

**TRAVEL INSURANCE MODERNIZATION ACT - ENACTMENT**

**Act of May. 31, 2018, P.L. 125, No. 26**

**Cl. 40**

An Act

Providing for the licensure of limited lines travel insurance producers, for requirements for sale of travel insurance, for authority of limited lines travel insurance producers, for registration and training of travel retailers and for renewal of license.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Travel Insurance Modernization Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Application." As defined in section 601-A of the Insurance Department Act.

"Business entity." A person that is not an individual.

"Commissioner." The Insurance Commissioner of the Commonwealth.

"Customer." A person who purchases travel services or travel insurance.

"Department." The Insurance Department of the Commonwealth.

"Designated licensee." As defined in section 601-A of the Insurance Department Act.

"Enrolled customer." A customer who elects coverage under a travel insurance policy.

"Insurance Department Act." The act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921.

"Insurer." As defined in section 601-A of the Insurance Department Act.

"Limited lines travel insurance producer." A person licensed to sell, solicit or negotiate a contract of travel insurance.

"Location." A physical location in this Commonwealth or an Internet website, call center site or similar location provided to residents of this Commonwealth.

"Negotiate." To confer directly with or to offer advice directly to a customer or prospective customer of a particular contract of insurance concerning the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for customers.

"Offer and disseminate." To provide general information, including a description of the coverage and price, as well as processing an application for travel insurance, collecting premiums and performing other activities for which no insurance license is required.

"Sell." To exchange a contract of insurance by any means for money or its equivalent on behalf of an insurance entity.

"Solicit." To attempt to sell insurance or ask or urge a person to apply for a particular kind of insurance from a particular insurance entity.

"Travel insurance." Insurance providing coverage for personal risks incident to planned travel. The following apply:

(1) The term includes:

(i) Interruption or cancellation of trip or event.

- (ii) Loss of baggage or personal effects.
- (iii) Damages to accommodations or rental vehicles.
- (iv) Sickness, accident, disability or death occurring during travel.

(2) The term does not include:

(i) A service contract as defined in section 358(b) of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

(ii) A major medical plan that provides comprehensive medical protection to a traveler with a trip lasting six months or longer, including a person working overseas as an expatriate or deployed military personnel.

"Travel insurance transaction." The sale of travel insurance to a customer.

"Travel retailer." 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 or under its own license.

### Section 3. Licensure of limited lines travel insurance producers.

(a) Requirement.--A limited lines travel insurance producer is required to hold a limited lines travel insurance license to sell, solicit or negotiate coverage under a policy of travel insurance.

(b) Limited lines license.--A limited lines license issued under this act shall authorize a travel retailer registered under the license of the limited lines insurance producer, and each employee or authorized representative of the travel retailer, to offer and disseminate coverage under a policy of travel insurance to a customer at each location where the travel retailer or authorized representative engages in travel insurance transactions and to receive compensation from the limited lines travel insurance producer for those activities.

(c) License.--Notwithstanding any other provision of law, a license issued under this section shall authorize the licensee, a travel retailer registered under the licensee's license and an employee or authorized representative of the travel retailer to engage in activities permitted in this section.

### Section 4. Requirements for sale of travel insurance.

(a) Authority and licensure.--A travel retailer and each employee and authorized representative of the travel retailer may offer and disseminate travel insurance to customers and shall not be subject to licensure as an insurance producer under Article VI-A of the Insurance Department Act if:

(1) The limited lines travel insurance producer obtains a limited lines license.

(2) The limited lines travel insurance producer or travel retailer provides to each customer of travel insurance:

(i) A description of the material terms or 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.

(iv) The identity and contact information of the travel retailer, insurer and limited lines travel insurance producer.

(b) Register of travel retailers.--

(1) At the time of licensure, the limited lines travel insurance producer shall establish and maintain a register of each travel retailer in this Commonwealth where travel insurance is offered on the limited lines travel insurance producer's behalf.

(2) The register shall be maintained and updated annually by the limited lines travel insurance producer and shall include:

(i) The name, address and contact information of the travel retailer.

(ii) The name of the officer or person who directs or controls the travel retailer's operations.

(iii) The travel retailer's Federal Tax Identification Number.

(3) Information in the register regarding each travel retailer under paragraphs (1) and (2) shall be maintained for a period of at least three years following the date that the information was entered into the register.

(4) The limited lines travel insurance producer shall submit the register to the department upon request.

(5) The limited lines travel insurance producer shall certify that the travel retailer registered complies with 18 U.S.C. § 1033 (relating to crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce).

(c) List of locations.--A travel retailer shall maintain a list of the locations in this Commonwealth where it offers and disseminates travel insurance coverage information and, upon request, provide the list to the department.

(d) Training.--The insurer issuing the travel insurance must either directly supervise or authorize a designated licensee to supervise the administration of a training program, including the development of the program, for employees and authorized representatives of the travel retailer which may be subject to review by the department. The training shall comply with the following:

(1) The training shall be delivered to employees and authorized representatives of a travel retailer who are directly engaged in the activity of offering and disseminating travel insurance information.

(2) The training may be provided in electronic form. If conducted in an electronic form, the insurer shall implement a supplemental education program regarding travel insurance that is conducted and overseen by the designated licensee.

(3) Each employee and authorized representative, at a minimum, shall receive basic instruction about the types of travel insurance offered, ethical sales practices and the disclosures required under this section.

(e) Written materials.--A travel retailer offering or disseminating travel insurance shall provide to every prospective customer a brochure or other written material that:

(1) Provides the identity and contact information of the insurer and the limited lines travel insurance producer.

(2) Discloses that travel insurance may provide a duplication of coverage already provided under insurance policies that the producer already maintains.

(3) Explains that purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer.

(4) 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 answer technical questions about the terms and conditions of insurance coverage, including those coverages that are already maintained by the customer.

(f) Limitations.--A travel retailer's employee or authorized representative who is not licensed as a designated licensee may not:

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

(2) Evaluate or provide advice concerning a prospective customer's existing insurance coverage.

(3) Advertise, represent or otherwise hold himself or herself out as a licensed insurer, designated licensee or insurance expert.

(g) Charges.--The charges for travel insurance coverage may be billed and collected by the travel retailer. A charge to the enrolled customer for coverage that is not included in the cost associated with the purchase of travel services shall be separately itemized on the enrolled customer's bill. If the travel insurance coverage is included with the purchase of travel services, the travel retailer shall clearly and conspicuously disclose to the enrolled customer that the travel insurance coverage is included with the purchase of travel services. The travel retailer that bills and collects the charges shall not be required to maintain the funds in a segregated account provided that the travel retailer is authorized by the insurer to hold the funds in an alternative manner and remits the amounts to the supervising entity within 60 days of receipt. The funds received by a travel retailer from an enrolled customer for the sale of travel insurance shall be considered funds held in trust by the travel retailer in a fiduciary capacity for the benefit of the insurer.

(h) Compensation.--A travel retailer, whose insurance-related activities and those of the employees or authorized representatives are limited to offering and disseminating travel insurance on behalf of and under the direction and license of a limited lines travel insurance producer meeting the conditions stated in this act, is authorized to conduct those activities and receive related compensation upon registration by the limited lines travel insurance producer as described in subsection (b). No travel retailer employee or authorized representative may be compensated based primarily on the number of customers of travel insurance coverage, but nothing in this act shall prohibit payment of compensation to a travel retailer or its employees or authorized representatives for activities under the limited lines travel insurance producer's license that are incidental to the overall compensation of the travel retailer or its employees or authorized representatives.

Section 5. Policy.

(a) Offering.--Travel insurance may be offered under an individual policy or under a group policy.

(b) Eligibility and underwriting standards.--Eligibility and underwriting standards for customers electing to enroll in coverage shall be established for each travel insurance program.

Section 6. Responsibility.

As the insurer designee, the limited lines travel insurance producer and insurer shall be responsible for the acts of the travel retailer and the travel retailer's employees and authorized representatives who are not limited lines travel insurance producers and shall use reasonable means to ensure

compliance with this act by the travel retailer and the travel retailer's employees and authorized representatives.

#### Section 7. Enforcement.

(a) Actions by commissioner requiring no notice and hearing.--If the commissioner determines that a travel retailer or a travel retailer's employee or authorized representative has violated any provision of this act, the commissioner may:

(1) Direct the limited lines travel insurance producer to implement a corrective action plan with the travel retailer.

(2) Direct the limited lines travel insurance producer to revoke the authorization of the travel retailer to offer and disseminate travel insurance on its behalf and under its license and to remove the travel retailer's name from its register.

(b) Actions by commissioner requiring notice and hearing.--If the commissioner determines that a travel retailer or a travel retailer's employee or authorized representative has violated any provision in this act, the commissioner, after notice and hearing, may:

(1) Suspend or revoke the license of the limited lines travel insurance producer as authorized under this act or the registration of the travel retailer.

(2) Impose a monetary penalty on the limited lines travel insurance producer.

(3) Impose other conditions and penalties as deemed appropriate by the commissioner, including an order to cease and desist in the engagement of travel insurance transactions with a particular travel retailer and a particular employee or authorized representative of a travel retailer.

(c) Monetary penalties.--In addition to any other action authorized under this act or other law, a limited lines travel insurance producer who aids and abets a travel retailer in the transaction of travel insurance or in any activity concerning travel insurance after being directed to revoke the travel retailer's authorization shall be subject to a monetary penalty under the act of July 22, 1974 (P.L.589, No.205), known as the Unfair Insurance Practices Act.

(d) Effect of conduct.--For purposes of this act, the conduct of a travel retailer and its employees and authorized representatives regarding the offering or dissemination of travel insurance on behalf of a licensed limited lines travel insurance producer shall be deemed the conduct of the licensed limited lines travel insurance producer.

#### Section 8. Licensing and fees.

(a) Renewal process generally.--An application for licensure or license renewal under this act shall be processed in accordance with sections 605-A, 606-A and 608-A of the Insurance Department Act.

(b) Amount of fees.--A nonrefundable fee of \$400 shall accompany an application for a limited lines travel insurance producer license and any license renewal.

(c) Adjustment of fees.--A license fee under subsection (b) may be adjusted no more than annually by the commissioner upon publication of the new fee in the Pennsylvania Bulletin.

#### Section 9. Effective date.

This act shall take effect in 120 days.