

IN THE SENATE

SENATE BILL NO. 1079

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO THE LIMITED LINES TRAVEL INSURANCE ACT; AMENDING SECTION 41-1003, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING CHAPTER 10, TITLE 41, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 41-1090 THROUGH 41-1097, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE REQUIREMENTS FOR LIMITED LINES TRAVEL INSURANCE PRODUCERS, TO REQUIRE REGISTRATION, TO PROVIDE FOR TYPES OF POLICIES, TO PROVIDE FOR RESPONSIBILITIES OF LIMITED LINES TRAVEL INSURANCE PRODUCERS, TO PROHIBIT A NEGATIVE OPTION OR OPTION TO OPT OUT IN CERTAIN INSTANCES AND TO PROVIDE FOR ENFORCEMENT.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 41-1003, Idaho Code, be, and the same is hereby amended to read as follows:

41-1003. DEFINITIONS. (1) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

(2) "Home state" means the District of Columbia and any state or territory of the United States or any province of Canada in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer.

(3) "License" means a document issued by the director authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier.

(4) "Limited lines insurance" is insurance which restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to section 41-1008(1)(a) through (g), Idaho Code, and shall include, but not be limited to: credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (GAP) insurance, transportation baggage insurance, transportation ticket policies covering personal accident insurance, pet insurance, portable electronics insurance, travel insurance or any other line of insurance that the director deems necessary to recognize for the purposes of complying with section 41-1009(5), Idaho Code.

(5) "Limited lines producer" means a producer authorized by the director to sell, solicit or negotiate limited lines insurance. "Limited lines producer" includes a "limited lines travel insurance producer" as used in sections 41-1090 through 41-1096, Idaho Code.

(6) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular con-

1 tract of insurance concerning any of the substantive benefits, terms or con-
 2 ditions of the contract, provided that the person engaged in the act either
 3 sells insurance or obtains insurance from insurers for purchasers.

4 (7) "Person" means an individual or a business entity.

5 (8) "Producer" means a person required to be licensed under the laws of
 6 this state to sell, solicit or negotiate insurance.

7 (9) "Resident" means a person whose home state is Idaho or any other
 8 particular state identified in conjunction with the use of the term.

9 (10) "Sell" means to exchange a contract of insurance by any means, for
 10 money or its equivalent, on behalf of an insurance company.

11 (11) "Solicit" means attempting to sell insurance or asking or urging a
 12 person to apply for a particular kind of insurance from a particular company
 13 or companies.

14 (12) "Terminate" means the cancellation of the relationship between an
 15 insurance producer and the insurer or the termination of a producer's au-
 16 thority to transact insurance for or on behalf of an insurer.

17 (13) "Uniform application" means the current version of the national
 18 association of insurance commissioners (NAIC) uniform application for resi-
 19 dent and nonresident producer licensing.

20 (14) "Uniform business entity application" means the current version of
 21 the NAIC uniform business entity application for resident and nonresident
 22 business entities.

23 SECTION 2. That Chapter 10, Title 41, Idaho Code, be, and the same is
 24 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 25 ignated as Section 41-1090, Idaho Code, and to read as follows:

26 41-1090. SHORT TITLE. Sections 41-1090 through 41-1096, Idaho Code,
 27 shall be known and may be cited as the "Limited Lines Travel Insurance Act."

28 SECTION 3. That Chapter 10, Title 41, Idaho Code, be, and the same is
 29 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 30 ignated as Section 41-1091, Idaho Code, and to read as follows:

31 41-1091. DEFINITIONS. As used in this chapter:

32 (1) "Designated responsible producer" means the individual licensed
 33 producer responsible for ensuring compliance by the limited lines travel in-
 34 surance producer with travel insurance laws and rules of the state, as set
 35 forth in section 41-1092(2)(c), Idaho Code.

36 (2) "Limited lines travel insurance producer" means a person who is a
 37 limited lines producer as defined in section 41-1003, Idaho Code.

38 (3) "Offer and disseminate" means providing general information, in-
 39 cluding a description of the coverage and price, as well as processing the
 40 application, collecting premiums and performing other activities permitted
 41 by the state.

42 (4) "Travel insurance" means insurance coverage for personal risks in-
 43 cident to planned travel including, but not limited to:

44 (a) Interruption or cancellation of a trip or event;

45 (b) Loss of baggage or personal effects;

46 (c) Damages to accommodations or rental vehicles; and

47 (d) Sickness, accident, disability or death occurring during travel.

1 "Travel insurance" does not include major medical plans that provide compre-
2 hensive medical protection for travelers with trips lasting six (6) months
3 or longer, including those working overseas as an expatriate or military
4 personnel being deployed.

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

9 SECTION 4. That Chapter 10, Title 41, Idaho Code, be, and the same is
10 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
11 ignated as Section 41-1092, Idaho Code, and to read as follows:

12 41-1092. REQUIREMENTS FOR LIMITED LINES TRAVEL INSURANCE PRODUC-
13 ERS. Notwithstanding any other provision of law:

14 (1) The director may issue to an individual or business entity that has
15 filed with the director an application, in a form and manner prescribed by
16 the director, a limited lines travel insurance producer license that autho-
17 rizes the limited lines travel insurance producer to sell, solicit or nego-
18 tiate travel insurance on behalf of a licensed insurer.

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

22 (a) The limited lines travel insurance producer provides to policy-
23 holders of travel insurance:

24 (i) A description of the material terms or the actual material
25 terms of the insurance coverage;

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

27 (iii) A description of the review or cancellation process for the
28 travel insurance policy, including any forfeiture fees; and

29 (iv) The identity and contact information of the insurer and lim-
30 ited lines travel insurance producer.

31 (b) At the time of licensure, the limited lines travel insurance pro-
32 ducer shall establish and maintain a register on a form prescribed by
33 the director of each travel retailer that offers travel insurance on
34 the limited lines travel insurance producer's behalf. The register
35 shall be maintained and updated annually, at a minimum, by the limited
36 lines travel insurance producer and shall include the name, address,
37 and contact information of the travel retailer and an officer or person
38 who directs or controls the travel retailer's operations, as well as the
39 travel retailer's federal tax identification number. The limited lines
40 travel insurance producer shall submit such register from the previous
41 year to the department on March 1 of each year. The limited lines travel
42 insurance producer shall also certify that the registered travel re-
43 tailer complies with 18 U.S.C. 1033. The limited lines travel insurance
44 producer shall report its Idaho annual written premium to the director
45 on an annual basis.

46 (c) The limited lines travel insurance producer has designated one (1)
47 of its employees, who is a licensed individual producer, as a designated
48 responsible producer who shall be responsible for the limited lines

1 travel insurance producer's compliance with the travel insurance laws,
2 rules and regulations of the state.

3 (d) The designated responsible producer, president, secretary, trea-
4 surer and any other officer or person who directs or controls the lim-
5 ited lines travel insurance producer's insurance operations shall com-
6 ply with the fingerprinting requirements applicable to insurance pro-
7 ducers in the resident state of the limited lines travel insurance pro-
8 ducer.

9 (e) The limited lines travel insurance producer has paid all applicable
10 insurance producer licensing fees as set forth in applicable state law.

11 (f) The limited lines travel insurance producer requires each employee
12 and authorized representative of the travel retailer whose duties in-
13 clude offering and disseminating travel insurance to receive a program
14 of instruction or training that shall be subject to review by the direc-
15 tor. The training material shall, at a minimum, contain instructions
16 on the types of insurance offered, ethical sales practices and required
17 disclosures to prospective customers.

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

21 (a) Provide the identity and contact information of the insurer and the
22 limited lines travel insurance producer;

23 (b) Explain that the purchase of travel insurance is not required in or-
24 der to purchase any other product or service from the travel retailer;
25 and

26 (c) Explain that an unlicensed travel retailer is permitted to provide
27 general information about the insurance offered by the travel retailer,
28 including a description of the coverage and price, but is not qualified
29 or authorized to answer technical questions about the terms and condi-
30 tions of the insurance offered by the travel retailer or to evaluate the
31 adequacy of the customer's existing insurance coverage.

32 (4) A travel retailer's employees or authorized representatives who
33 are not licensed as insurance producers may not:

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

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

38 (c) Hold himself or itself out as a licensed insurer, licensed producer
39 or insurance expert.

40 SECTION 5. That Chapter 10, Title 41, Idaho Code, be, and the same is
41 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
42 ignated as Section 41-1093, Idaho Code, and to read as follows:

43 41-1093. REGISTRATION REQUIRED. A travel retailer, whose insur-
44 ance-related activities and those of its employees and authorized represen-
45 tatives are limited to offering and disseminating travel insurance, on be-
46 half of and under the direction of a limited lines travel insurance producer
47 meeting the conditions stated in this chapter, is authorized to do so and
48 receive related compensation upon registration by the limited lines travel
49 insurance producer as described in section 41-1092(2)(b), Idaho Code.

1 SECTION 6. That Chapter 10, Title 41, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
3 ignated as Section 41-1094, Idaho Code, and to read as follows:

4 41-1094. TYPE OF POLICY. Travel insurance may be provided under an in-
5 dividual policy or under a group or master policy.

6 SECTION 7. That Chapter 10, Title 41, Idaho Code, be, and the same is
7 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
8 ignated as Section 41-1095, Idaho Code, and to read as follows:

9 41-1095. RESPONSIBILITY OF LIMITED LINES TRAVEL INSURANCE PRODUC-
10 ERS. As the insurer designee, the limited lines travel insurance producer
11 is responsible for the acts of the travel retailer and shall use reasonable
12 means to ensure compliance by the travel retailer with this chapter.

13 SECTION 8. That Chapter 10, Title 41, Idaho Code, be, and the same is
14 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
15 ignated as Section 41-1096, Idaho Code, and to read as follows:

16 41-1096. NO NEGATIVE OPTION OR OPT OUT. No person offering travel in-
17 surance on an individual or group basis may do so using a negative option or
18 option to opt out, that would require a consumer to take an affirmative ac-
19 tion to deselect coverage such as unchecking a box on an electronic form when
20 purchasing a trip. It shall not be an unfair trade practice to include blan-
21 ket travel insurance coverage with the purchase of a trip, provided the cov-
22 erage is not marketed as free.

23 SECTION 9. That Chapter 10, Title 41, Idaho Code, be, and the same is
24 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
25 ignated as Section 41-1097, Idaho Code, and to read as follows:

26 41-1097. ENFORCEMENT. The limited lines travel insurance producer and
27 any travel retailer offering and disseminating travel insurance under the
28 limited lines travel insurance producer license shall be subject to the pro-
29 visions of section 41-1016, Idaho Code, and other applicable provisions of
30 this title. Violations of this act shall be considered an unfair trade prac-
31 tice under chapter 13, title 41, Idaho Code.