



Travel Insurance Regulatory Framework

The Issue

Travel insurance has been important to the United States economy for many years and continues to respond to consumer demands. Although the market applicable to travel insurance is well-established, travel insurance does not always fit squarely within insurance laws designed for major lines of authority.

A comprehensive, uniform, and national regulatory framework – as provided in the proposed legislation – is needed to: (i) clarify the application of current laws to the unique aspects of travel insurance, which is sold on a national basis and is a product that travels with a consumer across state and national boundaries; (ii) benefit consumers by standardizing protections and requirements; (iii) establish a level playing field for the travel insurance market; and (iv) clarify and bolster regulators’ enforcement authority over the travel insurance industry.

The Solution

The proposed legislation builds upon the limited lines travel insurance producer licensing framework that already exists in many states. It provides a comprehensive codification of the legal requirements specific to travel insurance, including distinguishing between insurance and non-insurance elements of Travel Protection Plans to establish the appropriate scope and reach of the regulatory framework.

The legislation is based on the Travel Insurance Model Act adopted by the National Council of Insurance Legislators (NCOIL) and National Association of Insurance Commissioners (NAIC) (the “Model Act”). The Model Act was thoroughly vetted by, and has national support among, legislators, regulators, and industry stakeholders, including local and national trade associations. In adopting the Model Act, which at the NAIC requires a two-thirds majority vote among all state insurance commissioners, the various states committed to advocating for enactment of the Model Act in their respective state legislatures.

Specifically, the proposed legislation:

- Establishes uniform meanings of key terms.
- Allows travel products to continue to be offered in a manner that provides a seamless consumer experience and cost-saving efficiencies.
 - In particular, travel insurance is routinely packaged with non-insurance assistance services (e.g., access to 24/7 help) and waivers in Travel Protection Plans, which are sold for one price (and lower than if the products were sold separately).
- Clarifies permissible and prohibited sales practices, and the applicability of the state’s unfair trade practices law.
- Requires several consumer disclosures.
- Clarifies further that travel insurance may be sold via individual, group, or blanket policies.
- Clarifies current practice with respect to premium taxes.
- Clarifies that travel insurance is generally classified and filed as an inland marine line of insurance.

Consumers deserve Travel Protection Plans that work for them. In enacting the legislation as proposed, the legislature will benefit consumers and empower regulators by codifying an efficient, fair, uniform, and effective regulatory framework for travel insurance.

Status

As of September 2024, thirty-seven (37) states have enacted the Model Act¹, which is expected to eventually become enacted across the country. A number of other states are considering the Model Act for their current/next legislative session. We are not aware of any likely opposition to the substance of the proposed legislation.

¹ Alabama, Arizona, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, and Wisconsin.

Section-by-Section Summary of the NAIC Travel Insurance Model Act

Section 1. Short Title.

Provides for the name of the legislation to be the “Travel Insurance Model Act” (“Model Act”).

Section 2. Scope and Purposes.

Outlines the purposes of the legislation and the activities and products to which it does and does not apply.

Section 3. Definitions.

Defines the operative terms used in the Model Act, including Travel Insurance and Travel Protection Plans.

Section 4. Licensing and Registration.

Codifies NAIC Uniform Licensing Standard (ULS) 34, which was adopted in 2010 and subsequently incorporated into the NCOIL Limited Lines Travel Insurance Model Act. This standard is now in place in nearly all states. The Model Act makes some technical tweaks to this standard.

Section 5. Travel Protection Plans.

Provides that travel insurance can be sold as part of a Travel Protection Plan, which may include travel insurance as well as Travel Assistance Services and/or Cancellation Fee Waivers (which are not insurance).

Section 6. Sales Practices.

Clarifies the permissibility and prohibition of certain activities to remove uncertainty around how travel insurance may be sold. For example, this section expressly subjects those offering travel insurance to the state’s Unfair Trade Practices Act, except as expressly provided otherwise in the legislation. Prohibited practices include “illusory travel insurance,” “opt out,” and marketing blanket travel insurance for free. The section also requires certain consumer disclosures.

Section 7. Travel Administrators.

Clarifies the authority required to act in the state as a “Travel Administrator,” namely a managing general agent, third-party administrator, and/or property and casualty insurance producer license. A Travel Administrator acts very similarly to these other entities in developing Travel Protection Plans, collecting and processing charges for such plans, and administering claims or providing other related services.

Section 8. Policy.

Classifies travel insurance for purposes of rates and forms as inland marine insurance, and provides that travel insurance can be sold and underwritten as an individual, group, or blanket policy.

Section 9. Regulations.

Authorizes (but does not require) the Commissioner to promulgate regulations to implement the legislation.