

1-1 By: Lucio III (Senate Sponsor - Paxton) H.B. No. 2587
 1-2 (In the Senate - Received from the House April 23, 2019;
 1-3 April 24, 2019, read first time and referred to Committee on
 1-4 Business & Commerce; May 20, 2019, reported favorably by the
 1-5 following vote: Yeas 8, Nays 0; May 20, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15			X	
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the business of travel insurance.
 1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-21 SECTION 1. Title 12, Insurance Code, is amended by adding
 1-22 Chapter 3504 to read as follows:

1-23 CHAPTER 3504. TRAVEL INSURANCE

1-24 Sec. 3504.0001. DEFINITIONS. In this chapter:

1-25 (1) "Aggregator site" means a website that provides
 1-26 access to information regarding insurance products from more than
 1-27 one insurer, including product and insurer information, for use in
 1-28 comparison shopping.

1-29 (2) "Blanket travel insurance" means a policy of
 1-30 travel insurance issued to an eligible group that provides coverage
 1-31 for specific classes of persons with coverage provided to each
 1-32 member of the eligible group defined in the policy without a
 1-33 separate charge to individual members of the eligible group.

1-34 (3) "Cancellation fee waiver" means a contractual
 1-35 agreement between a supplier of travel services and the supplier's
 1-36 customer to waive some or all of the nonrefundable cancellation fee
 1-37 provisions of the supplier's underlying travel contract with or
 1-38 without regard to the reason for the cancellation or form of
 1-39 reimbursement. A cancellation fee waiver is not insurance.

1-40 (4) "Eligible group" means two or more persons who are
 1-41 engaged in a common enterprise or have an economic, educational, or
 1-42 social affinity or relationship, including any of the following:

1-43 (A) an entity engaged in the business of
 1-44 providing travel or travel services, including a tour operator, a
 1-45 lodging provider, a vacation property owner, a hotel or resort, a
 1-46 travel club, a travel agency, a property manager, a cultural
 1-47 exchange program, and a common carrier or the operator, owner, or
 1-48 lessor of a means of transportation of passengers, including an
 1-49 airline, a cruise line, a railroad, a steamship company, and a
 1-50 public bus carrier, wherein with regard to any particular travel or
 1-51 type of travel or travelers, all members or customers of the group
 1-52 must have a common exposure to risk attendant to the travel;

1-53 (B) a college, school, or other institution of
 1-54 learning covering students, teachers, employees, or volunteers;

1-55 (C) an employer covering a board of directors or
 1-56 a group of employees, volunteers, contractors, dependents, or
 1-57 guests;

1-58 (D) a sports team or camp or sponsor of a team or
 1-59 camp covering participants, members, campers, employees,
 1-60 officials, supervisors, or volunteers;

1-61 (E) a religious, charitable, recreational,

2-1 educational, or civic organization or branch of the organization
2-2 covering members, participants, or volunteers;
2-3 (F) a financial institution or financial
2-4 institution vendor or a parent holding company, trustee, or agent
2-5 or designee of a financial institution or financial institution
2-6 vendor covering persons, including account holders, credit card
2-7 holders, debtors, guarantors, or purchasers;
2-8 (G) an incorporated or unincorporated
2-9 association, including a labor union that has a common interest,
2-10 constitution, and bylaws, organized and maintained in good faith
2-11 for a purpose other than obtaining insurance for the association's
2-12 members or participants;
2-13 (H) a trust, or the trustees of a fund,
2-14 established, created, or maintained for the benefit of and covering
2-15 members, employees, or customers of one or more associations
2-16 meeting the requirements of Paragraph (G), subject to the
2-17 commissioner's approval and the state premium tax provisions of
2-18 Section 3504.0005;
2-19 (I) an entertainment production company covering
2-20 a group of participants, volunteers, audience members,
2-21 contestants, or workers;
2-22 (J) a volunteer fire department or an ambulance,
2-23 rescue, police, court, first aid, or civil defense volunteer group
2-24 or other similar volunteer group;
2-25 (K) a preschool, a daycare institution for
2-26 children or adults, or a senior citizen club;
2-27 (L) an automobile or truck rental or leasing
2-28 company covering a group of individuals who may become renters,
2-29 lessees, or passengers defined by the individual's status on the
2-30 rented or leased vehicles, in which circumstance the common
2-31 carrier, the operator, owner, or lessor of a means of
2-32 transportation, or the automobile or truck rental or leasing
2-33 company is the policyholder; or
2-34 (M) any other group with respect to which the
2-35 commissioner has determined:
2-36 (i) the members are engaged in a common
2-37 enterprise or have an economic, educational, or social affinity or
2-38 relationship; and
2-39 (ii) issuance of the policy is not contrary
2-40 to the public interest.
2-41 (5) "Fulfillment materials" means documentation sent
2-42 to the purchaser of a travel protection plan that confirms the
2-43 purchase and provides the travel protection plan's coverage and
2-44 assistance details.
2-45 (6) "Group travel insurance" means travel insurance
2-46 issued to an eligible group.
2-47 (7) "Planned trip" or "planned travel" means any
2-48 journey or travel arranged through the services of a travel agency.
2-49 (8) "Primary certificate holder," specific to Section
2-50 3504.0005, means an individual who elects and purchases travel
2-51 insurance under a group policy.
2-52 (9) "Primary policyholder," specific to Section
2-53 3504.0005, means an individual who elects and purchases individual
2-54 travel insurance.
2-55 (10) "Travel assistance services" means noninsurance
2-56 services that do not indemnify the consumer based on a fortuitous
2-57 event or result in the transfer or shifting of risk constituting the
2-58 business of insurance. Travel assistance services include security
2-59 advisories, destination information, vaccination and immunization
2-60 information services, travel reservation services, entertainment,
2-61 activity and event planning, translation assistance, emergency
2-62 messaging, international legal and medical referrals, medical case
2-63 monitoring, coordination of transportation arrangements, emergency
2-64 cash transfer assistance, medical prescription replacement
2-65 assistance, passport and travel document replacement assistance,
2-66 lost luggage assistance, concierge services, and any other service
2-67 that is furnished in connection with planned travel. Travel
2-68 assistance services are not insurance and not related to insurance.
2-69 (11) "Travel insurance" means insurance coverage for

3-1 personal risks incident to planned travel, including:
3-2 (A) interruption or cancellation of a trip or
3-3 event;
3-4 (B) loss of baggage or personal effects;
3-5 (C) damages to accommodations or rental
3-6 vehicles;
3-7 (D) sickness, accident, disability, or death
3-8 occurring during travel;
3-9 (E) emergency evacuation;
3-10 (F) repatriation of remains; or
3-11 (G) any other contractual obligations to
3-12 indemnify or pay a specified amount to the traveler on determinable
3-13 contingencies related to travel as approved by the commissioner.
3-14 Travel insurance does not include a major medical plan that
3-15 provides comprehensive medical protection for a traveler on a trip
3-16 of longer than six months, such as an individual working or residing
3-17 overseas as an expatriate, or any other insurance product that must
3-18 be sold by an agent with a specific agent's license.
3-19 (12) "Travel protection plan" means a plan that
3-20 provides one or more of the following:
3-21 (A) travel insurance;
3-22 (B) travel assistance services; and
3-23 (C) cancellation fee waivers.
3-24 Sec. 3504.0002. APPLICABILITY. (a) This chapter applies
3-25 to a travel insurance policy or certificate that:
3-26 (1) provides coverage to a resident of this state or is
3-27 sold, solicited, negotiated, or offered in this state; and
3-28 (2) is delivered or issued for delivery in this state.
3-29 (b) This chapter does not apply to a cancellation fee waiver
3-30 or travel assistance service except as expressly provided in this
3-31 chapter.
3-32 Sec. 3504.0003. CONFLICT OF LAWS. This chapter prevails to
3-33 the extent of any conflict with another provision of this code.
3-34 Sec. 3504.0004. LINE OF INSURANCE. (a) Notwithstanding
3-35 any other provision of this code, travel insurance is classified
3-36 and filed for purposes of rates and forms under an inland marine
3-37 line of insurance, except as provided by Subsection (b).
3-38 (b) Travel insurance that provides coverage for sickness,
3-39 accident, disability, or death occurring during travel,
3-40 exclusively or in conjunction with related coverage for emergency
3-41 evacuation, repatriation of remains, or incidental limited
3-42 property and casualty benefits, including baggage or trip
3-43 cancellation, may be filed by an authorized insurer under an
3-44 accident and health line of insurance or an inland marine line of
3-45 insurance.
3-46 (c) Eligibility and underwriting standards for travel
3-47 insurance may be developed and provided based on travel protection
3-48 plans designed for individual or identified marketing or
3-49 distribution channels if the standards meet underwriting standards
3-50 for an inland marine line of insurance.
3-51 Sec. 3504.0005. PREMIUM TAX. (a) A travel insurer shall
3-52 pay premium tax, as provided by Section 221.002, on travel
3-53 insurance premiums paid by any of the following:
3-54 (1) an individual primary policyholder who is a
3-55 resident of this state;
3-56 (2) a primary certificate holder who is a resident of
3-57 this state and elects and purchases coverage under a group travel
3-58 insurance policy; or
3-59 (3) subject to apportionment of premium in accordance
3-60 with Chapter 229 or other law, a blanket travel insurance
3-61 policyholder who buys a blanket travel insurance policy in this
3-62 state for members of the eligible group if:
3-63 (A) the policyholder is a resident of this state;
3-64 (B) the policyholder's principal place of
3-65 business is located in this state; or
3-66 (C) the principal place of business of an
3-67 affiliate or subsidiary of the policyholder is located in this
3-68 state.
3-69 (b) A travel insurer shall:

4-1 (1) document the state of residence or principal place
 4-2 of business of the policyholder or certificate holder described by
 4-3 Subsection (a); and

4-4 (2) report as premium only the amount allocable to
 4-5 travel insurance and not amounts received for travel assistance
 4-6 services or cancellation fee waivers.

4-7 (c) Amounts received for travel assistance services and
 4-8 cancellation fee waivers, whether the travel assistance services
 4-9 and cancellation waivers are offered separately or for a combined
 4-10 price authorized by Section 3504.0006, are not subject to taxation
 4-11 under Section 221.002(b).

4-12 Sec. 3504.0006. TRAVEL PROTECTION PLANS. A travel
 4-13 protection plan composed of multiple features may be offered for a
 4-14 combined price if:

4-15 (1) at the time of or before the consumer buys the
 4-16 travel protection plan it is clearly disclosed to the consumer that
 4-17 the plan includes travel insurance, travel assistance services, and
 4-18 cancellation fee waivers, as applicable, and information and an
 4-19 opportunity is provided for the consumer to obtain additional
 4-20 information regarding the features and the pricing of each feature;
 4-21 and

4-22 (2) the fulfillment materials:

4-23 (A) describe the travel insurance, travel
 4-24 assistance services, and cancellation fee waivers in the travel
 4-25 protection plan; and

4-26 (B) include the travel insurance disclosures and
 4-27 the contact information for persons providing travel assistance
 4-28 services and cancellation fee waivers, as applicable.

4-29 Sec. 3504.0007. SALES PRACTICES; PROHIBITED PRACTICES. (a)
 4-30 Offering or selling a travel insurance policy that could never
 4-31 result in payment of a claim for an insured under the policy is an
 4-32 unfair trade practice under Subtitle C, Title 5.

4-33 (b) All documents provided to a consumer before the purchase
 4-34 of travel insurance, including sales materials, advertising
 4-35 materials, and marketing materials, must be consistent with the
 4-36 travel insurance policy, including forms, endorsements, policies,
 4-37 rate filings, and certificates of insurance.

4-38 (c) Before the consumer buys travel insurance and
 4-39 subsequently in the fulfillment materials, the consumer must be
 4-40 provided information about any preexisting condition exclusion
 4-41 that is included in the travel insurance policy or certificate. The
 4-42 consumer must have the opportunity to learn more about the
 4-43 exclusion.

4-44 (d) The fulfillment materials and the information described
 4-45 in Section 4055.154(a) must be provided to a policyholder or
 4-46 certificate holder as soon as practicable after the purchase of a
 4-47 travel protection plan. Unless the policyholder or certificate
 4-48 holder has started a covered trip or filed a claim under the travel
 4-49 insurance coverage, the policyholder or certificate holder may
 4-50 cancel a policy or certificate for a full refund of the travel
 4-51 protection plan price. The policyholder or certificate holder must
 4-52 exercise the right to cancel a travel protection plan before:

4-53 (1) the 15th day after the date of delivery of the
 4-54 travel protection plan's fulfillment materials by United States
 4-55 mail or a later date specified by the plan; or

4-56 (2) the 10th day after the date of delivery of the
 4-57 travel protection plan's fulfillment materials by means other than
 4-58 United States mail or a later date specified by the plan.

4-59 (e) For the purposes of this section, delivery means handing
 4-60 fulfillment materials to the policyholder or certificate holder or
 4-61 sending fulfillment materials by United States mail or electronic
 4-62 means to the policyholder or certificate holder.

4-63 (f) The company shall disclose in the policy documentation
 4-64 and fulfillment materials if the travel insurance is primary or
 4-65 secondary to other applicable coverage.

4-66 (g) If travel insurance is marketed directly to a consumer
 4-67 through an insurer's website or by others through an aggregator
 4-68 site, it is not an unfair trade practice or other violation of law
 4-69 if:

5-1 (1) an accurate summary or short description of
 5-2 coverage is provided on the website; and

5-3 (2) the consumer has access to the full provisions of
 5-4 the policy through electronic means.

5-5 (h) A person offering, soliciting, or negotiating travel
 5-6 insurance or travel protection plans on an individual or group
 5-7 basis may not do so by using negative option or opt out that
 5-8 requires a consumer to take an affirmative action to deselect
 5-9 coverage, such as unchecking a box on an electronic form, when the
 5-10 consumer purchases a trip.

5-11 (i) It is an unfair trade practice to market blanket travel
 5-12 insurance coverage as free.

5-13 (j) If a consumer's destination jurisdiction requires
 5-14 insurance coverage, it is not an unfair trade practice to require
 5-15 that a consumer choose between the following options as a condition
 5-16 of purchasing a trip or travel package:

5-17 (1) purchasing the coverage required by the
 5-18 destination jurisdiction through the travel retailer or
 5-19 supervising entity supplying the trip or travel package; or

5-20 (2) agreeing to obtain and provide proof of coverage
 5-21 that meets the destination jurisdiction's requirements before
 5-22 departure.

5-23 Sec. 3504.0008. RULEMAKING. The commissioner shall adopt
 5-24 rules necessary to implement this chapter. Section 2001.0045,
 5-25 Government Code, does not apply to rules adopted under this
 5-26 section.

5-27 SECTION 2. Section 4055.151, Insurance Code, is amended by
 5-28 amending Subdivision (1) and adding Subdivisions (1-a) and (1-c) to
 5-29 read as follows:

5-30 (1) "Offer and disseminate" means to:

5-31 (A) provide general information, including the
 5-32 price and a description of the coverage; and

5-33 (B) process the application and collect
 5-34 premiums.

5-35 (1-a) "Planned trip" means any journey or travel
 5-36 arranged through the services of a travel agency.

5-37 (1-c) "Travel administrator" means a person who,
 5-38 directly or indirectly, underwrites, collects a charge,
 5-39 collateral, or a premium from, or adjusts or settles a claim of a
 5-40 resident of this state in connection with travel insurance. A
 5-41 person is not a travel administrator if the person's only actions
 5-42 that would otherwise cause the person to be considered a travel
 5-43 administrator include:

5-44 (A) the person working for a travel administrator
 5-45 to the extent the person's activities are subject to the
 5-46 supervision and control of the travel administrator;

5-47 (B) an insurance agent selling insurance or
 5-48 engaged in administrative and claims-related activities within the
 5-49 scope of the agent's license;

5-50 (C) a travel retailer, registered under the
 5-51 license of a supervising entity in accordance with this subchapter,
 5-52 offering and disseminating travel insurance;

5-53 (D) an individual adjusting or settling claims in
 5-54 the normal course of the individual's practice or employment as an
 5-55 attorney and who does not collect charges or premiums in connection
 5-56 with insurance coverage; or

5-57 (E) a business entity that is affiliated with a
 5-58 licensed insurer acting as a travel administrator for the direct
 5-59 and assumed insurance business of an affiliated insurer.

5-60 SECTION 3. Sections 4055.1515, 4055.153, and 4055.154,
 5-61 Insurance Code, are amended to read as follows:

5-62 Sec. 4055.1515. TRAVEL INSURANCE SUPERVISING ENTITY AND
 5-63 TRAVEL ADMINISTRATOR. (a) An insurer authorized to engage in the
 5-64 business of travel insurance in this state may designate a travel
 5-65 insurance supervising entity for purposes of this subchapter. The
 5-66 supervising entity must be:

5-67 (1) a licensed managing general agent;

5-68 (2) a licensed third-party administrator; [✗]

5-69 (3) a licensed insurance agent, including a specialty

6-1 license holder and a person described by Section 4055.002(a); or
 6-2 (4) a travel administrator.
 6-3 (b) Notwithstanding any other provisions of this code, a
 6-4 person may not act or represent the person as a travel administrator
 6-5 for travel insurance unless the person is:
 6-6 (1) a licensed property and casualty insurance agent;
 6-7 (2) a licensed managing general agent; or
 6-8 (3) a third-party administrator engaging in the
 6-9 business of insurance in this state under a certificate of
 6-10 authority.
 6-11 (c) A travel administrator and a travel administrator's
 6-12 employees are exempt from the licensing requirements under Chapter
 6-13 4101 with respect to travel insurance.
 6-14 (d) An insurer is responsible for the acts of a travel
 6-15 administrator administering travel insurance underwritten by the
 6-16 insurer. The insurer must ensure that the travel administrator
 6-17 maintains all books and records relevant to the insurer and makes
 6-18 the books and records available to the department on request of the
 6-19 commissioner.
 6-20 Sec. 4055.153. AUTHORITY OF TRAVEL RETAILER. [(a)] A
 6-21 travel retailer may offer and disseminate travel insurance as a
 6-22 service to the retailer's customers on behalf of and under the
 6-23 license and direction of a supervising entity only:
 6-24 (1) in connection with the sale or arrangement of
 6-25 transportation, accommodations, or events for travelers; and
 6-26 (2) with respect to travel insurance [that includes:
 6-27 [(A) accident and health insurance that provides
 6-28 coverage to a traveler for accidental death or dismemberment and
 6-29 for medical expenses resulting from an accident or sickness
 6-30 involving the traveler that occurs during the planned trip;
 6-31 [(B) insurance that provides coverage to a
 6-32 traveler for expenses incurred as a result of trip cancellation or
 6-33 interruption of a planned trip or event;
 6-34 [(C) personal effects insurance that provides
 6-35 coverage to a traveler for loss of or damage to personal effects
 6-36 during the planned trip or event;
 6-37 [(D) insurance that provides coverage for damage
 6-38 to accommodations or rental vehicles; or
 6-39 [(E) any other coverage the commissioner
 6-40 approves as meaningful and appropriate in connection with the
 6-41 transportation or accommodations arranged through a travel
 6-42 agency].
 6-43 [(b) Travel insurance does not include major medical
 6-44 expense coverage for a traveler on a planned trip for six months or
 6-45 more, including:
 6-46 [(1) an individual working abroad;
 6-47 [(2) an expatriate; and
 6-48 [(3) a military service member on deployment.]
 6-49 Sec. 4055.154. TRAVEL INSURANCE GENERALLY. (a) A travel
 6-50 retailer, or the supervising entity, shall provide to a traveler
 6-51 seeking to purchase travel insurance:
 6-52 (1) a description of the material terms or the actual
 6-53 terms of the insurance coverage;
 6-54 (2) a description of the claims filing process;
 6-55 (3) a description of the review and cancellation
 6-56 process for the travel insurance policy; and
 6-57 (4) the name and contact information for the insurer
 6-58 and the supervising entity.
 6-59 (b) Travel insurance coverage may be provided under an
 6-60 individual, [policy or a] group, or blanket [master] policy as
 6-61 defined by Section 3504.0001.
 6-62 SECTION 4. Section 4055.155, Insurance Code, is amended by
 6-63 amending Subsection (e) and adding Subsections (g-1) and (j) to
 6-64 read as follows:
 6-65 (e) The supervising entity must certify in a form prescribed
 6-66 by the commissioner by rule that each registered travel retailer is
 6-67 in compliance with 18 U.S.C. Section 1033. The grounds for
 6-68 suspension or revocation and the penalties that apply to a resident
 6-69 insurance agent apply to a supervising entity and travel retailer.

7-1 (g-1) The supervising entity shall pay all applicable
7-2 licensing fees required by state law with respect to travel
7-3 insurance.

7-4 (j) Any person licensed in a major line of authority, as
7-5 determined by the commissioner, as an insurance agent may sell,
7-6 solicit, and negotiate travel insurance. A property and casualty
7-7 insurance agent is not required to be appointed by an insurer to
7-8 sell, solicit, or negotiate travel insurance.

7-9 SECTION 5. Subchapter D, Chapter 4055, Insurance Code, is
7-10 amended by adding Section 4055.158 to read as follows:

7-11 Sec. 4055.158. RULEMAKING. The commissioner shall adopt
7-12 rules necessary to implement this subchapter. Section 2001.0045,
7-13 Government Code, does not apply to rules adopted under this
7-14 section.

7-15 SECTION 6. Section 221.002(b), Insurance Code, is amended
7-16 to read as follows:

7-17 (b) Except as provided by Subsection (c), in determining an
7-18 insurer's taxable premium receipts, the insurer shall include the
7-19 total gross amounts of premiums, membership fees, assessments,
7-20 dues, revenues, and any other considerations for insurance written
7-21 by the insurer in a calendar year from any kind of insurance written
7-22 by the insurer on each kind of property or risk located in this
7-23 state, including:

- 7-24 (1) fire insurance;
- 7-25 (2) ocean marine insurance;
- 7-26 (3) inland marine insurance;
- 7-27 (4) accident insurance;
- 7-28 (5) credit insurance;
- 7-29 (6) livestock insurance;
- 7-30 (7) fidelity insurance;
- 7-31 (8) guaranty insurance;
- 7-32 (9) surety insurance;
- 7-33 (10) casualty insurance;
- 7-34 (11) workers' compensation insurance;
- 7-35 (12) employers' liability insurance;
- 7-36 (13) crop insurance written by a farm mutual insurance
7-37 company; ~~and~~
- 7-38 (14) home warranty insurance; and
- 7-39 (15) travel insurance.

7-40 SECTION 7. This Act takes effect September 1, 2019.

7-41 * * * * *