through a licensed insurer.
- (2) A limited lines travel insurance producer, and those registered under the license of the limited lines travel producer, are exempt from:
 - (a) the examination requirements under Section 31A-23a-108; and
 - (b) the continuing education requirements under Section 31A-23a-202.

Enacted by Chapter 277, 2014 General Session

31A-23a-904 Travel retailers.

Notwithstanding any other provision of this chapter, 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:

- (1) The limited lines travel insurance producer or travel retailer shall provide to a purchaser of travel insurance:
 - (a) a description of the material terms or the actual material terms of the insurance coverage;
 - (b) a description of the process for filing a claim;
 - (c) a description of the review or cancellation process for the travel insurance policy; and
 - (d) the identity and contact information of the insurer and limited lines travel insurance producer.
- (2)
 - (a) 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.
 - (b) The limited lines travel insurance producer shall maintain and update the register annually and include:
 - (i) the name, address, and contact information of the travel retailer;
 - (ii) the name, address, and contact information of an officer or person who directs or controls the travel retailer's operations; and
 - (iii) the travel retailer's federal tax identification number.
 - (c) The limited lines travel insurance producer shall submit the register to the department upon reasonable request by the department.
 - (d) The limited lines travel insurance producer shall certify that the travel retailer registered with the limited lines travel insurance producer has not violated 18 U.S.C. Sec. 1033.
- (3) The limited lines travel insurance producer shall designate one of its employees who is a licensed individual travel insurance producer as the designated responsible producer who is responsible for the limited lines travel insurance producer's compliance with the travel insurance laws and rules of the state.
- (4) The designated responsible producer, 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.
- (5) The limited lines travel insurance producer shall pay all applicable insurance producer licensing fees imposed in accordance with Section 31A-3-103.
- (6) The limited lines travel insurance producer shall require an employee or authorized representative of a travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training that may be subject to review by the commissioner. The training materials shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

Enacted by Chapter 277, 2014 General Session

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

- (1) A travel retailer offering or disseminating travel insurance shall make available to a prospective purchaser a brochure or other written material that:
 - (a) provides the identity and contact information of the insurer and the limited lines travel insurance producer;
 - (b) explains that the purchase of travel insurance is not required to purchase any other product or service from the travel retailer; and
 - (c) explains 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:

- (i) answer a technical question about the terms and conditions of the insurance the travel retailer offers; or
 - (ii) evaluate the adequacy of the prospective purchaser's existing insurance coverage.
- (2) A travel retailer's employee or authorized representative who is not licensed as an insurance producer may not:
- (a) evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;
 - (b) evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or
 - (c) hold the person out as a licensed insurer, licensed producer, or insurance expert.
- (3) Notwithstanding any other provision of this chapter, a travel retailer whose insurance-related activities, and the activities of the travel retailer's employees and 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 part, is authorized to do so and receive related compensation for services, upon registration of the limited lines travel insurance producer as described in Subsection 31A-23a-904(2).
- (4) As the insurer designee, the limited lines travel insurance producer:
- (a) is responsible for the acts of the travel retailer; and
 - (b) shall use responsible means to ensure compliance by the travel retailer under this part.
- (5) A person licensed in a general line of authority as an insurance producer is authorized to sell, solicit, and negotiate travel insurance.

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31A-23a-906 Travel insurance.

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

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

A limited lines travel insurance producer and any travel retailer offering and disseminating travel insurance under the limited lines travel insurance producer license are subject to Sections 31A-2-308, 31A-23a-402, and 31A-23a-402.5.

Enacted by Chapter 277, 2014 General Session

31A-23a-908 Travel protection plans.

A person may offer a travel protection plan for one price for the combined features that the travel protection plan offers, if:

- (1) the person ensures the travel protection plan:
 - (a) clearly discloses to the consumer, at or before the time of purchase, that the plan includes:
 - (i) travel insurance;
 - (ii) a travel assistance service; or
 - (iii) a cancellation fee waiver; and
 - (b) 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, and cancellation fee waiver, as applicable; and
- (2) the fulfillment material for the travel protection plan:

- (a) describes and delineates the travel insurance, travel assistance services, and cancellation fee waiver in the travel protection plan;
- (b) includes each travel insurance disclosure required under state law; and
- (c) includes the contact information for each person providing a:
 - (i) travel assistance service; or
 - (ii) cancellation fee waiver.

Enacted by Chapter 364, 2022 General Session

31A-23a-909 Sales practices.

- (1) As used in this section, "deliver" or "delivery" means:
 - (a) handing fulfillment material to a policyholder or certificate holder; or
 - (b) sending fulfillment material by mail or electronic means to a policyholder or certificate holder.
- (2) A person who offers or sells a travel insurance policy to a resident of this state shall:
 - (a) ensure that each document the person provides to the consumer before the consumer purchases the travel insurance, including sales material, advertising material, and marketing material, is consistent with the purchased travel insurance policy, including each form and rate filing;
 - (b) provide the consumer information and an opportunity to learn more about each pre-existing condition exclusion the policy includes:
 - (i) before the consumer purchases the policy; and
 - (ii) in the travel protection plan's fulfillment materials; and
 - (c) after a consumer purchases a travel protection plan, provide each policyholder or certificate holder as soon as practicable:
 - (i) the fulfillment materials; and
 - (ii) the information described in Subsection 31A-23a-904(1).
- (3)
 - (a) Except as provided in Subsection (3)(b), a policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price during the period that:
 - (i) begins the day on which the consumer purchases the policy or certificate; and
 - (ii) ends no earlier than:
 - (A) if the travel protection plan's fulfillment materials are delivered to the policyholder or certificate holder by mail, 15 days after the day on which the mail is postmarked; or
 - (B) if the travel protection plan's fulfillment materials are delivered by means other than mail, 10 days after the day on which the delivery occurs.
 - (b) A policyholder or certificate holder may not cancel a policy or certificate as described in Subsection (3)(a) if an insured under the policy or certificate:
 - (i) begins a trip covered under the travel insurance coverage; or
 - (ii) files a claim under the travel insurance coverage.
- (4)
 - (a) An unfair trade practice under Section 31A-23a-402 includes:
 - (i) offering or selling a travel insurance policy that could never result in payment of a claim for an insured under the policy; or
 - (ii) marketing blanket travel insurance coverage as free of charge.
 - (b) It is not an unfair trade practice under Section 31A-23a-402 to market travel insurance directly to a consumer through an insurer's website or through an aggregator site, if:
 - (i) an accurate summary or short description of coverage is provided on the website; and
 - (ii) the consumer has access to the full provisions of the policy through electronic means.

- (c) If a consumer's destination jurisdiction requires insurance coverage and the consumer is provided proof of the requirement at the time of purchase, it is not an unfair trade practice under Section 31A-23a-402 to require that the consumer 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 before departure.
- (5)
 - (a) A person offering, soliciting, or negotiating 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 provision.
 - (b) For purposes of Subsection (5)(a), a negative option or opt out provision occurs when a consumer is required to take an affirmative action to deselect coverage, including unchecking a box on an electronic form, when the consumer purchases a trip.

Enacted by Chapter 364, 2022 General Session

31A-23a-910 Travel administrators.

- (1) A person may not act as or represent that the person is a travel administrator for travel insurance unless the person:
 - (a) is an insurance producer acting within the scope of the producer's license;
 - (b) is licensed as a managing general agent in accordance with Part 6, Managing General Agents; or
 - (c) is licensed as a third party administrator in accordance with Chapter 25, Third Party Administrators.
- (2) An insurer is responsible for:
 - (a) an act of a travel administrator administering travel insurance the insurer underwrites; and
 - (b) ensuring that the travel administrator maintains all books and records relevant to the insurer.
- (3) A travel administrator shall make the books and records described in Subsection (2)(b) available to the commissioner upon the commissioner's request.

Enacted by Chapter 364, 2022 General Session

31A-23a-911 Classification of travel insurance -- Standards -- Status.

- (1) An insurer shall classify and file travel insurance under an inland marine line of insurance.
- (2) An insurer may:
 - (a) issue travel insurance as an individual, group, or blanket policy; or
 - (b) develop eligibility and underwriting standards for travel insurance based on travel protection plans designed for individual or identified marketing or distribution channels, if the standards also meet underwriting standards for inland marine insurance.
- (3) Under this part, the following are not insurance:
 - (a) a cancellation fee waiver; and
 - (b) a travel assistance service.

Enacted by Chapter 364, 2022 General Session

31A-23a-912 Rulemaking.

The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to implement the provisions of this part.

Enacted by Chapter 364, 2022 General Session