

# An Act

ENROLLED SENATE  
BILL NO. 1156

By: Quinn of the Senate

and

Mulready of the House

An Act relating to travel insurance; amending 36 O.S. 2011, Section 1435.20, as last amended by Section 1, Chapter 145, O.S.L. 2014 (36 O.S. Supp. 2017, Section 1435.20), which relates to limited lines producers; modifying category in which limited line producer may qualify for licensure; creating the Travel Insurance Act; providing applicability of act; defining terms; authorizing Insurance Commissioner to issue certain license; establishing conditions for certain license; requiring travel retailers to offer certain literature; prohibiting certain persons from operating as licensed insurance producer; authorizing certain persons to receive compensation; requiring compliance with act by certain persons; requiring payment of certain tax; authorizing Travel Protection Plans be offered under certain conditions; extending application of Unfair Trade Practices Act to certain persons; clarifying certain acts of unfair trade practice; establishing marketing procedures; establishing rules for acting as Travel Administrator; exempting certain persons from Insurance Adjuster Licensing Act; authorizing certain policies to offer travel insurance; authorizing Commissioner to promulgate rules; repealing Section 3, Chapter 145, O.S.L. 2014, Section 4, Chapter 145, O.S.L. 2014, Section 5, Chapter 145, O.S.L. 2014, Section 6, Chapter 145, O.S.L. 2014, Section 7, Chapter 145, O.S.L. 2014 and Section 8, Chapter 145, O.S.L. 2014 (36 O.S. Supp. 2017, Sections 6680, 6681, 6682, 6683, 6684 and 6685), which relate to limited lines insurance

providers; providing for codification; and providing an effective date.

SUBJECT: Insurance

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2011, Section 1435.20, as last amended by Section 1, Chapter 145, O.S.L. 2014 (36 O.S. Supp. 2017, Section 1435.20), is amended to read as follows:

Section 1435.20 A. A limited lines producer may receive qualification for a license in one or more of the following categories:

1. Prepaid legal liability insurance, which means the assumption of an enforceable contractual obligation to provide specified legal services or to reimburse policyholders for specified legal expenses, pursuant to the provisions of a group or individual policy;

2. Crop - insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease or other yield-reducing conditions or perils provided by the private insurance market, or that is subsidized by the Federal Crop Insurance Corporation, including Multi-Peril Crop Insurance;

3. Car rental - insurance offered, sold or solicited in connection with and incidental to the rental of rental cars for a period of two (2) years, whether at the rental office or by preselection of coverage in master, corporate, group or individual agreements that:

- a. is nontransferable,
- b. applies only to the rental car that is the subject of the rental agreement, and
- c. is limited to the following kinds of insurance:

- (1) personal accident insurance for renters and other rental car occupants, for accidental death or dismemberment, and for medical expenses resulting from an accident that occurs with the rental car during the rental period,
- (2) liability insurance that provides protection to the renters and other authorized drivers of a rental car for liability arising from the operation or use of the rental car during the rental period,
- (3) personal effects insurance that provides coverage to renters and other vehicle occupants for loss of, or damage to, personal effects in the rental car during the rental period,
- (4) roadside assistance and emergency sickness protection insurance, or
- (5) any other coverage designated by the Insurance Commissioner.

A car rental limited lines license issued to a rental or leasing company shall authorize any employee or authorized representative of the rental or leasing company to sell or offer coverage at each location at which the rental or leasing company operates. Employees or authorized representatives are not required to be individually licensed;

4. Credit - credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, or any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation and that is designated by the Insurance Commissioner as limited line credit insurance;

5. Surety - insurance or bond that covers obligations to pay the debts of, or answer for the default of another, including

faithlessness in a position of public or private trust. For purpose of limited line licensing, surety does not include surety bail bonds; and

6. ~~Travel — insurance coverage for personal risks incident to planned travel, including, but not limited to:~~

- ~~a. interruption or cancellation of trip or event,~~
- ~~b. loss of baggage or personal effects,~~
- ~~c. damages to accommodations or rental vehicles, or~~
- ~~d. sickness, accident, disability or death occurring during travel.~~

~~Travel insurance does not include major medical plans, which provide comprehensive medical protections for travelers with trips lasting six (6) months or longer, including, but not limited to, those working overseas as expatriate or military personnel deployed overseas.~~

B. 1. An insurance producer or limited lines producer may solicit applications for and issue travel accident policies or baggage insurance by means of mechanical vending machines supervised by the insurance producer or limited lines producer only if the Insurance Commissioner shall determine that the form of policy to be sold is reasonably suited for sale and issuance through vending machines, that use of vending machines for the sale of policies would be of convenience to the public, and that the type of vending machine to be used is reasonably suitable and practical for the sale and issuance of policies. Policies so sold do not have to be countersigned.

2. The Commissioner shall issue to the insurance agent or limited insurance representative a special vending machine license for each such machine to be used. The license shall specify the name and address of the insurer and licensee, the kind of insurance and type of policy to be sold, and the place where the machine is to be in operation. The license shall expire, be renewable, and be suspended or revoked coincidentally with the insurance agent license or limited representative license of the licensee. The license fee

for each vending machine shall be that stated in the provisions of Section 1435.23 of this title. Proof of existence of the license shall be displayed on or about each machine in such manner as the Commissioner may reasonably require.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6710 of Title 36, unless there is created a duplication in numbering, reads as follows:

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

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6711 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The requirements of the act shall apply to travel insurance where policies and certificates are delivered or issued for delivery in this state. It shall not apply to cancellation fee waivers and travel assistance services, except as expressly provided herein.

B. All other applicable provisions of this state's insurance laws shall continue to apply to travel insurance except that the specific provisions of this act shall supersede any general provisions of law that would otherwise be applicable to travel insurance.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6712 of Title 36, unless there is created a duplication in numbering, reads as follows:

As used in this act, the term:

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 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;

3. "Cancellation fee waiver" means 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 supplier's underlying travel contract, with or without regard to the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance;

4. "Commissioner" means the Oklahoma Insurance Commissioner;

5. "Eligible group" means, solely for the purposes of travel insurance, two or more persons who are engaged in a common enterprise, or have an economic, educational or social affinity or relationship, including, but not limited to, any of the following:

- a. any entity engaged in the business of providing travel or travel services, including, but not limited to, tour operators, lodging providers, vacation property owners, hotels and resorts, travel clubs, travel agencies, property managers, cultural exchange programs and common carriers or the operator, owner or lessor of a means of transportation of passengers, including, but not limited to, airlines, cruise lines, railroads, steamship companies and public bus carriers, wherein with regard to any particular travel or type of travel or travelers, all members or customers of the group must have a common exposure to risk attendant to such travel,
- b. any college, school or other institution of learning covering students, teachers, employees or volunteers,
- c. any employer covering any group of employees, volunteers, contractors, board of directors, dependents or guests,
- d. any sports team, camp or sponsor thereof covering participants, members, campers, employees, officials, supervisors or volunteers,

- e. any religious, charitable, recreational, educational or civic organization or branch thereof covering any group of members, participants or volunteers,
- f. any financial institution or financial institution vendor, or parent holding company, trustee or agent of or designated by one or more financial institutions or financial institution vendors, including accountholders, credit card holders, debtors, guarantors or purchasers,
- g. any incorporated or unincorporated association, including labor unions, having a common interest, constitution and bylaws and organized and maintained in good faith for purposes other than obtaining insurance for members or participants of such association covering its members,
- h. any trust or the trustees of a fund established, created or maintained for the benefit of and covering members, employees or customers, subject to the Insurance Commissioner authorizing the use of a trust and the state's premium tax provisions in Section 6 of this act of one or more associations meeting the above requirements of this paragraph,
- i. any entertainment production company covering any group of participants, volunteers, audience members, contestants or workers,
- j. any volunteer fire department, ambulance, rescue, police, court or any first aid, civil defense or other such volunteer group,
- k. preschools, daycare institutions for children or adults and senior citizen clubs,
- l. any automobile or truck rental or leasing company covering a group of individuals who may become renters, lessees or passengers defined by their travel status on the rented or leased vehicles. The common carrier, the operator, owner or lessor of a means of

transportation or the automobile or truck rental or leasing company is the policyholder under a policy to which this paragraph applies, or

- m. any other group where the Commissioner has determined that the members are engaged in a common enterprise, or have an economic, educational or social affinity or relationship, and that issuance of the policy would not be contrary to the public interest;

6. "Fulfillment materials" means documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the coverage and assistance details of the travel protection plan;

7. "Group travel insurance" means travel insurance issued to any eligible group;

8. "Limited lines travel insurance producer" means any of the following:

- a. licensed managing general agent or third-party administrator,
- b. licensed insurance producer, including a limited lines producer, or
- c. travel administrator;

9. "Offer and disseminate" means providing general information, including a description of the coverage and price, as well as processing the application and collecting premiums;

10. "Travel administrator" means a person who directly or indirectly underwrites, collects charges, collateral or premiums from or adjusts or settles claims on residents of this state, in connection with travel insurance, except that a person shall not be considered a travel administrator if the only actions of the person are those that would otherwise cause the person to be considered a travel administrator are among the following:



- a. a person working for a travel administrator whose activities are subject to the supervision and control of the travel administrator,
- b. an insurance producer selling insurance or engaged in administrative and claims-related activities within the scope of the license of the producer,
- c. a travel retailer offering and disseminating travel insurance and registered under the license of a limited lines travel insurance producer in accordance with this act,
- d. an individual adjusting or settling claims in the normal course of practice or employment of the individual as an attorney-at-law and who does not collect charges or premiums in connection with insurance coverage, or
- e. 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;

11. "Travel assistance services" means noninsurance services that may be distributed by limited lines travel insurance producers or other entities, and for which there is no indemnification for the travel protection plan customer based on a fortuitous event, nor any transfer or shifting of risk that would constitute the business of insurance. Travel assistance services include, but are not limited to: security advisories; destination information; vaccination and immunization information services; travel reservation services; entertainment; activity and event planning; translation assistance; emergency messaging; international legal and medical referrals; medical case monitoring; coordination of transportation arrangements; emergency cash transfer assistance; medical prescription replacement assistance; passport and travel document replacement assistance; lost luggage assistance; concierge services; and any other service that is furnished in connection with planned travel that is not related to the adjudication of a travel insurance claim, unless otherwise approved by the Commissioner in a travel

insurance filing. Travel assistance services are not insurance and not related to insurance;

12. "Travel insurance" means insurance coverage for personal risks incident to planned travel, including:

- a. interruption or cancellation of trip or event,
- b. loss of baggage or personal effects,
- c. damages to accommodations or rental vehicles,
- d. sickness, accident, disability or death occurring during travel,
- e. emergency evacuation,
- f. repatriation of remains, or
- g. any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the Commissioner.

Travel insurance does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting longer than six (6) months, including, but not limited to, those working or residing overseas as an expatriate, or any other product that requires a specific insurance producer license;

13. "Travel protection plans" means plans that provide one or more of the following: travel insurance, travel assistance services and cancellation fee waivers; and

14. "Travel retailer" means 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.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6713 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Insurance Commissioner may issue a limited lines travel insurance producer license to an individual or business entity that has filed with the Commissioner an application for such license in a form and manner prescribed by the Commissioner. The limited lines travel insurance producer shall be licensed to sell, solicit or negotiate travel insurance through a licensed insurer. No person may act as a limited lines travel insurance producer or travel insurance retailer unless properly licensed or registered, respectively.

B. A travel retailer may offer and disseminate travel insurance under a limited lines travel insurance producer business entity license only if:

1. The limited lines travel insurance producer or travel retailer provides to purchasers 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. 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 behalf of the limited lines travel insurance. The register shall be maintained and updated by the limited lines travel insurance producer and shall include the name, address and contact information of the travel retailer and an officer or person who directs or controls the operations of the travel retailer and the federal tax identification number of the travel retailer. The limited lines travel insurance producer shall submit the register to the Insurance Department upon reasonable request. The limited lines travel insurance producer shall also certify that the registered travel retailer complies with 18 U.S.C., Section 1033. The grounds

for the suspension, revocation and the penalties applicable to resident insurance producers, pursuant to Section 1435.13 of Title 36 of the Oklahoma Statutes, shall be applicable to the limited lines travel insurance producers and travel retailers;

3. The limited lines travel insurance producer has designated one of its employees, a designated responsible producer, who is a licensed individual producer as the person responsible for the compliance with the travel insurance laws and regulations applicable to the limited lines travel insurance producer and its registrants;

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 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 has paid all applicable insurance producer licensing fees as set forth in Section 1435.23 of Title 36 of the Oklahoma Statutes; and

6. 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, which is subject to the discretion of the Commissioner to review and approve. The training material shall, at a minimum, contain adequate instructions on the types of insurance offered, ethical sales practices and required disclosures to prospective customers.

C. Any travel retailer offering or disseminating travel insurance shall make available to prospective purchasers brochures or other written materials that have been approved by the travel insurer. Such materials shall include information which, at a minimum:

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

2. Explains that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and

3. Explains that an unlicensed travel retailer is permitted to provide only 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 the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

D. A travel retailer employee or authorized representative who is not licensed as an insurance producer may not:

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

2. Evaluate or provide advice concerning existing insurance coverage for a prospective purchaser; or

3. Hold himself, herself or itself out as a licensed insurer, licensed producer or insurance expert.

E. Notwithstanding any other provision in law, a travel retailer whose insurance-related activities, and those of its 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 act, is authorized to receive related compensation, upon registration by the limited lines travel insurance producer as described in paragraph 2 of subsection B of this section.

F. As the insurer designee, the limited lines travel insurance producer is responsible for the acts of the travel retailer and shall use reasonable means to ensure compliance by the travel retailer with this act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6714 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. A travel insurer shall pay premium tax, as provided in Section 624 of Title 36 of the Oklahoma Statutes, on travel insurance premiums paid by any of the following:

1. An individual primary policyholder who is a resident of this state;

2. A primary certificate-holder who is a resident of this state who elects coverage under a group travel insurance policy; or

3. A blanket travel insurance policyholder that is a resident, or has its principal place of business or the principal place of an affiliate or subsidiary that has purchased blanket travel insurance in this state for eligible blanket group members, subject to any apportionment rules which apply to the insurer across multiple taxing jurisdictions or that permits the insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions.

B. A travel insurer shall:

1. Document the state of residence or principal place of business of the policyholder or certificate-holder, as required in subsection A of this section; and

2. Report as premium only the amount allocable to travel insurance and not any amounts received for travel assistance services or cancellation fee waivers.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6715 of Title 36, unless there is created a duplication in numbering, reads as follows:

Travel protection plans may be offered for one price for the combined features that the travel protection plan offers in this state if:

1. The travel protection plan clearly discloses to the consumer at, or prior to, the time of purchase that it includes travel insurance, travel assistance services and cancellation fee waivers as applicable, and provides information and an opportunity at, or

prior to, the time of purchase for the consumer to obtain additional information regarding the features and pricing of each; and

2. The fulfillment materials:

- a. describe and delineate the travel insurance, travel assistance services and cancellation fee waivers in the travel protection plan, and
- b. include the applicable travel insurance disclosures and the contact information for persons providing travel assistance services and cancellation fee waiver.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6716 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. All persons offering travel insurance to residents of this state are subject to the Unfair Trade Practices Act pursuant to Sections 1201 through 1219 of Title 36 of the Oklahoma Statutes, except as otherwise provided in this section. In the event of a conflict between this act and other provisions of Title 36 of the Oklahoma Statutes regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this act shall control.

B. Offering or selling a travel insurance policy that could never result in payment of any claims for any insured under the policy is an unfair trade practice under Section 1203 of Title 36 of the Oklahoma Statutes.

C. Marketing.

1. All documents provided to consumers prior to the purchase of travel insurance, including, but not limited to, sales materials, advertising materials and marketing materials, shall be consistent with all travel insurance policy documents, including, but not limited to, forms, endorsements, policies, rate filings and certificates of insurance.

2. Travel insurance policies or certificates that contain pre-existing condition exclusions must clearly disclose the exclusion in the fulfillment materials of the coverage.`

3. Policyholders or certificate holders shall have a minimum of ten (10) days from the later of the date of purchase of a travel protection plan or the delivery of the fulfillment materials of the plan to review and cancel the policy or certificate for a full refund of the travel protection plan price, unless the insured has either started the covered trip or has filed a claim under the travel insurance coverage. For the purposes of this paragraph, sending documentation confirming the purchase and providing the coverage and assistance details of the travel protection plan, as applicable, to a physical or electronic mail address provided by the purchaser of a travel protection plan shall constitute delivery of the travel protection plan's fulfillment materials.

4. The company shall disclose in the policy fulfillment and documentation whether the travel insurance is primary or secondary to other applicable coverage.

5. Where travel insurance is marketed directly to a consumer through a website of the insurer or by others through an aggregator site, it shall not be an unfair trade practice or other violation of law where an accurate summary or short description of coverage is provided on the web page, so long as the consumer has access to the full provisions of the policy through electronic means.

D. Unless otherwise permitted by state or federal law, no person offering travel insurance or travel protection plans on an individual or group basis may do so using negative option or opt-out, which would require a consumer to take an affirmative action to deselect coverage such as unchecking a box on an electronic form when they purchase a trip.

E. It shall not be an unfair trade practice to include blanket travel insurance coverage with the purchase of a trip, provided the coverage is not marketed as free.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6717 of Title 36, unless there is created a duplication in numbering, reads as follows:



A. Notwithstanding any other provisions of law, no person shall act or represent itself as a travel administrator in this state unless that person:

1. Is a licensed producer for property insurance in this state with an inland marine line of authority;

2. Holds a valid managing general agent license in this state;  
or

3. Holds a valid third-party administrator license in this state.

B. A travel administrator and its employees are exempt from the licensing requirements of the Insurance Adjuster Licensing Act pursuant to Sections 6201 et seq. of Title 36 of the Oklahoma Statutes.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6718 of Title 36, unless there is created a duplication in numbering, reads as follows:

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

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6719 of Title 36, unless there is created a duplication in numbering, reads as follows:

The Insurance Commissioner may promulgate rules to implement the provisions of this act.

SECTION 12. REPEALER Section 3, Chapter 145, O.S.L. 2014, Section 4, Chapter 145, O.S.L. 2014, Section 5, Chapter 145, O.S.L. 2014, Section 6, Chapter 145, O.S.L. 2014, Section 7, Chapter 145, O.S.L. 2014 and Section 8, Chapter 145, O.S.L. 2014 (36 O.S. Supp. 2017, Sections 6680, 6681, 6682, 6683, 6684 and 6685), are hereby repealed.

SECTION 13. This act shall become effective November 1, 2018.

Passed the Senate the 24th day of April, 2018.

\_\_\_\_\_  
Presiding Officer of the Senate

Passed the House of Representatives the 11th day of April, 2018.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_