

# Legislative Analysis



## TRAVEL INSURANCE

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**House Bill 4508 as introduced**  
**Sponsor: Rep. Michael Webber**  
**Committee: Insurance**  
**Complete to 5-16-19**

Analysis available at  
<http://www.legislature.mi.gov>

## SUMMARY:

House Bill 4508 would amend the Insurance Code to change the definition of *travel insurance* and to add a new Chapter 12B to regulate the sale and dissemination of travel insurance.

### **Definition of Travel Insurance**

For purposes of the Insurance Code, *travel insurance* currently means a limited lines insurance coverage for personal risk connected to planned travel, including one or more of the following:

- Interruption or cancellation of a trip or event.
- Loss of baggage or personal effects.
- Damages to accommodations or rental vehicles.
- Sickness, accident, disability, or death that occurs while traveling.

The bill would also allow the following to be included in the definition:

- Emergency evacuation.
- Repatriation of remains.
- Indemnification of other travel-related contingencies, as approved by the director of the Department of Insurance and Financial Services (DIFS).

The Insurance Code currently specifies that travel insurance does not include major medical plans that provide comprehensive medical protection for travelers on trips lasting six months or longer, such as expatriates working overseas or military personnel on deployment. The bill would change this time frame from “six months or longer” to “longer than six months.”

The bill would further exclude from the definition of travel insurance any product that requires a specific insurance producer’s license.

### **Scope of Chapter 12B**

House Bill 4508 would add Chapter 12B (Travel Insurance) to the Insurance Code. The new chapter would apply to travel insurance covering a Michigan resident that is sold, solicited, negotiated, or offered in Michigan and for which policies or certificates are delivered or issued in Michigan.

The new chapter would generally not apply to *cancellation fee waivers* or *travel assistance services*.

*Cancellation fee waiver* would mean a contractual agreement between a supplier of travel services and its customer to waive some or all of the nonrefundable cancellation fee provisions of the underlying travel contract.

*Travel assistance services* would mean noninsurance services for which a consumer is not indemnified based on a contingent event and where providing the service does not

result in a transfer of risk the way that insurance does. Examples include destination information, security advisories, lost luggage assistance, concierge services, translation assistance, travel reservation services, coordination of transportation arrangements, and activity and event planning.

### **Forms of travel insurance**

Travel insurance could be in the form of an individual, group, or blanket policy.

***Group travel insurance*** would mean travel insurance issued to any ***eligible group***.

***Blanket travel insurance*** would mean a policy of travel insurance issued to any ***eligible group*** providing coverage for specific classes of persons defined in the policy with coverage provided to all members of the eligible group without a separate charge to individual members of the eligible group.

***Eligible group*** would mean two or more persons that are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship. The bill lists several types of eligible groups, including by way of example such things as hotels and resorts, travel clubs, cultural exchange programs, airlines, cruise lines, colleges, sports teams, religious organizations, labor unions, volunteer fire departments, and senior citizen clubs.

### **Limited lines travel insurance producers and travel retailers**

House Bill 4508 would allow the director of DIFS to issue a limited lines travel insurance producer license to an individual or business entity that has filed an application for the license as the director prescribes. A licensed ***limited lines travel insurance producer*** could sell, solicit, or negotiate travel insurance through a licensed insurer. A person could not act as a limited lines travel insurance producer or ***travel retailer*** unless the person were properly licensed or registered, as applicable.

***Limited lines travel insurance producer*** would mean a licensed managing general agent or third-party administrator; a licensed insurance producer, including a limited lines producer; or a ***travel administrator***.

***Travel administrator*** would mean, with exceptions listed in the bill, a person that underwrites; collects charges, collateral, or premiums for; or adjusts or settles claims on residents of this state in connection with travel insurance.

***Travel retailer*** would mean a business entity that makes, arranges, or offers planned travel and 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.

A travel retailer could offer and disseminate travel insurance under a limited lines travel insurance producer business entity license only if all of the following were met:

- The limited lines travel insurance producer or travel retailer provides purchasers of travel insurance with a description of the terms of the coverage, the process for filing a claim, and the policy review or cancellation process, as well as the identity and contact information of the insurer and limited lines travel insurance producer.
- At the time of licensure, the limited lines travel insurance producer establishes and maintains a register (on a form prescribed by the director of DIFS) of each travel retailer

that offers travel insurance on the limited lines travel insurance producer's behalf. The register would have to be maintained and updated by the insurance producer, who would have to submit the register to DIFS upon reasonable request. The insurance producer would have to certify that the travel retailer complies with the section of federal law prohibiting fraud by interstate insurers. The grounds for suspension or revocation of licenses issued to, and the penalties that apply to, resident insurance producers would apply to limited lines travel insurance producers and travel retailers. A travel retailer whose insurance-related activities were limited to offering and disseminating travel insurance on behalf and under the direction of a limited lines travel insurance producer could receive related compensation upon being registered by the insurance producer.

- The limited lines travel insurance producer has designated an employee who is a licensed individual producer as the designated responsible producer responsible for compliance with applicable travel insurance laws and regulations. The designated responsible producer, the president, secretary, or treasurer of the insurance producer, and any other officer or person who directs the insurance producer's insurance operations would have to comply with the applicable fingerprinting requirements of the insurance producer's resident state.
- The limited lines travel insurance producer has paid all applicable licensing fees.
- The limited lines travel insurance producer requires each employee and authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training that is subject to review and approval, at the discretion of the director. The training material would have to contain at least adequate instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

The limited lines travel insurance producer would be responsible for the acts of the travel retailer and would have to use reasonable means to ensure compliance by the travel retailer with the provisions of the bill.

A person licensed in a major line of authority as an insurance producer could sell, solicit, and negotiate travel insurance. A property and casualty insurance producer would not have to be appointed by an insurer to sell, solicit, or negotiate travel insurance.

The bill would prohibit a travel retailer employee or authorized representative who is not licensed as an insurance producer from evaluating or interpret the technical terms, benefits, and conditions of offered travel insurance coverage; evaluating or providing advice about a prospective purchaser's existing insurance coverage; or holding himself or herself out as a licensed insurer, licensed producer, or insurance expert.

#### **Documentation, customer information, fulfillment materials, and other disclosures**

A travel insurer would have to do both of the following:

- Document the state of residence or principal place of business of the policyholder or certificate holder.
- Report as premium only the amount allocable to travel insurance and not any amounts received for travel assistance services or cancellation fee waivers.

A travel retailer offering or disseminating travel insurance would have to make available to prospective purchasers brochures or other written materials that have been approved by the travel insurer. The materials would have to include all of the following:

- The identity and contact information of the insurer and the limited lines travel insurance producer.
- A statement that the purchase of travel insurance is not required to purchase any other product or service from the travel retailer.
- A statement that an unlicensed travel retailer is permitted to provide only general information about the insurance offered by the travel retailer, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance or to evaluate the adequacy of the customer's existing insurance coverage.

The information required to be provided to a purchaser of insurance and the *fulfillment materials* would have to be provided to a policyholder as soon as practicable after the purchase of a travel protection plan. Unless the insured had either started a covered trip or filed a claim under the travel insurance coverage, a policyholder could cancel a policy for a full refund of the travel protection plan price from the date of purchase of the plan until at least 15 days after delivery of the plan's fulfillment materials by postal mail or 10 days after their delivery by other means.

*Fulfillment materials* would mean documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's coverage and assistance details.

For travel insurance policies or certificates with preexisting condition exclusions, information and an opportunity to learn more about those exclusions would have to be provided before the time of purchase and in the coverage's fulfillment materials.

A company would have to disclose in the policy documentation and fulfillment materials whether the travel insurance is primary or secondary to other applicable coverage.

All documents provided to consumers before the purchase of travel insurance (including sales, advertising, and marketing materials) would have to be consistent with the travel insurance policy (including forms, endorsements, policies, rate filings, and certificates of insurance).

Travel protection plans could be offered for one price for the combined features that the plan offers if both of the following were met:

- The plan clearly discloses to the consumer at or before the time of purchase that it includes travel insurance, travel assistance services, and cancellation fee waivers, as applicable, and provides an opportunity at or before the time of purchase for the consumer to obtain additional information regarding the features and pricing of each.
- The fulfillment materials describe and delineate the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan and include the travel insurance disclosures and contact information for persons providing travel assistance services and cancellation fee waivers, as applicable.

### **Premium Tax**

A travel insurer would have to pay a premium tax, as provided in section 1905 of the Insurance Code,<sup>1</sup> on travel insurance premiums paid by any of the following:

- An individual primary policyholder who is a resident of this state.
- A primary certificate holder who is a resident of this state who elects coverage under a group travel insurance policy.
- A blanket travel insurance policyholder that is a resident in or has a relevant principal place of business in this state, subject to any equitable multijurisdictional apportionment.

### **Trade practices**

A person offering travel insurance to residents of this state would be subject to Chapter 20 of the Insurance Code, concerning unfair and prohibited trade practices. However, in a conflict between the new Chapter 12B and other provisions of the Insurance Code regarding the sale and marketing of travel insurance and travel protection plans, Chapter 12B would control.

It would be an unfair trade practice to do either of the following:

- Offer or sell a travel insurance policy that could never result in payment of any claims for an insured under the policy.
- Market blanket travel insurance coverage as free.

If a consumer's destination jurisdiction required insurance coverage, it would not be an unfair trade practice to require that a consumer choose between the following options as a condition of purchasing a trip or travel package:

- Purchasing the coverage required by the destination jurisdiction through the travel retailer or limited lines travel insurance producer supplying the trip or travel package.
- Agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements before departure.

Travel insurance marketed directly to a consumer through an insurer's website or by others through an *aggregator site* would not be an unfair trade practice or other violation of law if the webpage provided an accurate summary or short description of coverage and the consumer had access, through electronic means, to the full provisions of the policy.

*Aggregator site* would mean a website that provides access to information regarding insurance products from more than one insurer for use in comparison shopping.

However, a person offering, soliciting, or negotiating travel insurance or travel protection plans on an individual or group basis could not use an opt-out or negative option that would require a consumer to take an affirmative action to deselect coverage (such as unchecking a box on an electronic form when the consumer purchases a trip).

### **Travel administrators**

Only a property and casualty insurance producer licensed in this state, a person holding a valid managing general agent license in this state, or a person holding a valid third-party administrator license in this state could act or represent itself as a travel administrator for travel insurance in this state. A travel administrator and its employees would be exempt from needing

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<sup>1</sup> That section requires surplus lines licensees to pay to DIFS director a 2% tax and a 0.5% regulatory fee on premiums written.

an adjuster's license for the travel insurance it administers. An insurer would be responsible for the acts of a travel administrator administering travel insurance underwritten by the insurer, as well as for ensuring that the travel administrator maintains all books and records relevant to the insurer, to be made available to the director of DIFS upon request.

**Classifications and filings**

Travel insurance would be classified and would have to be filed for purposes of rates and forms under an inland marine line of insurance, except that travel insurance that provides coverage for sickness, accident, disability, or death occurring during travel, either exclusively or with related coverages or incidental limited property and casualty benefits, could be filed under either an accident and health line of insurance or an inland marine line of insurance.

Eligibility and underwriting standards for travel insurance could be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels, if those standards also met this state's underwriting standards for inland marine.

MCL 500.1202 and proposed MCL 500.1281 et seq.

**FISCAL IMPACT:**

House Bill 4508 would likely result in cost increases for DIFS. The department would be tasked with reviewing applications for and issuing insurance producer licenses to individuals and entities applying for limited lines travel insurance producer licenses, and with otherwise regulating limited lines travel insurance producer licenses. The bill would require limited lines travel insurance producers to pay applicable licensing fees, but it is unclear whether fees will be sufficient to offset the department's expenses.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.