2017 Summer National Meeting

Travel Insurance (C) Working Group

August 5, 2017
Philadelphia, Pennsylvania
2017 Summer National Meeting
Philadelphia, Pennsylvania

TRAVEL INSURANCE (C) WORKING GROUP
Saturday, Aug. 5, 2017
1:00 – 2:00 p.m.
Philadelphia Marriott—Franklin Hall 1&2—Level 4

ROLL CALL

Al Redmer Jr., Chair  Maryland  John G. Franchini  New Mexico
David Altmaier, Vice Chair  Florida  Timothy Johnson  North Carolina
Susan Stapp  California  John D. Doak  Oklahoma
George Bradner  Connecticut  Teresa D. Miller  Pennsylvania
Colin B. Johnson, Sr.  District of Columbia  Matt Gendron  Rhode Island
Gordon I. Ito  Hawaii  Todd E. Kiser  Utah
Michael P. Rohan  Illinois  Donald Beatty/Rebecca Nichols  Virginia
James J. Donelon  Louisiana  Jim Freeburg  Washington
Angela Nelson  Missouri

AGENDA

1. Consider Adoption of its July 27 Minutes—Commissioner Al Redmer Jr. (MD)  Attachment A

2. Conduct Section-by-Section Review of the NAIC Travel Insurance Model Act Draft
   —Commissioner Al Redmer Jr. (MD)  Attachment B

3. Discuss Next Steps—Commissioner Al Redmer Jr. (MD)

4. Discuss Any Other Matters Brought Before the Working Group
   —Commissioner Al Redmer Jr. (MD)

5. Adjournment
Attachment A
Consider Adoption of its Interim Minutes
The Travel Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee met via conference call July 27, 2017. The following Working Group members participated: Al Redmer Jr., Chair and Catherine Grason (MD); Susanne Murphy representing David Altmaier, Vice Chair, and Matthew Guy (FL); Susan Stapp and Dawn Withers (CA); George Bradner (CT); Emily Rakieten (HI); Mike Rohan (IL); Jim Donelon, Warren Byrd and Tom Travis (LA); Jeana Thomas and Jim Mealer (MO); Tracy Bieln and Timothy Johnson (NC); John Doak, Gordon Amini, Cuc Nguyen and Joel Sander (OK); John Lacek (PA); Elizabeth Kelleher Dwyer (RI); Brett Barratt (UT); Rebecca Nichols (VA); and John Haworth, Ronald Pastuch and Jeannette Piltt (WA). Also participating was: Elizabeth Perri (AS); Maria Ailor and Vincent Gosz (AZ); Steve Kinion (DE); Phillip Vigliaturo (MN); Rajat Jain (NV); Angela Dingus, Don Layson and Loretta Medved (OH); and Phil Reyna (TX).

1. Adopted its July 17 Minutes

The Working Group met via conference call July 17 and took the following action: 1) adopted its June 27 minutes; 2) heard a summary of and discussed the conceptual decisions made by the Working Group to date regarding issues associated with travel insurance and services policies; and 3) discussed next steps regarding development of language for a proposed Travel Insurance Model Law.

Commissioner Donelon made a motion, seconded by Ms. Nichols, to adopt the Working Group’s July 17 minutes (Attachment 1). The motion passed unanimously.

2. Heard Presentation of Comment Letter from Center for Economic Justice (CEJ)

Commissioner Redmer said the next order of business was to hear a presentation from Birny Birnbaum (CEJ) regarding his comment letter dated July 24. Mr. Birnbaum said the letter repeated CEJ’s request to have the industry provide actual data on travel insurance to provide a factual basis for the Working Group’s deliberations. He said it is essential for regulators to collect data on travel insurance markets to allow for more meaningful participation by non-industry stakeholders. He provided a couple of examples of how data requests could assist the regulators. He said the industry insists consumers are satisfied because of NAIC published complaints. Mr. Birnbaum said most complaints never reach the regulator because they are directed to the travel retailer or the travel insurer decides it is about the non-insurance part of the travel package. He said the US Travel Insurance Association (UStiA) says consumers are generally satisfied because of historically low complaints and point to NAIC published closed confirmed complaint data. He said these data are limited to closed and confirmed so complaints stemming from confusing or deceptive disclosure or policy forms are not counted. He said NAIC data do show that travel complaints have increased significantly from 2014 to 2016 and reports show that total complaints are significantly higher. He said they dwarf the number of credit complaints five to one. Mr. Birnbaum said providing data directly to the Working Group could be helpful and that rate and form filing procedures for inland marine vary dramatically from state to state also causing confusion. He suggested the Working Group should collect data in three categories: 1) Sales – policies written and cancelled; 2) Claims – presented, denied and paid; and 3) Complaints presented to the travel insurer, retailer or administrator. He said the data should be broken down in various ways. Mr. Birnbaum said the data is necessary for the deliberations of the Working Group and are the exact kind of data routinely collected in the Market Conduct Annual Statement for personal lines of insurance as well as by travel insurance companies and producers during the regular course of business.

Commissioner Redmer said in Maryland important policy decisions are made literally every day and are made based on data that is available. He said each year, working collaboratively with the legislature, those decisions are made using the information available versus doing a full blown data call and typically they do a pretty good job. He said he has concerns about the Working Group completing their work by the end of the year if a data call this extensive is undertaken. He said he understands one of the main purposes of doing this is the view that there is too little regulation in this industry and he would prefer to move forward and add some framework regulation in this area. He said if there is a need to go back and tweak the regulation based on additional data that can certainly be done. Commissioner Redmer also said there may be data available as a result of other regulatory activity and as long as it is not made public that may be considered.

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Commissioner Doak said he completely agreed with Commissioner Redmer and would support his position on that.

Commissioner Redmer asked if there were any other comments. Mr. Birnbaum said Commissioner Redmer was correct in noting the Working Group has been at this for a couple of years and there has been opportunity to initiate a data request and in fact the industry indicated they would provide some data at one point in time but then changed their mind. He said collecting data does not mean everything else must stop, and that the Working Group can continue development of the model as data is being collecting and then it will presumably assist the Working Group in determining policy decisions, basically pursing this on a parallel track. He said there are always times when decisions must be made in the absence of data but in this situation he would suggest that the opportunity to better inform through readily available data makes good sense.

Commissioner Redmer said the Working Group will follow up to see what data is currently available for that purpose.

3. Discussed its Next Steps

Commissioner Redmer said the next item was to begin the section by section review of the NAIC Travel Insurance Model Law draft but he would like to hold off on that and instead request that all interested stakeholders get their comments regarding the Model submitted so a document can be put together, section by section, reflecting all comments to begin the process of adopting specific language. Denise Matthews (NAIC) said the comments are due by Friday, July 28.

Having no further business, the Travel Insurance (C) Working Group adjourned.
Attachment B
Conduct Section-by-Section Review of the NAIC Travel Insurance Model Act Draft
Drafting Note: This Travel Insurance Model Act is intended to be enacted as a standalone chapter of the insurance code with appropriate cross references to seamlessly incorporate provisions such as licensing and premium tax into the adopting state’s existing statutory structure. Alternatively, sections such as the licensing and premium tax provisions that may fit into other sections of an adopting state’s statutory structure could be pulled from the Model and incorporated into the sections of the adopting state’s insurance code that address those topics.

Section 1. Short Title

This Act shall be known as the “Travel Insurance Model Act.”

Section 2. Scope and Purposes

A. The purpose of this Act is to promote the public welfare by creating a comprehensive legal framework within which Travel Insurance may be sold in this state through the establishment of clear regulatory obligations for those involved in the development and distribution of Travel Insurance, preserving the unique aspects of Travel Protection Plans, and protecting and benefiting consumers by encouraging fair and effective competition within the market.

B. The requirements of this Act shall apply to Travel Insurance, whether or not provided as part of a Travel Protection Plan, where policies and certificates are delivered or issued for delivery in this state. It shall not be applicable to Cancellation Fee Waivers and Travel Assistance Services, except as expressly provided herein.

Section 3. Definitions

As used in this Act:

“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.

“Blanket Travel Insurance” means Travel Insurance issued to any Eligible Group providing coverage for specified circumstances and specific classes of persons defined in the policy and issued to a policyholder and not by specifically naming the persons covered, by certificate or otherwise, although a statement of the coverage provided may be given, or required by policy to be given, to eligible persons.

“Cancellation Fee Waiver” means a contractual agreement between a supplier of travel arrangements or travel services and its customer to waive some or all of the non-refundable cancellation fee or penalty
provisions of the underlying travel contract between the supplier and customer. A Cancellation Fee Waiver is not insurance.

"Commissioner" means the commissioner of insurance of this state.

**Drafting Note:** Insert the title of the state’s chief insurance regulatory official wherever the term "Commissioner" appears.

“Eligible Group” means 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, property managers, cultural exchange programs, and common carriers of passengers, including but not limited to airlines, cruise lines, railroads, steamship companies, and public bus carriers;

b. Any college, school, or other institution of learning covering students, teachers or employees defined by reference to specified hazards incident to activities or operations of the institution of learning;

c. Any employer covering any group of employees, contractors, dependents or guests, defined by reference to specified hazards incident to activities or operations of the employer;

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 defined by reference to specified hazards incident to any activity or activities or operations sponsored or supervised by or on the premises of such organization or branch;

f. Any financial institution or financial institution vendor, or parent holding company, trustee, or agent of or designated by one or more financial institution or financial institution vendor, under which accountholders, credit card holders, debtors, guarantors, or purchasers are insured;

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;

h. Any trust or the trustees of a fund established, created or maintained for the benefit of members or customers of one or more associations meeting the above requirements;

i. Any entertainment production company covering any group of participants, volunteers, audience members, contestants, or workers;

j. Any newspaper or other publisher covering its journalists and carriers;
k. Any volunteer fire department or any first aid, civil defense or other such volunteer group, or agency having jurisdiction thereof, covering all or any group of the members, participants or volunteers of such fire department or first aid, civil defense or other group; or

l. 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 best interests of the public.

“Group Travel Insurance” means Travel Insurance issued to any Eligible Group.

“Limited Lines Travel Insurance Producer” means a (i) licensed managing general agent or third party administrator, (ii) licensed insurance producer, including a limited lines producer, or (iii) Travel Administrator.

“Offer and disseminate” means providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other non-licensable activities permitted by the state.

“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 that person’s only actions that would otherwise cause it to be considered a Travel Administrator are among the following:

a. a person working for a Travel Administrator to the extent that the person’s 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 producer’s license;

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 that individual’s practice or employment 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.

“Travel Assistance Services” means non-insurance 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
“Travel Insurance” means insurance coverage for personal risks incident to planned travel, including but not limited to:

1. interruption or cancellation of trip or event;
2. loss of baggage or personal effects;
3. damages to accommodations or rental vehicles; or
4. sickness, accident, disability or death occurring during travel.

Travel insurance does not include major medical plans, which provide comprehensive medical protection for travelers with trips lasting six (6) months or longer, including for example, those working overseas as an ex-patriot or military personnel being deployed, or any other product that requires a specific insurance producer license.

“Travel Protection Plans” means plans that provide one or more of the following: Travel Insurance, Travel Assistance Services, and Cancellation Fee Waivers.

“Travel Retailer” means a business entity that makes, arranges or offers travel services 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.

**Drafting Note:** States that have recently adopted Travel Insurance producer licensing and registration laws or regulations may refer to the applicable definitions adopted therein rather than restating them in this section.

**Section 4. Licensing and Registration**

A. The Commissioner may issue to an individual or business entity that has filed with the Commissioner an application for such limited license in a form and manner prescribed by the Commissioner, a Limited Lines Travel Insurance Producer License, which authorizes the Limited Lines Travel Insurance Producer to sell, solicit or negotiate Travel Insurance through a licensed insurer.

B. A Travel Retailer may offer and disseminate Travel Insurance under a Limited Lines Travel Insurance Producer business entity (“licensed business entity”) license only if the following conditions are met:

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 [insert commissioner] of each Travel Retailer that offers Travel Insurance on the Limited Lines Travel Insurance Producer’s behalf. 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 Travel Retailer’s operations, and the Travel Retailer’s Federal Tax Identification Number. The Limited Lines Travel Insurance Producer shall submit such register to the state insurance department upon reasonable request. The Limited Lines Travel Insurance Producer shall also certify that the Travel Retailer registered complies with 18 USC 1033.

3. The Limited Lines Travel Insurance Producer has designated one of its employees who is a licensed individual producer as the person (a “Designated Responsible Producer” or “DRP”) responsible for the Limited Lines Travel Insurance Producer’s compliance with the travel insurance laws, rules and regulations of the state.

4. The DRP, 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 applicable state law.

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 may be subject to review by the commissioner. The training material shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

7. Limited Lines Travel Insurance Producers, and those registered under their licenses, are exempt from the examination requirements under [cite applicable state code section], and the pre-licensing and continuing education requirements of [cite applicable state code section].

C. Any Travel Retailer offering or disseminating travel insurance shall make available to prospective purchasers brochures or other written materials that:

1. Provide the identity and contact information of the insurer and the Limited Lines Travel Insurance Producer;

2. Explain that the purchase of travel insurance is not required in order to purchase any other product or service from the Travel Retailer; and
3. Explain 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 the insurance offered by the Travel Retailer or to evaluate the adequacy of the customer’s existing insurance coverage;

D. A Travel Retailer’s 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 a prospective purchaser’s existing insurance coverage; or

3. Hold himself 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 do so and receive related compensation, upon registration by the Limited Lines Travel Insurance Producer as described in Sub-section (B)(2) above.

F. Responsibility: 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.

Drafting Note: States that have already implemented a licensing and registration law or regulation consistent with the NCOIL Limited Lines Travel Insurance Model Act and NAIC Uniform Licensing Standard 34 (Limited Lines Travel Insurance Standard) may choose to cross-reference that law or regulation instead of using the language set forth in this Section. States that have not yet implemented such a law or regulation with respect to Travel Insurance may choose to incorporate this Section under their existing producer licensing laws.

Section 5. Premium Tax

A. A travel insurer shall pay premium tax, as provided in [cross-reference to the state’s existing premium tax provision] on Travel Insurance Premiums paid by any of the following:

1. an individual policyholder who is a resident of this state;
2. a certificate-holder who is a resident of this state who elects coverage under a Group Travel Insurance policy; or
3. an Eligible Group policyholder that is resident in, or has its principal place of business in, this state that purchases a Blanket Travel Insurance policy.

B. An insurer shall obtain and maintain documentation necessary to determine the state to which premium tax should be reported based on information provided by the policyholder or certificate-holder, as applicable.
Section 6. Competitive Market

A. A competitive market is presumed to exist for Travel Insurance unless the Commissioner, after hearing, determines that a reasonable degree of competition does not exist in the market and the Commissioner issues a ruling to that effect. Such ruling shall expire no later than one year after issue unless the Commissioner renews the ruling after hearing and a finding as to the continued lack of a reasonable degree of competition.

B. In determining whether a reasonable degree of competition exists, the Commissioner shall consider relevant tests of workable competition pertaining to market structure, market performance, and market conduct, and the practical opportunities available to consumers in the market to acquire pricing and other consumer information and to compare and obtain insurance from competing insurers. The tests for determining whether a competitive market exists shall include one or all of the following:

1. The size and number of firms actively engaged in the market;
2. Market shares and changes in market shares of firms;
3. Ease of entry and exit from a given market;
4. Underwriting restrictions;
5. Whether profitability for companies generally in the market segment is unreasonably high;
6. The availability of consumer information concerning the product and sales outlets or other sales mechanisms; and
7. Efforts of insurers to provide consumer information.

C. The determination of competition involves the interaction of the various tests and the weight given to specific tests depends upon the particular situation and pattern of test results.

Drafting Note: States that have existing competitive market provisions in statute may choose to cross-reference those provisions instead of using the language in this section.

Section 76. Forms and Rates

A. Notwithstanding any other provision of the [insurance code], Travel Insurance shall be classified and filed for purposes of rates and forms under an inland marine line of insurance.

Drafting Note: For consistency, states may wish to update their statutory definition of inland marine to include travel insurance as defined in this Act.

B. All Travel Insurance policies, certificates of insurance, endorsements, riders and rates delivered, issued for delivery, or charged in this state shall be filed with the Commissioner before being used. No policy, certificate of insurance, or endorsement shall be issued until the expiration of thirty (30) days after it has been filed, unless the Commissioner shall have given prior written approval.

Drafting note: This subsection is for those states that have form and/or rate filing requirements.

C. Eligibility and underwriting standards for Travel Insurance may be developed and provided based on Travel Protection Plans designed for individual or identified marketing or distribution channels, and
the Travel Insurance offered as part of the Travel Protection Plan may be offered as individual Travel Insurance, Group Travel Insurance, or Blanket Travel Insurance.

D. Rates filed subject to this Section shall be made in accordance with the following provisions:

1. Rates shall not be excessive, inadequate or unfairly discriminatory.

   a. Excessive rates.

      i. A rate in a competitive market is not excessive.

      ii. A rate in a noncompetitive market is excessive if it is likely to produce a profit that is unreasonably high for the insurance provided or if expenses are unreasonably high in relation to services rendered.

   b. Inadequate Rates. A rate is not inadequate unless such rate is clearly insufficient to sustain projected losses, expenses and special assessments in the class of business to which it applies and the use of such rate has or, if continued, will have the effect of substantially lessening competition or the tendency to create monopoly in any market.

   c. Unfairly Discriminatory Rates. Unfair discrimination exists if, after allowing for practical limitations, price differentials fail to reflect equitably the differences in expected losses and expenses. A rate is not unfairly discriminatory if it is averaged broadly among persons insured under single insurance plans, whether offered on an individual, Group, or Blanket Travel Insurance policy.

2. In determining whether rates comply with the excessiveness standard upon a finding of a noncompetitive market under subparagraph 1(a)(ii), the inadequacy standards under subparagraph 1(b), or the unfair discrimination standard under subparagraph 1(c), the following criteria shall apply:

   a. Due consideration shall be given to past and prospective loss experience within and outside this state; to the conflagration and catastrophe hazards; to a reasonable margin for profit and contingencies; to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers; to past and prospective expenses both countrywide and those specifically applicable to this state; and to provisions for special assessments and to all other relevant factors within and outside the state.

   b. Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for risks in accordance with rating plans that establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses. No risk classification, however, may be based upon race, creed, national origin or the religion of the insured.

   c. The expense provisions included in the rates to be used by an insurer shall reflect the operating methods of the insurer and its anticipated expenses.
d. The rates may contain provision for contingencies and an allowance permitting a reasonable profit. In determining the reasonableness of the profit, consideration shall be given to all investment income attributable to the line of insurance.

Drafting Note: States that have form and rate requirements may choose to cross-reference their existing rate making provisions instead of using the language in this section.

| Section 87. Travel Protection Plans |

Travel Protection Plans may be offered for one price in this state if:

A. There is no finding by the Commissioner, pursuant to Section 6 [or cross-reference to the state’s other competitive market provisions], that the Travel Insurance market in the state is non-competitive or that the Travel Protection Plan restricts competition by either significantly decreasing output or efficiency in the market or that a travel insurer or Travel Retailer is exerting sufficient market power in providing Travel Insurance or Travel Protection Plans such that competition is adversely impacted or that the Travel Protection Plan would exact burdensome terms that would not exist in a competitive market;

B. The Travel Insurance, Travel Assistance Services and Cancellation Fee Waivers are clearly delineated in the Travel Protection Plan’s fulfillment materials. The fulfillment materials shall include the Travel Insurance disclosures required under state law and the contact information for persons providing Travel Assistance Services and Cancellation Fee Waivers, as applicable; and

C. The Travel Protection Plan clearly discloses to the consumer at or prior to the time of purchase and fulfillment that it includes Travel Insurance, Travel Assistance Services and Cancellation Fee Waivers, as applicable, and provides an opportunity for the consumer to obtain additional information regarding the features and pricing of each.

| Section 98. Sales Practices |

A. All persons offering Travel Insurance to residents of this state are subject to the Unfair Trade Practices Act at [insert reference to state UTPA law], except as otherwise provided in this Section. In the event of a conflict between this Act and other provisions of the [insurance code] regarding the sale and marketing of Travel Insurance and Travel Protection Plans, the provisions of this Act shall control.

B. Illusory Travel Insurance. 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 [insert reference to state UTPA law].

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 coverage’s fulfillment materials.

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 Travel Protection Plan’s fulfillment materials 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 section, sending documentation confirming the purchase and providing the Travel Protection Plan’s coverage and assistance details, 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.

NOTE: This was an amendment added by NCOIL communicated to the Working Group on its July 17, 2017 conference call.

Policyholders or certificate holders shall have a minimum of ten (10) days from the date of purchase 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.

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 an insurer’s website 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. Opt out. 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 499. Travel Administrators]

A. Notwithstanding any other provisions of the [insurance code], 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 (MGA) license in this state; or

3. holds a valid third-party administrator (TPA) license in this state.
B. A Travel Administrator and its employees are exempt from the licensing requirements of [reference to adjuster licensing act].

| Section 140. Registration |

A Travel Retailer whose insurance-related activities, and those of its employees, 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 do so and receive related compensation, upon registration by the Limited Lines Travel Insurance Producer as described in Section (B)(2) above.

| Section 121. Policy |

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

| Section 132. Enforcement |

A. The Commissioner may conduct investigations or examinations of travel insurers, Limited Lines Travel Insurance Producers, Travel Retailers, and Travel Administrators to enforce the provisions of this Act to protect resident Travel Insurance consumers.

B. The Commissioner may take action, following notice and a hearing, necessary or appropriate to enforce the provisions of this Act, Commissioner's orders, and state statutes to protect consumers of Travel Insurance in this state, pursuant to Section [insert reference to state notice/hearings/court actions law].

Drafting Note: It is recommended that states review the enforcement procedures in their insurance laws and administrative procedure laws and ensure that enforcement authority under this Section is designated to the proper official(s).

| Section 143. Regulations |

The Commissioner may promulgate regulations to implement the provisions of this Act.

| Section 154. Effective Date |

This Act shall take effect 90 days after enactment.
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| **AIA**   | NCOIL Section 6. Competitive Market  
Notwithstanding the Working Group’s decision to delete Section 6, the Working Group’s decision to treat travel insurance consistent with existing state filing regimes is appropriate. We urge regulators to continue with this approach at implementation and not develop more stringent filing requirements for travel insurance policies.  
Would respectfully remind the Working Group that they voted to continue to allow the bundling of insurance and non-insurance products. It was also noted that appropriate disclosures regarding this practice should be considered. Therefore, as potential disclosure obligations are considered, those disclosures should be carefully viewed to make sure they enhance consumer choice and not inadvertently create so much confusion that the unintended outcome is actually a prohibition on bundling. |
| **CEJ**   | Collection of Data: CEJ urged regulators to collect and publish basic data about travel insurance market participants and consumer market outcomes to provide objective information to inform the Working Group’s discussion.  
Bundling: CEJ questions industry’s claims that bundling is not deceptive and is in fact advantageous to the consumer quoting "consumer complaint data" as "evidence". CEJ says consumer complaints are not dispositive of a healthy insurance market and provides examples.  
Consumer disclosures: CEJ says UStiA misrepresented their position on consumer disclosures based on a comment that "disclosure is not a panacea". The point was that in these non-competitive markets, greater regulatory - not informational - protections are needed for consumers and agreed with the IIABA that, in the absence of the stronger regulatory protections, additional disclosures are needed.  
PLEASE SEE THE CEJ LETTER DATED JULY 24 FOR MORE CONTEXT AND DETAIL. |
<p>| <strong>IIABA</strong> | none |
| <strong>TTICC</strong> | CEJ’s comments noted that additional data is necessary for the Working Group to decide how to regulate the travel insurance industry. However, this is simply not the case. Each Department of Insurance already possesses industry complaint data as well as other publicly available information. Additionally, travel insurance products have a low complaint ratio compared to other types of insurance. In short, the information already accessible to the Departments of Insurance is sufficient to make decisions related to the content and enactment of this model. |</p>
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<td>NCOIL Travel Insurance Model Law - Section 6: Most states currently have a framework for determining the competitiveness of a marketplace and, therefore, it is appropriate to apply the same standards to travel insurance.</td>
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<td>Bundling: Based on a majority vote of the Working Group, and consistent with long-standing legal and economic analyses, bundling should not be prohibited. Generally, bundling is permissible, and—contrary to opinions expressed to the Working Group—there is no legal or economic support that it is per se deceptive; instead, it has been shown to be pro-competitive and good for consumers.</td>
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<td>Rating rules: Most states currently have a framework for reviewing travel insurance products under competitive rate review standards, and, therefore, it is appropriate to continue to defer to states and be subject to these standards going forward.</td>
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<td>Consistent with the Working Group’s May 30 vote, “inland marine” is the proper line of business for travel insurance.</td>
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<tr>
<td>Travel insurance policies should provide coverage—such as trip cancellation or trip interruption coverage—in the event a terrorist incident occurs, subject to terms, conditions and exclusions that would be subject to state rates and forms review.</td>
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<tr>
<td>Consistent with the analysis provided to the Working Group, COB requirements are not appropriate in an NAIC travel insurance model law.</td>
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<td>Commissions are reviewed as part of the state rates and forms review process, consistent with the Working Group’s decision.</td>
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<td>No Cost Insurance: The NCOIL Model language will lead to a clearer understanding and more parity in the marketplace.</td>
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<tr>
<td>CA DOI</td>
<td>California provided Article 15. Travel Insurance Agents [1752 - 1757] for general reference regarding travel legislation in the state of CA.</td>
</tr>
<tr>
<td>LA DOI</td>
<td>NCOIL Travel Insurance Model Law - Section 6: LA omitted this from its Act 225. The law already provides criteria for competitive markets.</td>
</tr>
<tr>
<td>OK DOI</td>
<td>none</td>
</tr>
<tr>
<td>Commenter</td>
<td>Comment - Consumer Disclosures</td>
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<tr>
<td>AIA</td>
<td>We believe current market disclosures are adequate and provide consumers with the necessary information for informed decisions; however, we look forward to continued discussions with regulators to explore whether there are any gaps. Fundamentally, our goal is to make sure that disclosures requirements are focused on providing consumers with useful information that aids in the decision making process rather than creating confusion and frustration that then obstructs that process. The AIA notes that there are already at least 10 disclosures built into the current Model, and these already include many important consumer protections.</td>
</tr>
<tr>
<td>CEJ</td>
<td>DISCLOSURES: One of the most significant problems with the draft model is the manner in which it addresses disclosure requirements, and we identified some of these deficiencies and the need for revision in a previous comment letter. IIABA appreciates the working group’s focus on this issue, and you will likely need to consider whether to revise the disclosure provisions in the sections in which they currently appear or consolidate them into a single section. Regardless of how the model is ultimately organized, the disclosures currently found in Section 4 require some finetuning. Section 4(B)(1) and 4(C) outline some of the disclosures that must be made in order for a travel retailer to offer and sell travel insurance, but the provision does not specify when this information must be provided. Some of the disclosures should be required at or prior to the time of purchase of travel insurance (e.g. terms of coverage), but others would be more appropriately provided after the sale is complete (e.g. a description of the process for filing a claim).</td>
</tr>
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| IIABA     | Sections 7 and 8 address a number of point-of-sale and sales practices issues, and this may be the area of the model where the working group focuses on disclosure requirements. Many travel insurance transactions occur without the involvement of a knowledgeable insurance professional, and overwhelmed and uninformed consumers are often left to fend for themselves. State officials should require the delivery of clear, helpful, and relevant information at or prior to the time of purchase of travel insurance and also enact appropriate post-sale disclosure requirements. In order to bring much-needed clarity and greater precision to this area of the law, IIABA urges the NAIC to largely start from scratch and to develop provisions that address those disclosures that must be made at or prior to a purchase and those that must be provided to the buyer after the transaction. The types of information that should be required to be disclosed at or prior to the time of purchase of travel insurance, especially when the offer is made by an unlicensed entity, include the following:  

- Information concerning the travel insurance and non-insurance components of travel protection plans (including information regarding the features and pricing of each);  
- A description of any preexisting condition exclusions;  
- A statement about whether the offered product is primary or secondary to other coverage;  
- A statement indicating that the offered product may be duplicative of existing coverage; and  
- The types of information identified in Sections 4(B)(1) and 4(C) of the NCOIL model.  

The NAIC model should also include clear and objective post-sale disclosure obligations. These disclosures should, for example, provide purchasers with a copy of the policy terms, information concerning the right to rescind coverage, a description of the claims process, and contact information for relevant parties. The initial draft includes references to “fulfillment packages,” “fulfillment materials,” and “the policy fulfillment” (which are unnecessary and undefined terms), but it provides no clear description of what must be provided to purchasers of travel insurance and when it must be delivered. We urge you to eliminate the references to these terms and replace them with a clear post-sale disclosure provision. |
| TTICC     | none |
| UStiA     | Relative to many other insurance products, travel insurance is subject to comprehensive disclosures under the NCOIL Model. There has been no objective evidence presented—based on either legal analysis or market performance—that supports the need for additional or earlier disclosures. |
### Pre-Sale Required Disclosures

A limited lines travel insurance agent must use all reasonable means to ensure the travel retailer and the travel retailer’s employees comply with their obligations under California law. (Ins. Code § 1754(a)(6).)

This includes the obligation to make several required pre-sale disclosures to the prospective purchaser of travel insurance. Specifically, prior to selling travel insurance, the limited lines travel insurance agent or the travel retailer must clearly and conspicuously disclose in writing that purchasing travel insurance is not required for the consumer to buy any other product or service offered by the travel retailer.

A limited lines travel insurance agent or travel retailer who automatically enrolls its customers in travel insurance without receiving informed affirmative consent per se violates California Insurance Code section 1754(a)(8)(A). Requiring consumers to “opt out” of the travel insurance – rather than “opt in” by affirmatively consenting to purchase the travel insurance – means that the agent or retailer has not provided the required clear and conspicuous pre-sale written disclosure that the purchase of travel insurance is not required in order to buy other products or services offered by the travel retailer. Again, this is a per se violation of California law.

### III. Enforcement

California Insurance Code section 1754 authorizes the Commissioner to enforce these pre-sale travel insurance disclosure requirements, including by imposing fines and suspending or revoking the license of any limited lines travel insurance agent.
<table>
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<th>Commenter</th>
<th>Comment - Section 2 - Scope and Purpose</th>
<th>Suggested Revision</th>
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<tr>
<td>AIA</td>
<td>none</td>
<td>A. The purpose of this Act is to promote the public welfare by creating a comprehensive legal framework within which Travel Insurance and Related Services may be sold in this state through the establishment of clear regulatory obligations for those involved in the development and distribution of Travel Insurance, preserving the unique aspects of Travel Protection Plans, and protecting and benefiting consumers by encouraging fair and effective competition within the market. B. The requirements of this Act shall apply to Travel Insurance and Related Services. whether or not provided as part of a Travel Protection Plan, where policies and certificates are delivered or issued for delivery in this state. It shall not be applicable to Cancellation Fee Waivers and Travel Assistance Services, except as expressly provided herein.</td>
</tr>
<tr>
<td>CEJ</td>
<td>While it may be reasonable for different oversight of non-insurance travel services than for travel insurance, there is clearly a need for regulatory authority over the entire travel assistance package that includes travel insurance for several reasons. First, there needs to be oversight of what products or services are or are not insurance to prevent regulatory arbitrage of shifting insurance products to the non-insurance portion of the travel protection package. Second, regulatory oversight over travel insurance requires oversight of the sales transaction of travel protection packages that feature travel insurance. Third, regulatory oversight of travel protection package is needed to prevent sham non-insurance products. CEJ disagrees with Mr. Amini’s proposed Sections D and E stating “We believe the purpose of the model is to provide a comprehensive framework for the oversight of and requirements for sale of travel insurance and related services – not to regulate a product incidental to planned travel. Further, the purpose of the model – and law, if adopted by the state – may well be to modify current practices and to prohibit – make unlawful – certain practices. Finally, the purpose of the model goes far beyond an informed decision to purchase. Mr. Amini’s proposed Section E provides a list of the forms of travel insurance sales. It is unclear what purpose is intended by this list, but we disagree with the proposed taxonomy. If travel insurance sales are categorized in a model law, we suggest that “direct sales” should retain its common meaning in insurance of sales by the insurance company to the consumer without a producer or intermediary. Sales by travel retailers are not direct because the travel retailer is a licensed producer. We reserve further comment until we better understand the purpose of the proposed section.”</td>
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<tr>
<td>IIABA</td>
<td>IIABA opposes Section 2(B) of the proposal because it limits the application and scope of the model to instances “where policies and certificates are delivered or issued for delivery in this state.” This text is troubling because many travel insurance sales do not result in the delivery of an actual policy or certificate to the buyer, and its inclusion means the consumer protections contained in the model would not apply to many transactions that occur within states that might adopt the proposal. As strong supporters of state insurance regulation, we believe this model should apply to all travel insurance transactions that occur within a particular jurisdiction, and we urge you to delete this unnecessary and outdated phrase in order to achieve this outcome.</td>
<td>B. The requirements of this Act shall apply to Travel Insurance, whether or not provided as part of a Travel Protection Plan, where policies and certificates are delivered or issued for delivery in this state. It shall not be applicable to Cancellation Fee Waivers and Travel Assistance Services, except as expressly provided herein.</td>
</tr>
<tr>
<td>TTICC</td>
<td>The CEJ has proposed that the model should grant state insurance departments authority over Travel Insurance as well as any related services. Of course, it is self-evident that insurance departments have regulatory authority over Travel Insurance. However, regulatory authority by insurance departments over the sale of non-insurance products and services is unnecessary. Insurance Departments are tasked with regulating the business of insurance. Regulating non-insurance products and services extends beyond the responsibilities of insurance departments. Further, such regulation is duplicative because these non-insurance products and services are already regulated by consumer protection laws applicable to other non-insurance products, such as state unfair trade practices laws. Therefore, TTICC urges the Working Group to reject CEJ’s proposed revisions extending the scope of the model to provide a comprehensive regulatory framework for related services as well as travel protection products, including CEJ’s proposed changes to the definition of Travel Assistance Services.</td>
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This section clarifies that this model is meant to be a comprehensive, uniform framework for the regulation of travel insurance. The model establishes a level playing field to benefit consumers by standardizing protections and requirements, and encourages fair and effective competition among market participants. This section further explains that the model delineates between insurance and non-insurance components in establishing a proper scope and reach of the regulatory framework.

Support for the language in this section comes from other NAIC models, including the Service Contracts Model (MDL 685) and the Long-Term Care Insurance Model (MDL 640).

CA DOI
none

LA DOI
Under the terms of the Act, Travel Insurance by itself is a Travel Protection Plan.

OK DOI

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<td>USIA</td>
<td>This section clarifies that this model is...</td>
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<tr>
<td>CA DOI</td>
<td>none</td>
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<tr>
<td>LA DOI</td>
<td>Under the terms of the Act, Travel Insurance by itself is a Travel Protection Plan.</td>
<td>Section 2, Scope and Purposes, Applicability</td>
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<td>OK DOI</td>
<td></td>
<td>C. 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.</td>
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<td>D. This Act is intended to regulate travel insurance as a product incidental to planned travel. It is not the intention of the Legislature to modify practices and procedures, otherwise lawful, but only to provide consumer protections necessary for an informed decision to purchase.</td>
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</table>
### Commenter: AIA

We support the current definition as it borrows language from existing law and as such states are familiar with how it operates in practice. Nevertheless, we believe this is a great opportunity for regulators to update and modernize the definition of "eligible groups."

<table>
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<tr>
<td>&quot;Eligible Group&quot; means any of the following:</td>
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<tr>
<td>a. For the purpose of group travel insurance only, 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 of passengers, including but not limited to airlines, cruise lines, railroads, steamship companies, and public bus carriers;</td>
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<td>b. Any college, school, or other institution of learning covering students, teachers or employees, or volunteers defined by reference to specified hazards incident to activities or operations of the institution of learning;</td>
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<tr>
<td>Any employer covering any group of employees, contractors, Board of Directors, dependents or guests, defined by reference to specified hazards incident to activities or operations of the employer;</td>
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<td>d. Any sports team, camp, organized recreational activity, or sponsor thereof covering participants, members, campers, employees, officials, supervisors, or volunteers;</td>
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<td>e. Any religious, charitable, recreational, educational, or civic organization or branch thereof covering any group of members, participants, or volunteers defined by reference to specified hazards incident to any activity or activities or operations sponsored or supervised by or on the premises of such organization or branch or through sponsored trips provided through the organization;</td>
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<tr>
<td>f - j: no changes</td>
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<tr>
<td>k. Any volunteer fire department, ambulance, rescue, policy, court, or any first aid, civil defense or other such volunteer group, or agency having jurisdiction thereof, covering all or any group of the members, participants or volunteers of such fire department, ambulance, rescue, police, court, or first aid, civil defense or other group;</td>
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<tr>
<td>l. Any organized recreational activity, such as theater groups, musical and instrumental groups, beauty contests, fashion shows, soap box derby, parades, tournaments, etc.;</td>
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<td>m. Organized clubs such as bicycle, riding, hunting, fishing, book, dance, art, music, senior citizen;</td>
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<tr>
<td>n. Preschools, Daycare institutions for children or adults; or</td>
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<tr>
<td>Change item &quot;1&quot; to &quot;0&quot; to accommodate re-numbering for new items.</td>
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### Commenter: CEJ

CEJ expands on the last point (See Section 2 comment) with discussion of “cancellation fee waivers.” Travel protection bundles include insurance products, non-insurance protection in the form of fee waiver or fee cancellation and travel assistance services. We are greatly concerned about sham fee waiver / fee cancellation products and believe a careful definition is needed for so-called non-insurance fee waiver products.

Insurance involves a transfer of risk from a consumer to an insurance company in which the insurance company agrees to pay an amount if certain events occur. Fee waiver products, in theory, are a contractual relationship between the travel provider and consumer in which the travel provider agrees to waive or cancel a fee if certain events occur. In fact, the vast majority of fee waiver products are backed by a contractual liability insurance policy and administered by an insurance company.

CEJ OFFERS TWO SCENARIOS FOR CONSIDERATION: SEE LETTER DATED JULY 24 FOR DETAILS

The edits reflect CEJ’S belief that consumer protection requires regulators to have oversight of travel insurance and the related services that are part of a travel protection package.

<table>
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<td>CEJ offers preliminary comments on some definitions and expects to offer additional comments on the items below and additional definitions as the working group deliberations unfold. In addition, while offering comments based on preliminary decisions by the working group, comments are not an endorsement of bundled insurance and non-insurance products.</td>
</tr>
<tr>
<td>Cancellation Fee Waiver</td>
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<tr>
<td>&quot;Cancellation Fee Waiver&quot; means a contractual agreement between a supplier of travel arrangements or travel services and its customer to waive some or all of the nonrefundable cancellation fee or penalty provisions of the underlying travel contract between the supplier and customer. A Cancellation Fee Waiver is not insurance only if the supplier does not utilize directly or indirectly an insurance policy or policies for reimbursement of fees waived under the contractual agreement with the customer.</td>
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<tr>
<td>CEI continued</td>
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<td>CEI continued</td>
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| Travel Administrator | According to the definition of “limited lines travel insurance producer,” a travel administrator is such a limited lines travel insurance producer. The definition of travel administrator sets out a list of activities of a travel insurance producer, including “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.” But, the definition of travel insurance administrator then exempts a person engaged in any of the activities from being a travel administrator – including the very activities that define a travel administrator. It is unclear what a travel administrator is or does separate from or in addition to the activities of limited or fully licensed producer or insurer. | |

| CEI continued | The definition of “eligible group” includes a list of different possible groups of individuals but fails to identify or specify the characteristics of the sale or purchase that would distinguish a group policy from an individual policy. For example, item i defines one group as any financial institution or financial institution vendor or parent holding company under which accountholders, debtors, guarantors or purchasers are insured. Since the definition of “group travel insurance” is simply travel insurance sold to an eligible group, by the definition of “eligible group,” for example, a financial institution could purchase a group policy and sell coverage under the group policy in the same way that a travel insurance producer sells individual coverage. The definition of eligible group – or group travel insurance – requires some definition that effectively distinguishes a group policy from individual policies. In addition, section 1 is overly broad and vague by authorizing the Commissioner to declare any group of people as an eligible group based on some relationship other than the nature of the sale or purchase. The definition limits the Commissioner’s declaration of a group to situations “not ... contrary to the best interests of the public.” It is unclear what is intended by “best interests of the public” and no guidance is provided. | |

| CEI continued | The definition of “eligible group” includes a list of different possible groups of individuals but fails to identify or specify the characteristics of the sale or purchase that would distinguish a group policy from an individual policy. For example, item i defines one group as any financial institution or financial institution vendor or parent holding company under which accountholders, debtors, guarantors or purchasers are insured. Since the definition of “group travel insurance” is simply travel insurance sold to an eligible group, by the definition of “eligible group,” for example, a financial institution could purchase a group policy and sell coverage under the group policy in the same way that a travel insurance producer sells individual coverage. The definition of eligible group – or group travel insurance – requires some definition that effectively distinguishes a group policy from individual policies. In addition, section 1 is overly broad and vague by authorizing the Commissioner to declare any group of people as an eligible group based on some relationship other than the nature of the sale or purchase. The definition limits the Commissioner’s declaration of a group to situations “not ... contrary to the best interests of the public.” It is unclear what is intended by “best interests of the public” and no guidance is provided. | |

| CEI continued | The definition of “eligible group” includes a list of different possible groups of individuals but fails to identify or specify the characteristics of the sale or purchase that would distinguish a group policy from an individual policy. For example, item i defines one group as any financial institution or financial institution vendor or parent holding company under which accountholders, debtors, guarantors or purchasers are insured. Since the definition of “group travel insurance” is simply travel insurance sold to an eligible group, by the definition of “eligible group,” for example, a financial institution could purchase a group policy and sell coverage under the group policy in the same way that a travel insurance producer sells individual coverage. The definition of eligible group – or group travel insurance – requires some definition that effectively distinguishes a group policy from individual policies. In addition, section 1 is overly broad and vague by authorizing the Commissioner to declare any group of people as an eligible group based on some relationship other than the nature of the sale or purchase. The definition limits the Commissioner’s declaration of a group to situations “not ... contrary to the best interests of the public.” It is unclear what is intended by “best interests of the public” and no guidance is provided. | |

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<tr>
<td>IIABA</td>
<td>The definition of “aggregator site” should be deleted since Section 8(C)(5) – the sole provision in the model where this term is used – is unnecessary. The definition of “limited lines travel insurance producer” is circular and confusing for several reasons. For example, the provision defines “limited lines travel insurance producer” as a “limited lines producer.” It would also allow limited lines travel producers to act as travel administrators, which means that a person that has met incredibly minimal requirements would be empowered to underwrite travel insurance and settle claims. We are unclear why the draft model includes a definition of “offer and disseminate,” which are commonly understood terms, but we are especially confused why the phrase is defined in a way that is inconsistent with its accepted meaning. Without a compelling reason to include such a definition, we urge the working group to delete it. The definition of “travel administrator” and Section 9 should also be deleted. Together, these provisions would establish a new category of licensee that would be authorized and empowered to underwrite travel insurance, settle claims, and perform other activities of importance. This section is unwarranted, and, despite the discussion that has occurred, no one has made a convincing case for why this provision is necessary. If states do not currently permit entities to become managing general agents or third party administrators in the travel insurance context, then that issue can be addressed with a drafting note and targeted revisions to state law. The creation of a new type of licensee without clear purpose, application requirements, duties, or obligations is very concerning.</td>
<td>Drafting Note: Policies with travel components that do provide major medical coverage and have a duration of six months or longer are not prohibited by this definition, but are outside the scope of this model and may be regulated under other applicable provisions of the state’s insurance code, rather than under this Act. If an adopting state believes that additional clarity is necessary, the state can insert the following language: [For policies that provide comprehensive health coverage see XXX of the state insurance code].</td>
</tr>
<tr>
<td>TTI CC</td>
<td>The current definition in the NCOIL Model excludes major medical plans that provide comprehensive medical protection for travelers and are six months or longer in duration. TTI CC would like to note that there are products currently in the market with travel components that do provide comprehensive medical coverage and have a duration of six months or longer, such as policies for international students that are spending a semester or a year abroad. These types of policies are distinct from the shorter-term retail travel products, and should not necessarily be treated the same way. TTI CC would like to clarify that including this definition of Travel Insurance in a model does not prohibit the use of policies with travel components that provide major medical benefits and have a duration of six months or longer. Rather, policies with travel components that fall outside of this definition because they provide major medical coverage and have a duration of six months or longer could still be offered, but may be regulated by other applicable insurance law in a given state, rather than by this model. For additional clarity, TTI CC proposes adding a drafting note to the definition of Travel Insurance proposed by Mr. Amini. This addition does not substantively alter the definition of Travel Insurance but simply provides additional clarity regarding treatment of plans that fall outside of this definition.</td>
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<td>TTICC</td>
<td>TTICC disagrees with CEJ’s proposed modification to the definition of a Cancellation Fee Waiver. A Cancellation Fee Waiver is not insurance, but a contractual obligation between a supplier of travel and its customer. By including a Cancellation Fee Waiver in a contract, the travel supplier takes on a risk under the contract. The travel supplier is then free to insure this risk, just as with any other business risk. The fact that the travel supplier chooses to manage this risk through a contractual liability policy does not alter the travel supplier’s contractual obligations to its customer, which remain the same whether or not the travel supplier chooses to insure its risk. CEJ’s proposed changes to the definition of Cancellation Fee Waiver would condition whether or not a Cancellation Fee Waiver is considered to be insurance based on whether a supplier of travel chooses to manage risk by insuring its contractual liabilities. This distinction is inappropriate and ignores state law regarding the definition of insurance, which does not draw such a distinction. Therefore, TTICC urges the Working Group to reject CEJ’s proposed change to the definition of Cancellation Fee Waiver.</td>
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<tr>
<td>USIA</td>
<td>The definitions in the NCOIL Model are appropriate and consistent with what has already been adopted in 45 jurisdictions, without any indication of issues or problems. This section establishes uniform meaning of key terminology across states. It provides definitions for terms uniquely important to the travel insurance industry and its distribution channels and characteristics (e.g., “blanket travel insurance,” “eligible groups,” “travel administrator,” etc.). Many of these definitions are taken from other NAIC models and/or existing state laws. Several travel-specific/unique definitions track with the NAIC Uniform Licensing Standard 34 (&quot;NAIC ULS 34&quot;) and the NCOIL Licensing Model, which has been adopted in whole or in large part in 44 states and the District of Columbia. These definitions include those for &quot;travel insurance,&quot; &quot;travel retailer,&quot; &quot;limited lines travel insurance producer,&quot; and &quot;offer and disseminate.&quot; The definition for “blanket travel insurance” is based on nearly identical definitions in Virginia, California, Wisconsin, Utah, Iowa, and Hawaii. The definition for &quot;cancellation fee waivers,&quot; which distinguishes such waivers from insurance, is consistent with prior NAIC alerts clarifying that waivers are not insurance policies. Several states have also taken the position that waivers are not insurance policies and are not regulated by the state. These states include: Ohio, California, Arkansas, Massachusetts, Oregon, Illinois, Delaware, Minnesota, and Maryland. New York, moreover, has issued multiple letters and opinions on this topic.</td>
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</table>
The definition for "eligible group" is a compilation of groups found permissible under a number of state laws, including Arizona, Florida, Louisiana, Massachusetts, New Hampshire and Virginia. In addition:

- 45 states allow blanket for education institution;
- 45 on specified hazards incident to activities/operations of an employer;
- 43 for a common carrier of passengers/transportation sector;
- 43 for volunteer fire, first aid and/or civil defense organizations;
- 36 for some form of sport team/camp;
- 34 for religious/charitable/recreational/educational/civic organizations;
- 22 for associations/labor unions;
- 20 for newspapers/publishers; and
- 41 have "catch-all" allowance for other groups permitted/approved by the Commissioner.

The definition for "travel administrator" tracks almost exactly with the NAIC TPA Model (GDL-1090) and the NAIC State Licensing Handbook definition of "TPA." The travel retailer component, which does not track with the TPA model, comes from the NCOIL Licensing Model and the NAIC ULS 34 definition of "travel retailer."

The definition for "travel assistance services" accurately details non-insurance travel-related services that are provided as part of travel protection plans.

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<tr>
<th>Commenter</th>
<th>Comment - Section 3 - Definitions</th>
<th>Suggested Revision</th>
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<tbody>
<tr>
<td>CA DOI</td>
<td>Section 3 - &quot;Eligible Group&quot;, a: Whom do they cover?</td>
<td>Section 3 - &quot;Eligible Group&quot;, f: Any financial institution or financial institution vendor, or parent holding company, trustee, or agent of or designated by one or more financial institution or financial institution vendors covering under which accountholders, credit card holders, debtors, guarantors, or purchasers are insured.</td>
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<td>LA DOI</td>
<td>&quot;Fulfillment materials&quot; was an amendment added to the LA Act 225 at the behest of the LDI and drafted by USTIA.</td>
<td>&quot;Fulfillment materials&quot; means documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's coverage and assistance details, as applicable.</td>
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<td>&quot;Group Travel Insurance&quot; - Is this definition broad enough to include Blanket Travel Insurance? Would it be clearer to exclude blanket coverage from this definition.</td>
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<td>Under &quot;Limited Lines Travel Insurance Producer&quot;: Many states such as LA do not have P&amp;C TPAs except for workers' compensation.</td>
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<td>&quot;Travel Administrator&quot;, Item e: There should be a definition of &quot;affiliated insurer.&quot; The LA Act 225 added a cross reference to &quot;affiliated company,&quot; which means &quot;a company in the same corporate system as its parent or a member organization by virtue of common ownership, control, operation or management.</td>
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<td>Commenter</td>
<td>Comment - Section 3 - Definitions</td>
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<tr>
<td>OK DOI</td>
<td>OK suggests numbering each definition</td>
<td>2. “Blanket Travel Insurance” means Travel Insurance issued to any Eligible Group providing coverage for specified circumstances and specific classes of persons defined in the policy and issued to a policyholder and not by specifically naming the persons covered, by certificate or otherwise, although a statement of the coverage provided may be given, or required by policy to be given, to eligible persons.</td>
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<td>OK DOI</td>
<td>OK suggests numbering each definition</td>
<td>3. “Cancellation Fee Waiver” means a contractual agreement between a supplier of travel arrangements or travel services and its customer to waive some or all of the non-refundable cancellation fee or penalty provisions of the supplier’s the underlying travel contract between the supplier and customer without regard to the reason for the cancellation or form of reimbursement. A Cancellation Fee Waiver is not insurance by certificate or otherwise, although a statement of the coverage provided may be given, or required by policy to be given, to eligible persons.</td>
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<tr>
<td>OK DOI</td>
<td>OK suggests numbering each definition</td>
<td>5. “Eligible Group” means 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, property managers, cultural exchange programs, and common carriers of passengers, including but not limited to airlines, cruise lines, railroads, steamship companies, and public bus carriers. [The inclusion of members of various travel distribution channels is contrary to the requirement that the group members must have a nexus other than insurance to avoid fictitious grouping.]</td>
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<td>b. an automobile or truck rental or leasing company to cover 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 section applies.</td>
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<td>Remaining letter items stay the same but are re-lettered from b - l to c - m</td>
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<td>8. “Offer and disseminate” means providing general information, including a description of the coverage and price, as well as processing the applications, collecting premiums, and performing other non-licensable activities permitted by the state Commissioner.</td>
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<td>9. “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 the following persons shall not be considered a Travel Administrator if that person’s only actions that would otherwise cause it to be considered a Travel Administrator are among the following:</td>
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|           |                                   | 10. “Travel Assistance Services” means non-insurance services that may be distributed by unlicensed persons: Limited Lines Travel Insurance Producers or other entities, and for which there is no indemnification of or payment to 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 are not Travel Insurance and not related to insurance.
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<th>Commenter</th>
<th>Comment - Section 3 - Definitions</th>
<th>Suggested Revision</th>
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<tr>
<td>OK DOI continued</td>
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<td>a. Interruption or cancellation of trip or event, unless offered by the actual provider of the services being interrupted or cancelled.</td>
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<td>b. Loss of baggage or personal effects,</td>
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<td>c. Damages to accommodations or rental vehicles,</td>
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<td>d. Sickness, accident, disability, or death occurring during travel.</td>
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<td>e. Missed cruise connection unless offered by the actual provider of the cruise.</td>
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<td>f. Emergency evacuation</td>
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<td>g. Accidental death and dismemberment</td>
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<td>h. Repatriation of remains</td>
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<td>i. Any other contractual obligation to indemnify or pay a specified amount to the traveler upon determinable contingencies.</td>
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11. “Travel Retailer” means a business entity that makes, arranges or offers planned travel services 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 4

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<tr>
<th>Commenter</th>
<th>Comment - Section 4 - Licensing and Registration</th>
<th>Suggested Revision</th>
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<tr>
<td>AIA</td>
<td>none</td>
<td>Section 4(B) should be revised to make clear that its requirements apply to sales by both travel retailers and by limited lines travel insurance producers. DISCLOSURES: One of the most significant problems with the draft model is the manner in which it addresses disclosure requirements, and we identified some of these deficiencies and the need for revision in a previous comment letter. IIABA appreciates the working group’s focus on this issue, and you will likely need to consider whether to revise the disclosure provisions in the sections in which they currently appear or consolidate them into a single section. Regardless of how the model is ultimately organized, the disclosures currently found in Section 4 require some finetuning. Section 4(B)(1) and 4(C) outline some of the disclosures that must be made in order for a travel retailer to offer and sell travel insurance, but the provision does not specify when this information must be provided. Some of the disclosures should be required at or prior to the time of purchase of travel insurance (e.g., terms of coverage), but others would be more appropriately provided after the sale is complete (e.g., a description of the process for filing a claim).</td>
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<td>IIABA</td>
<td>Section 4(B)(1)(a) requires the delivery of a description of the material terms or the actual material terms of the coverage. This provision raises many questions and does not affirmatively require the delivery of the terms of coverage at any time, and the working group will at a minimum likely want to be clear about when the policy terms are to be provided to the customer. Section 4 permits unlicensed individuals and entities outside of the traditional jurisdiction and reach of state insurance regulators to offer and sell travel insurance if certain conditions are met. The primary restriction is that these unlicensed travel retailers only engage in insurance activities under the direction of a limited lines travel insurance producer. The limited lines travel insurance producer is supposed to be the accountable and knowledgeable party that will dictate, oversee, and take responsibility for the actions and practices of travel retailers. It is therefore troubling that Section 4(B)(7) would exempt these licensees from any all examination, pre-licensing, and continuing education requirements. We see no reason why individuals with such heightened responsibilities should be exempt from such requirements, and we strongly urge the working group to delete this provision. Section 4(C) requires travel retailers to make certain information available to prospective purchasers. It is unclear what is intended by the “make available” requirement and how that differs from the requirements outlined in Section 4(B)(1). Section 4(D) includes some helpful consumer protections and limits the activities that unlicensed travel retailers may engage in. This subsection should be expanded, however, and we urge the working group to similarly prohibit travel retailers from making any assertions or statements about the suitability of the offered travel insurance coverage for a particular person. Section 4(E) is a nearly word-for-word duplication of Section 10, and one of these provisions should be deleted.</td>
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<tr>
<td>IIABA continued</td>
<td>Section 4(B)(2) requires the delivery of a description of the material terms or the actual material terms of the coverage. This provision raises many questions and does not affirmatively require the delivery of the terms of coverage at any time, and the working group will at a minimum likely want to be clear about when the policy terms are to be provided to the customer. Section 4 permits unlicensed individuals and entities outside of the traditional jurisdiction and reach of state insurance regulators to offer and sell travel insurance if certain conditions are met. The primary restriction is that these unlicensed travel retailers only engage in insurance activities under the direction of a limited lines travel insurance producer. The limited lines travel insurance producer is supposed to be the accountable and knowledgeable party that will dictate, oversee, and take responsibility for the actions and practices of travel retailers. It is therefore troubling that Section 4(B)(7) would exempt these licensees from any all examination, pre-licensing, and continuing education requirements. We see no reason why individuals with such heightened responsibilities should be exempt from such requirements, and we strongly urge the working group to delete this provision. Section 4(C) requires travel retailers to make certain information available to prospective purchasers. It is unclear what is intended by the “make available” requirement and how that differs from the requirements outlined in Section 4(B)(1). Section 4(D) includes some helpful consumer protections and limits the activities that unlicensed travel retailers may engage in. This subsection should be expanded, however, and we urge the working group to similarly prohibit travel retailers from making any assertions or statements about the suitability of the offered travel insurance coverage for a particular person. Section 4(E) is a nearly word-for-word duplication of Section 10, and one of these provisions should be deleted.</td>
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| TITCC     | none                                             | Section 4(B): A Travel Retailer or Limited Lines Travel Insurance Producer may offer or disseminate Travel Insurance under a Limited Lines Travel Insurance Producer business entity license (“licensed business entity”), only if the following conditions are met: Section 4(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 do so and receive related compensation, upon registration by the Limited Lines Travel Insurance Producer as described in Sub-section (B)(2) above. OR Section 10. Registration - A Travel Retailer whose insurance related activities, and those of its employees, 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 do so and receive related compensation, upon registration by the Limited Lines Travel Insurance Producer as described in Section (B)(2) above. |


This section is based entirely on NAIC ULS 34 and the NCOIL Licensing Model, which has been almost universally adopted in the states—providing one area of clarity and uniformity in the travel insurance regulatory landscape. The NAIC adopted ULS 34, reforming the licensure of travel insurance limited lines producers, in 2010, after nearly two years of debate. Similarly, NCOIL adopted its model act, based on ULS 34, in 2012. The model was then subject to each individual state’s regulatory and legislative deliberations and amendments (which in some cases took multiple years) before adoption in each jurisdiction.

Since 2012, 44 states and the District of Columbia have enacted the limited lines travel insurance producer licensing reform, with no indication of problems or issues for industry, regulators, or consumers.

| USIA | This section is based entirely on NAIC ULS 34 and the NCOIL Licensing Model, which has been almost universally adopted in the states—providing one area of clarity and uniformity in the travel insurance regulatory landscape. The NAIC adopted ULS 34, reforming the licensure of travel insurance limited lines producers, in 2010, after nearly two years of debate. Similarly, NCOIL adopted its model act, based on ULS 34, in 2012. The model was then subject to each individual state’s regulatory and legislative deliberations and amendments (which in some cases took multiple years) before adoption in each jurisdiction. Since 2012, 44 states and the District of Columbia have enacted the limited lines travel insurance producer licensing reform, with no indication of problems or issues for industry, regulators, or consumers. |
| CA DOI | none |
| LA DOI | none |
| OK DOI | Comment applicable to B. 2. associated with the sentence, "The register shall be submitted to the Commissioner and each registrant must obtain a unique registration number from the Commissioner evidencing such registration.": Provides a recorded status and regulatory connection for Travel Retailers | A. The Commissioner may issue to an individual or business entity that has filed with the Commissioner an application for such a limited license a Limited Lines Travel Insurance Producer License in a form and manner prescribed by the Commissioner. Such 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 ("licensed business entity") only if the Limited Lines Travel Insurance Producer complies with the following conditions are met:

B. 1. d. Written. The identity and contact information of the insurer and Limited Lines Travel Insurance Producer.

B. 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 listing each Travel Retailer that offers Travel Insurance on behalf of the Limited Lines Travel Insurance Producer. The register shall be submitted to the Commissioner and each registrant must obtain a unique registration number from the Commissioner evidencing such registration. 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 Travel Retailer’s operations, and the Travel Retailer’s Federal Tax Identification Number. After submission of the initial register, the Limited Lines Travel Insurance Producer shall submit such register to the state insurance department upon reasonable request. Changes to such register to the [Commissioner] upon a quarterly basis, upon reasonable request. The Limited Lines Travel Insurance Producer shall also certify that the registrant Travel Retailer complies with 18 USC 1033. The grounds for the suspension, revocation and the penalties applicable to resident insurance producers shall be applicable to the Limited Lines Travel Insurance Producers and Travel Retailers. |
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<th>Section 4</th>
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| **B.3.** The Limited Lines Travel Insurance Producer has designated one of its employees who is a licensed individual producer as the person (a “Designated Responsible Producer” or “DRP”) responsible for the compliance with the travel insurance laws and regulations applicable to the Limited Lines Travel Insurance Producer and its registrants. Compliance with the travel insurance laws, rules and regulations of the state.

**B.5.** The Limited Lines Travel Insurance Producer has paid all applicable insurance producer licensing fees and Travel Retailer registration fees as set forth in applicable state law.

**B.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 may be subject to review and approval by the [Commissioner]. The training material shall, at a minimum, contain 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:

- Add an ‘s’ to the words "Provide" and "Explain" for items C. 1., 2. and 3.
- Add the word “only” in front of “general to item C.3.
- Remove the ‘s’ from the word Retailer in Item D.
- Add an ‘s’ to “representatives” and remove the words “do so and” from Item E in the first sentence.
We continue to review the language recently proposed by Louisiana and Oklahoma and will provide more detailed commentary in the near future. We understand the concerns of fairness raised by regulators, but would stress our goal is to make sure the rules are clear and consistent across the states and allow for seamless implementation by the insurers.

Section 5 of the NCOIL Model appropriately harmonizes premium tax collection rules/processes around long standing regulatory practices, and its language should be included in a NAIC travel insurance model law.

This section harmonizes the premium tax collection rules and processes across the states and clarifies the premium tax regime for insurers and regulators, including amounts that should be reported and taxed as insurance, and amounts that should not (e.g., non-insurance travel assistance services). It recognizes that travel insurance and travel protection plans often are placed (and approved) on a group or blanket basis, and provides clear and workable premium tax rules for those circumstances.

The "resident/home state of the policyholder" approach makes sense for travel insurance because the insurance moves with the policyholder, and thus taxation based on physical location of the risk (like property & casualty risks) does not work in this context. As a general matter, this approach is not new, as it commonly appears in state statute language (including the District of Columbia, Illinois, Iowa, and Utah), and in the Nonadmitted and Reinsurance Reform Act (NRRA) provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Subsection B ensures that companies will maintain sufficient documentation to justify their premium tax reporting/payment, which could presumably be audited, but makes clear that companies must be able to rely on the information reported by the policyholder/certificate-holder in making their premium tax determinations.

The USiA believes the updated language to this section suggested by Oklahoma and Louisiana is appropriate for discussion purposes. We are currently working with our members to understand the compliance implications of the proposed language, and would appreciate the opportunity to fully respond prior to the Working Group’s consideration of this section of the draft model.
Section 6

Defining travel insurance as an inland marine line is consistent with the way in which travel insurance is filed in 49 states and the NAIC Operational Efficiencies (EX) Working Group Matrix, which lists travel under Property & Casualty Inland Marine. By stipulating that travel insurance be classified and filed under inland marine, the NAIC model law will adopt the majority approach among the states and provide much-needed uniformity in filing requirements.

This section also appropriately clarifies that a "file and use" form and rate approach will apply to travel insurance, which will provide uniformity in filing requirements for industry participants and regulators, and protect consumers by giving regulators 30 days between filing and use to evaluate (and, if necessary, disallow) filings. Notably, the model's "file and use" language is taken directly from Section 5 of the NAIC's Property and Casualty Model Rating Law (GDL-1775 (file and use version)). The enumerated tests for determining whether there is a competitive market in the first instance are found in well-settled antitrust law. We believe using competitive rating rules, as opposed to prior approval, is the best approach for multiple reasons.

As a preliminary matter, travel insurance has been subject to competitive rate review requirements in the vast majority of states since the inception of the product. Under these laws, states review travel insurance forms and rates and actively inquire about exclusions (including terrorism) and rating factors, including commission levels during the rate and form review process. Because of the competitive nature of the market, rates have remained stable over many years—with the average premium now at less than $100—and in many cases has resulted in a price decline.

The travel insurance market is competitive. Prices, coverages, and services are responsive to consumer needs and wants, particularly given the discretionary nature of travel protection products. So long as there is a competitive market, rates should be presumed fair and approvable/acceptable.

If ever the market is not competitive, however, the model provides states with clear authority to change the form and rate structure. Moreover, to further protect consumers, Section D of this section tracks with NAIC model language and several state laws regarding "excessive, inadequate, or unfairly discriminatory" rate restrictions, providing clear, uniform "guardrails" for rates in the industry.

In short, each state currently has rate review processes that would ensure that travel insurance rates are and remain competitive.

LA omitted this section from Act 225. The law already provides for rate and form filing.

Section 6 (A): The LA Act moved this to the Policy Section (Section 11). LA uses the term "marine and transportation," which includes inland marine.
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<th>VA DOI</th>
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<tr>
<td><strong>A. Notwithstanding any other provisions of the [insurance code], Travel Insurance shall be classified and filed for purposes of rates and forms under as an inland marine line of insurance.</strong></td>
<td><strong>Drafting Note:</strong> For consistency, states may wish to update their statutory definition of inland marine to include travel insurance as defined in this Act. This provision contemplates that Travel Insurance will be subject to the same state law and regulations as any other inland marine insurance.</td>
<td><strong>DELETE THE REMAINDER OF SECTION 6.</strong></td>
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<td><strong>The NAIC's model law for travel insurance should address only the regulatory standards/issues that are specific or unique to travel insurance. Limiting the scope of the model will help facilitate its passage through the legislatures.</strong></td>
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<td><strong>Deleting the remainder of Section 6 reflects the NAIC's model law’s focus on regulatory standards/ issues unique to travel insurance.</strong></td>
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<td><strong>Including subsections A and B in Section 6—even with a drafting note indicating to refer to an existing law or regulation—still suggests that these items should be considered separately for travel insurance than other lines of insurance; and the states/jurisdictions would need to decide between the provisions of the model and their own laws.</strong></td>
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<td><strong>Based on information from the NAIC's Compendium of State Laws pertaining to property and casualty rates, all fifty states as well as the District of Columbia, Puerto Rico, and the U.S. Virgin Islands have established regulatory standards for rates. Jurisdictions will likely rely on their existing laws, which makes subsection D unnecessary.</strong></td>
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<td><strong>Subsection B is unnecessary for essentially the same reasons.</strong></td>
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<td>Commenter</td>
<td>Comment - Section 7 - Travel Protection Plans</td>
<td>Suggested Revision</td>
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<td>IIABA</td>
<td>The disclosures required by Section 7(B) should be provided &quot;at or prior to the time of purchase&quot; (as is the case in Section 7(C)) in order to be relevant and useful to the consumer. The provision also makes reference to complying with existing requirements concerning fulfillment materials, but it is unclear what requirements are actually in place. We also urge the working group to delete the references to “fulfillment materials” in this subsection and elsewhere.</td>
<td>Section 7. Travel Protection Plans: Travel Protection Plans may be offered for one price for the combined features that the travel protection plan offer in this state if:</td>
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<td>TTICC</td>
<td>none</td>
<td>Section 7 (C): The Travel Protection Plan clearly discloses to the consumer at or prior to the time of purchase and fulfillment that it includes Travel Insurance, Travel Assistance Services and Cancellation Fee Waivers, as applicable, and provides an opportunity at any time thereafter for the consumer to obtain additional information regarding the features and pricing of each.</td>
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<td>USIA</td>
<td>This section allows travel products to continue to be offered—as they have been for over 25 years—in a manner that provides a seamless consumer experience and cost-saving efficiencies. The USIA has provided the Working Group with extensive support for this practice, and supports the Working Group’s decision to permit it to continue.</td>
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<td>CA DOI</td>
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<tr>
<td>LA DOI</td>
<td>LDI requested amendment to Act 225.</td>
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<tr>
<td>OK DOI</td>
<td>Travel Protection Plans which include Travel Assistive Services and Cancellation Fee Waivers any product other than insurance may be offered for one price in this state. A. There is no finding by the Commissioner, pursuant to Section 5, that the Travel Insurance market in the state is non-competitive or that the Travel Protection Plan restricts competition by either significantly decreasing output or efficiency in the market or that a travel insurer or Travel Retailer is exerting sufficient market power in providing Travel Insurance or Travel Protection Plans such that competition is adversely impacted or that the Travel Protection Plan would exact burdensome terms that would not exist in a competitive market.</td>
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<td>B. The Travel Insurance, each Travel Assistance Services and Cancellation Fee Waivers are must be separately priced and clearly delineated in the Travel Protection Plan’s fulfillment materials. The fulfillment materials shall include the Travel Insurance disclosures required under this state’s law, and the contact information for persons providing Travel Assistance Services and Cancellation Fee Waivers, as applicable; and</td>
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<td>Item C becomes item B.</td>
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<td>[Additional Disclosures Per Working Group]</td>
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<td>Commenter</td>
<td>Comment - Section 8 - Consumer Disclosures</td>
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<td>AIA</td>
<td>We believe current market disclosures are adequate and provide consumers with the necessary information for informed decisions; however, we look forward to continued discussions with regulators to explore whether there are any gaps. Fundamentally, our goal is to make sure that disclosures requirements are focused on providing consumers with useful information that aids in the decision making process rather than creating confusion and frustration that then obstructs that process. The AIA notes that there are already at least 10 disclosures built into the current Model, and these already include many important consumer protections.</td>
<td>Section 8(A). All persons offering Travel Insurance to residents of this state are subject to the Unfair Trade Practices Act at [insert reference to state UTPA law], except as otherwise provided in this Section. In the event of a conflict between this Act and other provisions of the [insurance code] regarding the sale and marketing of Travel Insurance and Travel Protection Plans, the provisions of this Act shall control.</td>
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<td>CEJ</td>
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<tr>
<td>IIABA</td>
<td>Sections 8(B) and (C) do not impose the duty to disclose on a particular person (e.g. a travel retailer, insurer, limited lines travel insurance producer, or any persons offering travel protection plans). Travel protection plans do not disclose information themselves; some person must do so.</td>
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<tr>
<td>IIABA</td>
<td>Many insurance codes today make clear that limited lines travel insurance producers and travel retailers are subject to the Unfair Trade Practices Acts (UTPA) of the states, yet Section 8(A) would delete these explicit statements and instead provide that the UTPA does not apply when there is a conflict between the UTPA and the model. This is a significant revision, and it is unclear what actual conflicts are anticipated and why unique exemptions from the UTPA are necessary. If there are instances where carveouts of this nature are necessary, it would be more appropriate to identify those specifically and to avoid ambiguity and the possibility of unnecessary litigation.</td>
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<tr>
<td>IIABA</td>
<td>Section 8(C)(2) would require information about preexisting condition exclusions to be provided in fulfillment packages (i.e. after the sale of travel insurance), but this information must be received earlier in order to be effective or meaningful. Accordingly, it should be provided at or prior to the time of purchase.</td>
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<tr>
<td>IIABA</td>
<td>Section 8(C)(4) requires disclosure of whether the travel insurance is primary or secondary to other applicable coverage in the fulfillment materials. This important disclosure should also be required at or prior to the time of purchase.</td>
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<tr>
<td>IIABA</td>
<td>Section 8(C)(5) states that it is not an unfair trade practice to provide summaries of coverage on an insurer or aggregator website, if a consumer has access to the full provisions of the policy. It is uncertain what sort of currently unlawful practice this provision would permit and shield from the UTPA, and it is also unclear why this is specific to insurer or aggregator websites.</td>
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<tr>
<td>IIABA</td>
<td>Section 8(D) addresses opt out practices, and the first phrase (which would allow other state or federal law to trump the prohibition) should be deleted. A model law is a recommendation for policymakers, so this proposal should explicitly call on states to prohibit such practices. This subsection should also be revised to address so-called “false choice” scenarios in which consumers are required to select between two options that do not accurately portray their circumstances or situation.</td>
<td>Section 8(A). Opt out. Unless otherwise permitted by state or federal law, a 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.</td>
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<tr>
<td>IIABA</td>
<td>It is uncertain why Section 8(E) is included. This would allow parties to give away free insurance as an inducement to the purchase of a trip or travel-related service but only if the coverage is not marketed as such.</td>
<td>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.</td>
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<tr>
<td>IIABA</td>
<td>As we commented previously, unlicensed travel retailers and limited lines travel insurance producers should be prohibited from making recommendations about a person’s need for or suitability for coverage. If not addressed in Section 4, Section 9 would an appropriate place to tackle this issue.</td>
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### Section 8

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<td><strong>UStiA</strong></td>
<td>The NCOIL Model effectively prohibits the practice and appropriately addresses the issue. This section is intended to provide clarity on specific sales practices to provide a clear framework for compliance for industry participants and regulators. The provisions in this section track state laws in these different areas: The draft model makes clear that all persons offering travel insurance in a state will be subject to state unfair trade practices laws. Forty-five states have adopted NAIC Model 880 (Unfair Trade Practice Act, UTPA), which contains provisions to regulate trade practices in the business of insurance. The draft model includes a 10-day “free look” requirement, during which consumers can cancel a policy for a full refund. Importantly, the draft model also includes a provision tracking a recently-adopted NCOIL amendment that clarifies the time that the 10-day review period commences. The draft model prohibits the use of “opt out” sales, unless otherwise permitted by state law. The U.S. Department of Transportation prohibits opt-out in its final rule on enhancing airline passenger protection (relating to air transportation or packages involving air transportation). Several states also have issued releases prohibiting opt-out insurance sales (including Florida, New Jersey, Minnesota, and California). North Carolina specifically permits opt-outs for travel insurance offered for vacation rentals.</td>
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| **UStiA continued** | The draft model prohibits “free insurance.” Eleven states have statutes expressly prohibiting free insurance (Alabama, California, Florida, Georgia, Hawaii, Kentucky, Mississippi, North Carolina, Pennsylvania, Oklahoma, and South Carolina), but at least two states (Alabama and Florida) have exceptions under this prohibition for at least some types of blanket insurance. |

<p>| CA DOI | none |</p>
<table>
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<th>Section 8</th>
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<tr>
<td><strong>Section 8 (A):</strong> LDI requested amendment to Act 225.</td>
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<td><strong>Section 8 (B) and (C) (1.):</strong> These were omitted in the LA Act 225.</td>
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<tr>
<td><strong>Section 8 (C) (3.):</strong> Less verbose.</td>
</tr>
<tr>
<td><strong>In regard to “delivery of the Travel Protection Plan’s fulfillment materials” -</strong> This will always be the later event given the definition suggested above and industry practice. They are the confirmatory documents received after purchase.</td>
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<td><strong>Section 8 (C) (4.):</strong> Changes made in the LA Act. More clearly stated. USGIA amendment to LA Act 225. The NAIC Model exempts most limited health plans for coordination of benefits.</td>
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<td><strong>LA DOI continued</strong></td>
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<tr>
<td><strong>LA DOI</strong></td>
</tr>
<tr>
<td><strong>4.</strong> The Travel Insurance policy company shall disclose in the policy fulfillment materials and documentation whether the Travel Insurance is primary or secondary to other applicable coverage. Travel Insurance is not subject to coordination of benefits for health insurance coverage.</td>
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<tr>
<td><strong>A.</strong> All persons involved in offering, soliciting, or negotiating Travel Insurance to residents of this state are subject to the Unfair Trade Practices Act at [insert reference to state UTPA law], except as otherwise provided in this Section. In the event of a conflict between this Act and other provisions of the [insurance code] regarding the sale and marketing of Travel Insurance and Travel Protection Plans, the provisions of this Act shall control.</td>
</tr>
<tr>
<td><strong>B. Illusory Travel Insurance.</strong> 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 [insert reference to state UTPA law].</td>
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<tr>
<td><strong>C. Marketing.</strong></td>
</tr>
<tr>
<td>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.</td>
</tr>
<tr>
<td><strong>3.</strong> 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 physical or electronic delivery of the Travel Protection Plan’s fulfillment materials 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 section, sending documentation confirming the purchase and providing the Travel Protection Plan’s coverage and assistance details, as applicable, to a physical or electronic address provided by the purchaser of a Travel Protection Plan shall constitute delivery of the Travel Protection Plan’s fulfillment materials.</td>
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<td>Section 8</td>
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<th>OK DOI</th>
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Comment applicable to Item E: **Provides flexibility in marketing while maintaining consumer protection**

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 coverage's information provided prior to sale fulfillment materials.

5. Where Travel Insurance is marketed directly to a consumer through an insurer’s website 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, before purchase, has access to the full provisions of the policy through electronic means.

D. Opt out. 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 the “negative option” or “opt-out,” which would require a consumer to take an affirmative action to decline refuse coverage such as unchecking a box on an electronic form when they purchase a trip.

E. The preceding prohibition of opt-out sales shall not apply if the point of sale and fulfillment materials separately clearly and conspicuously disclose the purchase and cost of travel insurance, assistive services and cancellation waivers. It shall be incumbent upon companies utilizing opt-out marketing to demonstrate the efficacy of such disclosure.

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 and the cost of the separate components of the Travel Protection Plan are clearly disclosed in the fulfillment materials.
For the reasons cited previously, we urge the working group to delete Section 9. The creation of a new type of licensee with such sweeping authority and without clear purpose, application requirements, duties, or obligations is a recipe for mischief and misconduct.

We should also note that there are other problems with Section 9. First, Section 9(A)(1) makes reference to an inland marine line of authority for producers, but no such line exists. Second, Section 9(B) would exempt employees of travel administrators from adjuster licensing requirements. This is in direct conflict with Section 2(A) of the NAIC Third Party Administrator Act, which makes clear that there should be no such exemption for employees of this nature.

This section requires those who engage in Travel Administrator activities to hold a producer, managing general agent (MGA), or third-party administrator (TPA) license. In doing so, this section permits such licensees to engage in travel insurance-related activities that align with the activities permitted by their underlying TPA, MGA, or producer license(s). Importantly, it would not permit licensees to engage in activities broader than those permitted by their underlying licenses.

Section 9

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<tr>
<th>Commenter</th>
<th>Comment - Section 9 - Travel Administrators</th>
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<tbody>
<tr>
<td>AIA</td>
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<td>Section 9 – Travel Administrators</td>
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<tr>
<td>CEJ</td>
<td>none</td>
<td>A. Notwithstanding any other provisions of the (insurance code), no person shall act or represent itself as a Travel Administrator in this state unless that person:</td>
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<td>1. is a licensed producer for property insurance in this state with an inland marine line of authority;</td>
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<td>2. holds a valid managing general agent (MGA) license in this state; or</td>
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<td>3. holds a valid third-party administrator (TPA) license in this state.</td>
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<tr>
<td>IIABA</td>
<td>For the reasons cited previously, we urge the working group to delete Section 9. The creation of a new type of licensee with such sweeping authority and without clear purpose, application requirements, duties, or obligations is a recipe for mischief and misconduct. We should also note that there are other problems with Section 9. First, Section 9(A)(1) makes reference to an inland marine line of authority for producers, but no such line exists. Second, Section 9(B) would exempt employees of travel administrators from adjuster licensing requirements. This is in direct conflict with Section 2(A) of the NAIC Third Party Administrator Act, which makes clear that there should be no such exemption for employees of this nature.</td>
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<tr>
<td>TTICC</td>
<td>none</td>
<td>Section 9 – Travel Administrators</td>
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<tr>
<td>USiIA</td>
<td>This section requires those who engage in Travel Administrator activities to hold a producer, managing general agent (MGA), or third-party administrator (TPA) license. In doing so, this section permits such licensees to engage in travel insurance-related activities that align with the activities permitted by their underlying TPA, MGA, or producer license(s). Importantly, it would not permit licensees to engage in activities broader than those permitted by their underlying licenses.</td>
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<td>CA DOI</td>
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<td>LA DOI</td>
<td>Section 9 (A) (1.) LDI requested amendments to Act 225. Section 9 (A) (3.) Omitted in LA. Many states do not have TPAs for P&amp;C. Omitted in LA Act 225.</td>
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Section 10 of the NCOIL Model provides clarity and uniformity consistent with what is currently adopted and implemented in the states.

We support the registration language, which is taken from the NCOIL Licensing Model and is in place, with some variations, in 44 states and the District of Columbia.

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<td>TTICC</td>
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<tr>
<td>USIIA</td>
<td>Section 10 of the NCOIL Model provides clarity and uniformity consistent with what is currently adopted and implemented in the states.</td>
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<tr>
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<td>We support the registration language, which is taken from the NCOIL Licensing Model and is in place, with some variations, in 44 states and the District of Columbia.</td>
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</table>
This section restates verbatim Section 5 of the original NCOIL Licensing Model, which has been adopted in 44 states and the District of Columbia. There has been no indication of problems or issues with this section for industry, regulators, or consumers.

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<tr>
<td>USIA</td>
<td>This section restates verbatim Section 5 of the original NCOIL Licensing Model, which has been adopted in 44 states and the District of Columbia. There has been no indication of problems or issues with this section for industry, regulators, or consumers.</td>
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<td>CA DOI</td>
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| LA DOI    | LA Act 225 omitted the section on rate and form filing. Subsection A of that Section was created as Subsection A of this Section. | A. Notwithstanding any other provision of the [insurance code], Travel Insurance shall be classified and filed for purposes of rates and forms under an inland marine line of insurance.  
B. Travel insurance may be provided under an individual policy or under a group or master policy. |
<p>| OK DOI    | A Travel Retailer whose insurance-related activities, and those of its employees, 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 do so and receive related compensation, upon registration by the Limited Lines Travel Insurance Producer as described in Section 4(B) (2) above. |                   |</p>
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<th>Comment - Section 12 - Enforcement</th>
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<tr>
<td>IIABA</td>
<td>The insurance codes of many states make clear that travel retailers and limited lines travel insurance producers are subject to the Unfair Trades Practices Acts and to the same enforcement provisions that apply to others. Section 12 is a weaker replacement of those explicit statements, and IIABA urges the working group to revise the provision to ensure that they have the clear ability to revoke a travel retailer’s ability to sell travel insurance and take similar enforcement actions.</td>
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<tr>
<td>TTICC</td>
<td>During its discussion thus far, the Working Group correctly noted that States already have authority over licensed insurers and licensed producers. However, TTICC would urge the Working Group to consider further provisions addressing state jurisdiction over travel insurance policies. Travel insurance, by its nature, touches multiple jurisdictions, which has led to some uncertainty over when a particular state should exercise authority over a particular part of an insurance transaction. TTICC would encourage the Working Group to consider including language in its model that specifically addresses when a state’s law applies to a particular travel insurance transaction.</td>
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<tr>
<td>USIA</td>
<td>The states have authority to enforce, which the NCOIL Model accurately acknowledges. This section clarifies and bolsters regulators’ general enforcement authority—including investigations/examinations, enforcement actions, and assessment of penalties—over various parties within the travel insurance industry, including: insurers, producers, travel retailers, and travel administrators. The language from this section is based on the NAIC’s Service Contracts Model Act (MDL 685).</td>
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| LA DOI    | Omitted in LA Act 225. The commissioner has broad powers in the present insurance code. | **Section 12 – Enforcement**

"The Commissioner may conduct investigations or examinations of travel insurers, limited lines travel insurance producers, travel retailers, and travel administrators to enforce the provisions of this Act to protect resident Travel Insurance consumers."  

"The Commissioner may take action, following notice and a hearing, necessary or appropriate to enforce the provisions of this Act, Commissioner’s orders, and state statutes to protect consumers of Travel Insurance in this state, pursuant to Section [insert reference to state notice/hearings/court actions law]."

Drafting Note: It is recommended that states review the enforcement procedures in their insurance laws and administrative procedure law and ensure that enforcement authority under this Section is designated to the proper official(s). |
| OK DOI    | Travel insurance may be provided under an individual policy or under a group or master blanket policy. |                  |
## Comment - Section 13 - Regulations

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<td>Comment - Section 14 - Effective Date</td>
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XXX = Current NCOIL Model

Section 5. Premium Tax

A. A travel insurer shall pay premium tax, as provided in [cross-reference to the state’s existing premium tax provision] on Travel Insurance Premiums paid by any of the following:

1. an individual policyholder who is a resident of this state;
2. a certificate-holder who is a resident of this state who elects coverage under a Group Travel Insurance policy; or
3. an Eligible Group policyholder that is resident in, or has its principal place of business in, this state that purchases a Blanket Travel Insurance policy.

B. An insurer shall obtain and maintain documentation necessary to determine the state to which premium tax should be reported based on information provided by the policyholder or certificate-holder, as applicable.

C. Travel Insurance premium shall not include any consideration received by a Travel Insurer in exchange for Assistive Services or Cancellation Fee Waivers.

D. Group or Blanket Travel Insurance issued on a group basis shall be taxed by the home state of the Insured Eligible Group or Blanket policyholder under the group master policy. [TT1] “Home state” shall have the same meaning [statutory definition consistent with Nonadmitted and Reinsurance Reform Act of 2010. An insurer shall obtain and maintain the documentation necessary to determine the home state of the Eligible Group or blanket policyholder][TT2].

E. The premium for travel insurance issued on a blanket basis shall be reported by the insurer on a quarterly basis for the calendar quarter ended 180 days prior to the reporting date. [TT3]

F. An insurer shall obtain and maintain the documentation necessary to determine the amount and state to which premium tax should be paid based on the domiciliary state of the organization that has been granted the authority to issue the blanket insurance certificates[TT4] evidence of coverages.

G. No group or blanket travel insurance shall be issued to an insured that is not a member of an eligible group as enumerated in Section 3 of Act.[TT5]
INSURANCE CODE - INS
DIVISION 1. GENERAL RULES GOVERNING INSURANCE [100 - 1879.8] (Division 1 enacted by Stats. 1935, Ch. 145.)
PART 2. THE BUSINESS OF INSURANCE [680 - 1878.8] (Part 2 enacted by Stats. 1935, Ch. 145.)
CHAPTER 5. Production Agencies [1621 - 1758.993] (Chapter 5 repealed and added by Stats. 1959, Ch. 4.)

ARTICLE 15. Travel Insurance Agents [1752 - 1757] (Article 15 added by Stats. 1959, Ch. 4.)

1752. The commissioner may issue a limited lines travel insurance agent license to any organization engaged in transacting travel insurance through travel retailers not otherwise meeting the conditions set forth in Section 1754.
(Amended by Stats. 2012, Ch. 257, Sec. 1. Effective January 1, 2013.)

1753. As used in this article, the following terms have the following meanings:
(a) "Limited lines travel insurance agent" means an insurer designee that is licensed to transact travel insurance, as defined in subdivision (b).
(b) "Transact" means, for the purposes of this article, the following activities when engaged in by a travel retailer:
(1) Offering and disseminating information to a prospective or current policyholder on behalf of a limited lines travel insurance agent, including brochures, buyer guides, descriptions of coverage, and price.
(2) Referring specific questions regarding coverage features and benefits from a prospective or current policyholder to a limited lines travel insurance agent.
(3) Disseminating and processing applications for coverage, coverage selection forms, or other similar forms in response to a request from a prospective or current policyholder.
(4) Collecting premiums from a prospective or current policyholder on behalf of a limited lines travel insurance agent.
(5) Receiving and recording information from a policyholder to share with a limited lines travel insurance agent.
(c) (1) "Travel insurance" means insurance coverage for personal risks incidental to planned travel, including one or more of the following:
(A) Interruption or cancellation of a 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.
(2) Travel insurance does not include major medical plans, which provide comprehensive medical protection for travelers with trips lasting six months or longer, including for example, those working overseas as an expatriate or military personnel being deployed.
(3) Travel insurance does not include damage waiver contracts, as defined in paragraph (5) of subdivision (a) of Section 1936 of the Civil Code. The phrase "damage waiver" or "collision damage waiver" cannot be used to describe travel insurance coverage, but the insurance contract may otherwise refer to "damage waiver" or "collision damage waiver" provided by a company, as defined in paragraph (1) of subdivision (a) of Section 1936 of the Civil Code.
(d) "Travel retailer" means a business organization that makes, arranges, or offers travel services 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 agent.
(Repealed and added by Stats. 2012, Ch. 257, Sec. 3. Effective January 1, 2013.)

1754. Transaction of travel insurance under the license of an organization holding a limited lines travel insurance agent license shall be subject to the following conditions:
(a) A limited lines travel insurance agent may authorize a travel retailer to transact travel insurance on behalf of and under its authority under the following conditions:

(1) The limited lines travel insurance agent is clearly identified on marketing materials and fulfillment packages distributed by the travel retailers to customers. The marketing materials and fulfillment packages shall include the agent's name, business address, email address, telephone number, license number, and the availability of the department's toll-free consumer hotline.

(2) The limited lines travel insurance agent, at the time of licensure and thereafter, maintains a register noting each travel retailer that transacts travel insurance on the licensee's behalf. The register shall be maintained and updated annually by the licensee in a form prescribed by, or format acceptable to, the commissioner and shall include the name and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operations, and the travel retailer's federal employer identification number (FEIN). The licensee shall also certify that the registered travel retailer complies with Section 1033 of Title 16 of the United States Code. The licensee shall submit the register for review and inspection upon request by the department.

(3) The limited lines travel insurance agent has designated one of its employees to be responsible for its compliance with the insurance laws, rules, and regulations of the state. The limited lines travel insurance agent and its designated responsible employees shall hold property, casualty, life-only, and accident and health agent licenses, to the extent required by this chapter, based upon the types of insurance transacted by the licensee.

(4) The employee designated by the limited lines travel insurance agent, pursuant to paragraph (3), and any of the organization's partners, members, controlling persons, officers, directors, and managers comply with the background check requirements as required by the commissioner.

(5) The limited lines travel insurance agent has paid all applicable licensing fees required under California law.

(6) The limited lines travel insurance agent uses all reasonable means at its disposal to ensure compliance by the travel retailer and the travel retailer's employees with their obligations under this article. This includes requiring each employee of the travel retailer whose duties include transacting travel insurance to receive training. The training shall be provided whenever there is a material change that requires a modification to the training materials, but in no event less frequently than every three years. Training materials used by or on behalf of the limited lines travel insurance agent to train the employees of a travel retailer shall be submitted to the department at the time the travel insurance agent applies for a license under this article, and whenever modified thereafter. The training materials, at a minimum, should contain instruction on the types of insurance offered, ethical sales practices, and disclosures to prospective insurance customers. Any changes to previously submitted training materials shall be submitted to the department with the changes highlighted 30 days prior to their use by the limited lines travel insurance agent. Training materials and changes to those materials submitted to the department pursuant to this subdivision shall be deemed approved for use by the limited lines travel insurance agent unless it is notified by the department to the contrary. Failure by a limited lines travel insurance agent to submit training materials or changes for departmental review or use of unapproved or disapproved training materials shall constitute grounds for denial of an application for a license, nonrenewal of a license, or suspension of a license, or other action as deemed appropriate by the commissioner.

(7) The limited lines travel insurance agent or the travel retailer provides disclosure to the consumer, in either the marketing materials or fulfillment packages, that is substantively similar to the following:

This plan provides insurance coverage that only applies during the covered trip. You may have coverage from other sources that provides you with similar benefits but may be subject to different restrictions depending upon your other coverages. You may wish to compare the terms of this policy with your existing life, health, home, and automobile insurance policies. If you have any questions about your current coverage, call your insurer or insurance agent or broker.

(8) The limited lines travel insurance agent or the travel retailer makes all of the following disclosures to the prospective insured, which shall be acknowledged in writing by the purchaser or displayed by clear and conspicuous signs that are posted at every location where contracts are executed, including, but not limited to, the counter where the purchaser signs the service agreement, or provided in writing to the purchaser:

(A) That purchasing travel insurance is not required in order to purchase any other product or service offered by the travel retailer.

(B) If not individually licensed, that the travel retailer's employee is not qualified or authorized to:

(i) Answer technical questions about the benefits, exclusions, and conditions of any of the insurance offered by the travel retailer.

(ii) Evaluate the adequacy of the prospective insured's existing insurance coverage.
(b) A travel retailer that meets the requirements set forth in this section and whose activities are limited to offering and selling travel insurance on behalf of a licensed limited lines travel insurance agent is authorized to receive compensation.

(c) (1) If the commissioner determines that a travel retailer, or a travel retailer's employee, has violated any provision of this article or any other provision of this code, the commissioner may:

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

(B) Direct the limited lines travel insurance agent to revoke the authorization of the travel retailer to transact travel insurance on its behalf and under its license and to remove the travel retailer's name from its register.

(2) If the commissioner determines that a travel retailer, or a travel retailer's employee, has violated any provision in this article or any other provision of this code, the commissioner, after notice and hearing, may:

(A) Suspend or revoke the license of the limited lines travel insurance agent as authorized under this code.

(B) Impose a monetary fine on the limited lines travel insurance agent.

(3) A limited lines travel insurance agent who aids and abets a travel retailer in the transaction of travel insurance, as defined in this code, or aids and abets a travel retailer in any activity concerning travel insurance after being directed to revoke the travel retailer's authorization, in addition to any other action authorized under this code, shall be subject to a monetary penalty pursuant to paragraph (3) of subdivision (a) of Section 12921.8.

(d) The conduct of employees of the travel retailer who have been designated to transact travel insurance on behalf of the licensed limited lines travel insurance agent shall be deemed the conduct of the licensed limited lines travel insurance agent for purposes of this article.

(Amended by Stats. 2013, Ch. 76, Sec. 136. Effective January 1, 2014.)

1785. (a) An applicant for a limited lines travel insurance agent license under this article shall submit the following documents to the commissioner:

(1) A written application for licensure, signed by the applicant or an officer of the applicant, in the form prescribed by the commissioner.

(2) A certificate by the insurer that is to be named in the limited lines travel insurance agent license, stating that the insurer has satisfied itself that the named applicant is trustworthy and competent to act as its limited lines travel insurance agent and that the insurer will appoint the applicant to act as its agent if the travel insurance agent license applied for is issued by the commissioner. The certification shall be subscribed by an officer or managing agent of the insurer on a form prescribed by the commissioner.

(3) An application fee, and, for each license period thereafter, a renewal fee, in an amount or amounts determined by the commissioner as sufficient to defray the reasonable costs incurred by the department from implementing the provisions of Assembly Bill 2354, as enacted in the 2011-12 Regular Session of the Legislature.

(b) Notwithstanding any other provision of law to the contrary, the provisions set forth in Sections 1667, 1668, 1668.5, 1669, 1670, 1738, and 1739 apply to any application for or issuance of a license pursuant to this article.

(c) Costs associated with any enforcement action shall be paid for by the person or organization licensed pursuant to this article.

(Repealed and added by Stats. 2012, Ch. 257, Sec. 6. Effective January 1, 2013.)

1786. The provisions of this chapter relating to the appointment and termination of an insurance agent by an insurer or its authorized representative are applicable to licenses issued pursuant to this article.

(Added by Stats. 1959, Ch. 4.)

1787. The commissioner may adopt rules and regulations for the implementation of this article.

(Amended by Stats. 2012, Ch. 257, Sec. 7. Effective January 1, 2013.)
Dear Mr. Chairman and Working Group Members:

The Tourism & Travel Industry Consumer Coalition (“TTICC”) appreciates the opportunity to provide further comments to the National Association of Insurance Commissioners Travel Insurance Working Group (“Working Group”) as the Working Group prepares to draft and discuss specific language regarding the travel insurance issues to be addressed in its model. TTICC also remains willing to provide additional information or perspective if it would be helpful to the Working Group members in drafting language to address these issues.

**Definition of Travel Insurance**

We would like to thank Mr. Amini for his extensive work and proposed language regarding the definition of Travel Insurance. In addition to the language proposed by Mr. Amini, TTICC would like to propose inclusion of a drafting note for consideration by adopting states to add some clarity regarding the types of products that are included in the definition.

The current definition in the NCOIL Model excludes major medical plans that provide comprehensive medical protection for travelers and are six months or longer in duration. TTICC would like to note that there are products currently in the market with travel components that do provide comprehensive medical coverage and have a duration of six months or longer, such as policies for international students that are spending a semester or a year abroad. These types of policies are distinct from the shorter-term retail travel products, and should not necessarily be treated the same way.

TTICC would like to clarify that including this definition of Travel Insurance in a model does not prohibit the use of policies with travel components that provide major medical benefits and have a duration of six months or longer. Rather, policies with travel components that fall outside of this definition because they provide major medical coverage and have a duration of six months or longer could still be offered, but may be regulated by other applicable insurance law in a given state, rather than by this model.

For additional clarity, TTICC would propose adding a drafting note to the definition of Travel Insurance proposed by Mr. Amini as follows:

“Travel Insurance” means insurance coverage for individual risks incident to planned travel, including but not limited to:

a. Interruption or cancellation of trip or event, unless offered by the actual provider of the services being interrupted or cancelled;
b. Loss of baggage or personal effects;
c. Damages to accommodations or rental vehicles;
d. Sickness, accident, disability or death occurring during travel;
e. Missed cruise connection unless offered by the actual provider of the cruise;
f. Emergency evacuation;
g. Accidental death and dismemberment;
h. Repatriation of remains;
i. Any other contractual obligation to indemnify or pay a specified amount to the traveler upon determinable contingencies.

Travel Insurance does not include major medical plans, which provide comprehensive medical protection for travelers with trips lasting six (6) months or longer, including for example, those working overseas as an expatriate or military personnel being deployed.

**Drafting Note:** Policies with travel components that do provide major medical coverage and have a duration of six months or longer are not prohibited by this definition, but are outside the scope of this model and may be regulated under other applicable provisions of the state’s insurance code, rather than under this Act. If an adopting state believes that additional clarity is necessary, the state can insert the following language: [For policies that provide comprehensive health coverage see XXX of the state insurance code].

This addition does not substantively alter the definition of Travel Insurance but simply provides additional clarity regarding treatment of plans that fall outside of this definition.

**Jurisdiction Provisions and Authority to Enforce**

During its discussion thus far, the Working Group correctly noted that States already have authority over licensed insurers and licensed producers. However, TTICC would urge the Working Group to consider further provisions addressing state jurisdiction over travel insurance policies. Travel insurance, by its nature, touches multiple jurisdictions, which has led to some uncertainty over when a particular state should exercise authority over a particular part of an insurance transaction. TTICC would encourage the Working Group to consider including language in its model that specifically addresses when a state’s law applies to a particular travel insurance transaction.

**Response to Comments Received from the Center for Economic Justice**

TTICC would also like to take this opportunity to respond to some of the comments submitted to the Working Group by the Center for Economic Justice (“CEJ”).

The CEJ has proposed that the model should grant state insurance departments authority over Travel Insurance as well as any related services. Of course, it is self-evident that insurance departments have regulatory authority over Travel Insurance. However, regulatory authority by

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1 We have not addressed every issue raised by CEJ. Our silence regarding a particular topic does not signal TTICC’s agreement with CEJ’s position and we reserve the right to provide further comments in the future.
insurance departments over the sale of non-insurance products and services is unnecessary. Insurance Departments are tasked with regulating the business of insurance. Regulating non-insurance products and services extends beyond the responsibilities of insurance departments. Further, such regulation is duplicative because these non-insurance products and services are already regulated by consumer protection laws applicable to other non-insurance products, such as state unfair trade practices laws. Therefore, TTICC urges the Working Group to reject CEJ’s proposed revisions extending the scope of the model to provide a comprehensive regulatory framework for related services as well as travel protection products, including CEJ’s proposed changes to the definition of Travel Assistance Services.

Additionally, TTICC disagrees with CEJ’s proposed modification to the definition of a Cancellation Fee Waiver. A Cancellation Fee Waiver is not insurance, but a contractual obligation between a supplier of travel and its customer. By including a Cancellation Fee Waiver in a contract, the travel supplier takes on a risk under the contract. The travel supplier is then free to insure this risk, just as with any other business risk. The fact that the travel supplier chooses to manage this risk through a contractual liability policy does not alter the travel supplier’s contractual obligations to its customer, which remain the same whether or not the travel supplier chooses to insure its risk.

CEJ’s proposed changes to the definition of Cancellation Fee Waiver would condition whether or not a Cancellation Fee Waiver is considered to be insurance based on whether a supplier of travel chooses to manage risk by insuring its contractual liabilities. This distinction is inappropriate and ignores state law regarding the definition of insurance, which does not draw such a distinction. Therefore, TTICC urges the Working Group to reject CEJ’s proposed change to the definition of Cancellation Fee Waiver.

Finally, CEJ’s comments noted that additional data is necessary for the Working Group to decide how to regulate the travel insurance industry. However, this is simply not the case. Each Department of Insurance already possesses industry complaint data as well as other publicly available information. Additionally, travel insurance products have a low complaint ratio compared to other types of insurance. In short, the information already accessible to the Departments of Insurance is sufficient to make decisions related to the content and enactment of this model.

Conclusion

TTICC would like to thank the Working Group for its continued work to develop a sound and clear regulatory structure for Travel Insurance Products. If you have any questions or would like TTICC to provide any additional information regarding these issues, please do not hesitate to contact us.

Sincerely,

TTICC
July 28, 2017

Honorable Al Redmer, Jr.
Chair, NAIC Travel Insurance (C) Working Group
Commissioner, Maryland Insurance Administration
200 St. Paul Place, Suite 2700
Baltimore, MD 21202

Dear Chair Redmer and Working Group Members:

The U.S. Travel Insurance Association ("UStiA") thanks the National Association of Insurance Commissioners’ ("NAIC") Travel Insurance (C) Working Group for its diligent and reasoned progress towards development of a model travel insurance law by the end of the year. As the Working Group moves into the next phase of this process — producing a first draft of a model law — the UStiA would like to take this opportunity to provide the Working Group with a summary of our previous comments and highlight some remaining issues that may arise during forthcoming discussions on the draft model law.

First and foremost, the UStiA notes and appreciates that the Working Group has already made significant progress toward clarifying what constitutes appropriate regulation of travel insurance. We attach to this letter, as Appendix A, a table of the Working Group’s most recent decisions and a summary of the UStiA’s position on each of them. For instance, the Working Group’s vote to use the National Conference of Insurance Legislators ("NCOIL") Limited Lines Travel Insurance Model Act ("NCOIL Model") as the base document from which to develop an NAIC model act is already helpful for companies who today are seeking to effectively navigate regulatory uncertainty while also responding to consumer needs.1 Further, we greatly appreciate the Working Group’s decisions on a number of the key policy issues you have already discussed and decided.

We also attach to this letter, as Appendix B, a section-by-section discussion of the NAIC Travel Insurance Model Act (First Draft). The attachments are largely taken from our previous letter to you dated May 25, and include references to other NAIC models and state laws that serve as the bases for much of the model law language.2 We hope you find this information

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helpful. As always, we are prepared to provide further analysis should particular issues arise during discussion of the draft model law.

The UStiA shares in the Working Group’s goal of drafting and adopting a clear, specific framework for the regulation of travel insurance and travel protection products going forward. We hope you find the information provided herein useful, and we look forward to helping you work through the development of your model law. In the meantime, please contact me if you have any additional questions.

Sincerely,

[Signature]

John P. Fielding
Counsel, U.S. Travel Insurance Association

cc: Travel Insurance (C) Working Group Members
### Appendix A:

**Summary of Working Group Issues and UStiA’s Position**

<table>
<thead>
<tr>
<th>Issue</th>
<th>Working Document Decision</th>
<th>UStiA’s Position</th>
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<tbody>
<tr>
<td>I. Definitions of Travel Insurance and Travel Assistance Services</td>
<td>[First draft of Working Group model law’s definitions will mirror the NCOIL model law’s definitions; Mr. Gordon Amini’s suggestions to be further discussed.] As a preliminary matter, the group agreed to use the NCOIL Model’s definition of “travel assistance services” in its first draft.</td>
<td>The definitions in the NCOIL Model are appropriate and consistent with what has already been adopted in 45 jurisdictions, without any indication of issues or problems.</td>
</tr>
<tr>
<td>II. Competitive Market</td>
<td>Section 6 of the NCOIL Model will not be included in the working group’s first draft [based on unanimous vote to remove Section 6.]</td>
<td>Most states currently have a framework for determining the competitiveness of a marketplace and, therefore, it is appropriate to apply the same standards to travel insurance.</td>
</tr>
<tr>
<td>III. Bundling</td>
<td>The first draft of the Working Group’s model will not prohibit bundling [based on a majority vote determination that bundling will not be prohibited.]</td>
<td>Based on a majority vote of the Working Group, and consistent with long-standing legal and economic analyses, bundling should not be prohibited. Generally, bundling is permissible, and—contrary to opinions expressed to the Working Group—there is no legal or economic support that it is <em>per se</em> deceptive; instead, it has been shown to be pro-competitive and good for consumers.</td>
</tr>
<tr>
<td>I. Rating Rules</td>
<td>The Working Group agreed that rating rules should be left to the states, thus the first draft of the Working Group’s model will not contain a preference as to competitive rating or prior approval. Therefore, the first draft of the Working Group’s model will not seek to require that non-insurance products be filed in conjunction with or separate from insurance products and Section 6, as drafted in the NCOIL Model, will not be included in the Working Group’s initial draft.</td>
<td>Most states currently have a framework for reviewing travel insurance products under competitive rate review standards, and, therefore, it is appropriate to continue to defer to states and be subject to these standards going forward.</td>
</tr>
<tr>
<td>II.A. Inland Marine Line of Authority</td>
<td>“[Inland marine” was determined to be the appropriate line of authority. Thus, the Working Group’s first draft will designate “inland marine” as the appropriate line of authority</td>
<td>Consistent with the Working Group’s May 30 vote, “inland marine” is the proper line of business for travel insurance.</td>
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<table>
<thead>
<tr>
<th>Section</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>II. B. Terrorism Exclusion</strong></td>
<td>[First draft will not address a terrorism exclusion]</td>
</tr>
<tr>
<td><strong>II. C. COB Provisions</strong></td>
<td>[T]here will be no COB language in the Working Group’s first draft.</td>
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<tr>
<td><strong>II. D. Consumer Disclosures</strong></td>
<td>The Working Group will re-visit consumer disclosures once a model law draft is circulated.</td>
</tr>
<tr>
<td><strong>III. Licensing</strong></td>
<td>The [Working Group] did not seem to think [limited lines licenses should be extended to other entities in the marketing process that are to act as administrators]. Therefore the limited lines provisions will not be expanded in the first draft. / The Working Group’s first draft will contain the travel administrator scheme set forth in the NCOIL Model, with changes to be discussed by the group during the review of the first draft.</td>
</tr>
<tr>
<td><strong>IV. Commissions</strong></td>
<td>[T]his will not be addressed in the Working Group’s first draft.</td>
</tr>
<tr>
<td><strong>V. Premium Tax</strong></td>
<td>The Subgroup will make a recommendation for the Working Group’s consideration as to what language should be included in the Working Group’s first draft.</td>
</tr>
<tr>
<td><strong>VI. No Cost Insurance</strong></td>
<td>[T]his will not be addressed in the Working Group’s first draft.</td>
</tr>
<tr>
<td><strong>VII. Opt-Out</strong></td>
<td>The NCOIL language will be preserved in the Working Group’s first draft unless a volunteer would like to offer “cleaned up” language for the Working Group’s review.</td>
</tr>
<tr>
<td>VIII. Authority to Enforce</td>
<td>States already have authority over licensed insurers and licensed producers. The Working Group’s first draft will not deviate from the scope of that authority.</td>
</tr>
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</table>
Appendix B:
Section-by-Section Discussion of the NAIC Travel Insurance Model Act (First Draft)

SECTION 2. SCOPE & PURPOSE

This section clarifies that this model is meant to be a comprehensive, uniform framework for the regulation of travel insurance. The model establishes a level playing field to benefit consumers by standardizing protections and requirements, and encourages fair and effective competition among market participants. This section further explains that the model delineates between insurance and non-insurance components in establishing a proper scope and reach of the regulatory framework.

Support for the language in this section comes from other NAIC models, including the Service Contracts Model (MDL 685) and the Long-Term Care Insurance Model (MDL 640).

SECTION 3. DEFINITIONS

This section establishes uniform meaning of key terminology across states. It provides definitions for terms uniquely important to the travel insurance industry and its distribution channels and characteristics (e.g., “blanket travel insurance,” “eligible groups,” “travel administrator,” etc.).

Many of these definitions are taken from other NAIC models and/or existing state laws. Several travel-specific/unique definitions track with the NAIC Uniform Licensing Standard 34 (“NAIC ULS 34”) and the NCOIL Licensing Model, which has been adopted in whole or in large part in 44 states and the District of Columbia. These definitions include those for “travel insurance,” “travel retailer,” “limited lines travel insurance producer,” and “offer and disseminate.”

The definition for “blanket travel insurance” is based on nearly identical definitions in Virginia, California, Wisconsin, Utah, Iowa, and Hawaii.1

The definition for “cancellation fee waivers,” which distinguishes such waivers from insurance, is consistent with prior NAIC alerts clarifying that waivers are not insurance policies.2 Several states have also taken the position that waivers are not insurance policies and are not

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1 VA Code Ann. § 38.2-3521.2; Cal. Ins. Code § 10270.2; W.S.A. § 600.03; U.C.A. 1953 § 31A-1-301(14); IAC 191-35.3; HRS § 431:10A-201. At least 45 states have some definition of “blanket insurance” for various lines of insurance. See Blanket Insurance Definitions Chart (on file with author).

regulated by the state. These states include: Ohio, California, Arkansas, Massachusetts, Oregon, Illinois, Delaware, Minnesota, and Maryland. New York, moreover, has issued multiple letters and opinions on this topic.

The definition for “eligible group” is a compilation of groups found permissible under a number of state laws, including Arizona, Florida, Louisiana, Massachusetts, New Hampshire, and Virginia. In addition:

- 45 states allow blanket for education institutions;
- 45 states allow blanket based on specified hazards incident to activities/operations of an employer;
- 43 states allow blanket for a common carrier of passengers/transportation sector;
- 43 states allow for volunteer fire, first aid and/or civil defense organizations;
- 36 states allow for some form of sports team/camp;
- 34 states allow for religious/charitable/recreational/educational/civic organizations;

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5 http://www.insurance.arkansas.gov/consumers/Alerts/Travel.html


8 http://insurance.illinois.gov/General/travel_ins.asp

9 http://www.delawareinsurance.gov/travel.html


12 See, e.g., NY OGC Op. No. 10-02-06 (Feb. 23, 2010) (“An insurer may not include ‘Cancel for Any Reason Waiver’ or ‘Change of Mind’ coverage in its travel insurance policies because such coverage is not insurance . . . .”), http://www.dfs.ny.gov/insurance/ogco2010/rg100206.htm; NY Circular Letter No. 24 (Dec. 29, 2006) (“Unconditional waivers that permit the ticket purchaser to cancel the trip for any reason are not insurance because the cancellation of the trip is not dependent upon the happening of a fortuitous event.”), http://www.dfs.ny.gov/insurance/circltr/2006/cl06_24.htm.

• 22 states allow for associations/labor unions;
• 20 states allow for newspapers/publishers; and
• 41 states have the “catch-all” allowance for other groups permitted/approved by the Commissioner.\textsuperscript{14}

The definition for “travel administrator” tracks almost exactly with the NAIC TPA Model (GDL-1090) and the NAIC State Licensing Handbook definition of “TPA.” The travel retailer component, which does not track with the TPA model, comes from the NCOIL Licensing Model and the NAIC ULS 34 definition of “travel retailer.”

The definition for “travel assistance services” accurately details non-insurance travel-related services that are provided as part of travel protection plans.

\textbf{SECTION 4. LICENSING AND REGISTRATION}

This section is based entirely on NAIC ULS 34 and the NCOIL Licensing Model, which has been almost universally adopted in the states—providing one area of clarity and uniformity in the travel insurance regulatory landscape. The NAIC adopted ULS 34, reforming the licensure of travel insurance limited lines producers, in 2010, after nearly two years of debate. Similarly, NCOIL adopted its model act, based on ULS 34, in 2012. The model was then subject to each individual state’s regulatory and legislative deliberations and amendments (which in some cases took multiple years) before adoption in each jurisdiction.

Since 2012, 44 states and the District of Columbia have enacted the limited lines travel insurance producer licensing reform, with no indication of problems or issues for industry, regulators, or consumers.

\textbf{SECTION 5. PREMIUM TAX}

This section harmonizes the premium tax collection rules and processes across the states and clarifies the premium tax regime for insurers and regulators, including amounts that should be reported and taxed as insurance, and amounts that should not (e.g., non-insurance travel assistance services). It recognizes that travel insurance and travel protection plans often are placed (and approved) on a group or blanket basis, and provides clear and workable premium tax rules for those circumstances.\textsuperscript{15}

The “resident/home state of the policyholder” approach makes sense for travel insurance because the insurance moves with the policyholder, and thus taxation based on physical location of the risk (like property & casualty risks) does not work in this context. As a general matter, this approach is not new, as it commonly appears in state statute language (including the District

\textsuperscript{14} See Blanket Insurance Definitions Chart (on file with author).

\textsuperscript{15} With respect to eligibility/underwriting on individual, group or blanket basis, similar language has been used in the portable electronics context in Virginia. See VA Code Ann. § 38.2-1878 (Authority of Vendors of Portable Electronics).
of Columbia, Illinois, Iowa, and Utah), and in the Nonadmitted and Reinsurance Reform Act (NRRA) provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Subsection B ensures that companies will maintain sufficient documentation to justify their premium tax reporting/payment, which could presumably be audited, but makes clear that companies must be able to rely on the information reported by the policyholder/certificate-holder in making their premium tax determinations.

The UStiA believes the updated language to this section suggested by Oklahoma and Louisiana is appropriate for discussion purposes. We are currently working with our members to understand the compliance implications of the proposed language, and would appreciate the opportunity to fully respond prior to the Working Group’s consideration of this section of the draft model.

SECTION 6. FORMS AND RATES

Defining travel insurance as an inland marine line is consistent with the way in which travel insurance is filed in 49 states and the NAIC Operational Efficiencies (EX) Working Group Matrix, which lists travel under Property & Casualty Inland Marine. By stipulating that travel insurance be classified and filed under inland marine, the NAIC model law will adopt the majority approach among the states and provide much-needed uniformity in filing requirements.

This section also appropriately clarifies that a “file and use” form and rate approach will apply to travel insurance, which will provide uniformity in filing requirements for industry participants and regulators, and protect consumers by giving regulators 30 days between filing and use to evaluate (and, if necessary, disallow) filings. Notably, the model’s “file and use” language is taken directly from Section 5 of the NAIC’s Property and Casualty Model Rating Law (GDL-1775 (file and use version)). The enumerated tests for determining whether there is a competitive market in the first instance are found in well-settled antitrust law. We believe using competitive rating rules, as opposed to prior approval, is the best approach for multiple reasons.

As a preliminary matter, travel insurance has been subject to competitive rate review requirements in the vast majority of states since the inception of the product. Under these laws, states review travel insurance forms and rates and actively inquire about exclusions (including terrorism) and rating factors, including commission levels during the rate and form review process.

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16 DC ST § 31-205(b)(1)(A); 215 ILCS 5/409(1); I.C.A. § 432.1; U.C.A. 1953 § 31A-15-204.
18 In addition to filing as inland marine, a handful of states require filing with their accident & health divisions.
20 See THE PROCOMPETITIVE NATURE OF TRAVEL PROTECTION PLANS, a white paper submitted by UStiA, at 5 (Relevant Principles and Analysis).
process. Because of the competitive nature of the market, rates have remained stable over many years—with the average premium now at less than $100—and in many cases has resulted in a price decline.

The travel insurance market is competitive. Prices, coverages, and services are responsive to consumer needs and wants, particularly given the discretionary nature of travel protection products. So long as there is a competitive market, rates should be presumed fair and approvable/acceptable.

If ever the market is not competitive, however, the model provides states with clear authority to change the form and rate structure. Moreover, to further protect consumers, Section D of this section tracks with NAIC model language and several state laws regarding “excessive, inadequate, or unfairly discriminatory” rate restrictions, providing clear, uniform “guardrails” for rates in the industry.

In short, each state currently has rate review processes that would ensure that travel insurance rates are and remain competitive.

SECTION 7. TRAVEL PROTECTION PLANS

This section allows travel products to continue to be offered—as they have been for over 25 years—in a manner that provides a seamless consumer experience and cost-saving efficiencies. The UStiA has provided the Working Group with extensive support for this practice, and supports the Working Group’s decision to permit it to continue.

SECTION 8. SALES PRACTICES

This section is intended to provide clarity on specific sales practices to provide a clear framework for compliance for industry participants and regulators. The provisions in this section track state laws in these different areas:

- The draft model makes clear that all persons offering travel insurance in a state will be subject to state unfair trade practices laws. Forty-five states have adopted NAIC Model 880 (Unfair Trade Practice Act, UTPA), which contains provisions to regulate trade practices in the business of insurance.

- The draft model includes a 10-day “free look” requirement, during which consumers can cancel a policy for a full refund. Importantly, the draft model also

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includes a provision tracking a recently-adopted NCOIL amendment that clarifies the time that the 10-day review period commences.

- The draft model prohibits the use of “opt out” sales, unless otherwise permitted by state law. The U.S. Department of Transportation prohibits opt-out in its final rule on enhancing airline passenger protection (relating to air transportation or packages involving air transportation). Several states also have issued releases prohibiting opt-out insurance sales (including Florida, New Jersey, Minnesota, and California). North Carolina specifically permits opt-outs for travel insurance offered for vacation rentals.

- Finally, the draft model prohibits “free insurance.” Eleven states have statutes expressly prohibiting free insurance (Alabama, California, Florida, Georgia, Hawaii, Kentucky, Mississippi, North Carolina, Pennsylvania, Oklahoma, and South Carolina), but at least two states (Alabama and Florida) have exceptions under this prohibition for at least some types of blanket insurance.

SECTION 9. TRAVEL ADMINISTRATORS

This section requires those who engage in Travel Administrator activities to hold a producer, managing general agent (MGA), or third-party administrator (TPA) license. In doing so, this section permits such licensees to engage in travel insurance-related activities that align

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25 Impermissibility of Opting Out of Purchase of or Automatic Enrollment in Travel Insurance (Bulletin No. 16-02), N.J. Dep’t of Banking & Ins. (Feb. 16, 2016), available at http://www.state.nj.us/dobi/bulletins/blt16_02.pdf.


28 See N.C.G.S.A. § 42A-36.


with the activities permitted by their underlying TPA, MGA, or producer license(s). Importantly, it would not permit licensees to engage in activities broader than those permitted by their underlying licenses.

SECTION 10. REGISTRATION

We support the registration language, which is taken from the NCOIL Licensing Model and is in place, with some variations, in 44 states and the District of Columbia.

SECTION 11. POLICY

This section restates verbatim Section 5 of the original NCOIL Licensing Model, which has been adopted in 44 states and the District of Columbia. There has been no indication of problems or issues with this section for industry, regulators, or consumers.

SECTION 12. ENFORCEMENT

This section clarifies and bolsters regulators’ general enforcement authority—including investigations/examinations, enforcement actions, and assessment of penalties—over various parties within the travel insurance industry, including: insurers, producers, travel retailers, and travel administrators.

The language from this section is based on the NAIC’s Service Contracts Model Act (MDL 685).

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July 28, 2017

The Honorable Al Redmer, Jr.
Commissioner
Maryland Insurance Administration
200 St. Paul Place, Suite 2700
Baltimore, MD 21202:

Dear Commissioner Redmer:

On behalf of the Independent Insurance Agents and Brokers of America (IIABA), the largest insurance producer organization in the country, I write to offer our organization’s views concerning the first draft of the NAIC Travel Insurance Model Act. We have outlined our initial thoughts on a section-by-section basis below and hope this perspective is helpful. We appreciate your consideration of our views and look forward to actively participating in your deliberations in Philadelphia and beyond.

Section 2 (Scope and Purposes)

IIABA opposes Section 2(B) of the proposal because it limits the application and scope of the model to instances “where policies and certificates are delivered or issued for delivery in this state.” This text is troubling because many travel insurance sales do not result in the delivery of an actual policy or certificate to the buyer, and its inclusion means the consumer protections contained in the model would not apply to many transactions that occur within states that might adopt the proposal. As strong supporters of state insurance regulation, we believe this model should apply to all travel insurance transactions that occur within a particular jurisdiction, and we urge you to delete this unnecessary and outdated phrase in order to achieve this outcome.

Section 3 (Definitions)

The definition of “aggregator site” should be deleted since Section 8(C)(5) – the sole provision in the model where this term is used – is unnecessary.

The definition of “limited lines travel insurance producer” is circular and confusing for several reasons. For example, the provision defines “limited lines travel insurance producer” as a “limited lines producer.” It would also allow limited lines travel producers to act as travel administrators, which means that a person that has met incredibly minimal requirements would be empowered to underwrite travel insurance and settle claims.

We are unclear why the draft model includes a definition of “offer and disseminate,” which are commonly understood terms, but we are especially confused why the phrase is defined in a way that is inconsistent with its accepted meaning. Without a compelling reason to include such a definition, we urge the working group to delete it.
The definition of “travel administrator” and Section 9 should also be deleted. Together, these provisions would establish a new category of licensee that would be authorized and empowered to underwrite travel insurance, settle claims, and perform other activities of importance. This section is unwarranted, and, despite the discussion that has occurred, no one has made a convincing case for why this provision is necessary. If states do not currently permit entities to become managing general agents or third party administrators in the travel insurance context, then that issue can be addressed with a drafting note and targeted revisions to state law. The creation of a new type of licensee without clear purpose, application requirements, duties, or obligations is very concerning.

Section 4 (Licensing and Registration)

Section 4(B) should be revised to make clear that its requirements apply to sales by both travel retailers and by limited lines travel insurance producers. Specifically, we propose that the subsection be revised in following manner:

“A Travel Retailer or Limited Lines Travel Insurance Producer may offer or disseminate Travel Insurance under a Limited Lines Travel Insurance Producer business entity license (“licensed business entity”) only if the following conditions are met:

One of the most significant problems with the draft model is the manner in which it addresses disclosure requirements, and we identified some of these deficiencies and the need for revision in a previous comment letter. IIABA appreciates the working group’s focus on this issue, and you will likely need to consider whether to revise the disclosure provisions in the sections in which they currently appear or consolidate them into a single section. Regardless of how the model is ultimately organized, the disclosures currently found in Section 4 require some finetuning. Section 4(B)(1) and 4(C) outline some of the disclosures that must be made in order for a travel retailer to offer and sell travel insurance, but the provision does not specify when this information must be provided. Some of the disclosures should be required at or prior to the time of purchase of travel insurance (e.g. terms of coverage), but others would be more appropriately provided after the sale is complete (e.g. a description of the process for filing a claim).

Section 4(B)(1)(a) requires the delivery of a description of the material terms or the actual material terms of the coverage. This provision raises many questions and does not affirmatively require the delivery of the terms of coverage at any time, and the working group will at a minimum likely want to be clear about when the policy terms are to be provided to the customer.

Section 4 permits unlicensed individuals and entities outside of the traditional jurisdiction and reach of state insurance regulators to offer and sell travel insurance if certain conditions are met. The primary restriction is that these unlicensed travel retailers only engage in insurance activities under the direction of a limited lines travel insurance producer. The limited lines travel insurance producer is supposed to be the accountable and knowledgeable party that will dictate, oversee, and take responsibility for the actions and practices of travel retailers. It is therefore troubling that Section 4(B)(7) would exempt these licensees from any all examination, pre-licensing, and continuing education requirements. We see no reason why individuals with such heightened responsibilities should be exempt from such requirements, and we strongly urge the working group to delete this provision.

Section 4(C) requires travel retailers to make certain information available to prospective purchasers. It is unclear what is intended by the “make available” requirement and how that differs from the requirements outlined in Section 4(B)(1).
Section 4(D) includes some helpful consumer protections and limits the activities that unlicensed travel retailers may engage in. This subsection should be expanded, however, and we urge the working group to similarly prohibit travel retailers from making any assertions or statements about the suitability of the offered travel insurance coverage for a particular person.

Section 4(E) is a nearly word-for-word duplication of Section 10, and one of these provisions should be deleted.

**Section 7 (Travel Protection Plans) and Section 8 (Sales Practices)**

Sections 7 and 8 address a number of point-of-sale and sales practices issues, and this may be the area of the model where the working group focuses on disclosure requirements. Many travel insurance transactions occur without the involvement of a knowledgeable insurance professional, and overwhelmed and uninformed consumers are often left to fend for themselves. State officials should require the delivery of clear, helpful, and relevant information at or prior to the time of purchase of travel insurance and also enact appropriate post-sale disclosure requirements. In order to bring much-needed clarity and greater precision to this area of the law, IIABA urges the NAIC to largely start from scratch and to develop provisions that address those disclosures that must be made at or prior to a purchase and those that must be provided to the buyer after the transaction.

The types of information that should be required to be disclosed at or prior to the time of purchase of travel insurance, especially when the offer is made by an unlicensed entity, include the following:

- Information concerning the travel insurance and non-insurance components of travel protection plans (including information regarding the features and pricing of each);
- A description of any preexisting condition exclusions;
- A statement about whether the offered product is primary or secondary to other coverage;
- A statement indicating that the offered product may be duplicative of existing coverage; and
- The types of information identified in Sections 4(B)(1) and 4(C) of the NCOIL model.

The NAIC model should also include clear and objective post-sale disclosure obligations. These disclosures should, for example, provide purchasers with a copy of the policy terms, information concerning the right to rescind coverage, a description of the claims process, and contact information for relevant parties. The initial draft includes references to “fulfillment packages,” “fulfillment materials,” and “the policy fulfillment” (which are unnecessary and undefined terms), but it provides no clear description of what must be provided to purchasers of travel insurance and when it must be delivered. We urge you to eliminate the references to these terms and replace them with a clear post-sale disclosure provision.

There are a number of other problems with the drafting of Sections 7 and 8, and we highlight some of these issues and offer our recommendations below:

- The disclosures required by Section 7(B) should be provided “at or prior to the time of purchase” (as is the case in Section 7(C)) in order to be relevant and useful to the consumer. The provision also makes reference to complying with existing requirements
concerning fulfillment materials, but it is unclear what requirements are actually in place. We also urge the working group to delete the references to “fulfillment materials” in this subsection and elsewhere.

- Sections 8(B) and (C) do not impose the duty to disclose on a particular person (e.g. a travel retailer, insurer, limited lines travel insurance producer, or any persons offering travel protection plans). Travel protection plans do not disclose information themselves; some person must do so.

- Many insurance codes today make clear that limited lines travel insurance producers and travel retailers are subject to the Unfair Trade Practices Acts (UTPA) of the states, yet Section 8(A) would delete these explicit statements and instead provide that the UTPA does not apply when there is a conflict between the UTPA and the model. This is a significant revision, and it is unclear what actual conflicts are anticipated and why unique exemptions from the UTPA are necessary. If there are instances where carveouts of this nature are necessary, it would be more appropriate to identify those specifically and to avoid ambiguity and the possibility of unnecessary litigation. IIABA urges the working group to revise Section 8(A) so that it simply states: “All persons offering Travel Insurance to residents of this state are subject to the Unfair Trades Practices Act at [insert reference to state UTPA law].”

- Section 8(C)(2) would require information about preexisting condition exclusions to be provided in fulfillment packages (i.e. after the sale of travel insurance), but this information must be received earlier in order to be effective or meaningful. Accordingly, it should be provided at or prior to the time of purchase.

- Section 8(C)(4) requires disclosure of whether the travel insurance is primary or secondary to other applicable coverage in the fulfillment materials. This important disclosure should also be required at or prior to the time of purchase.

- Section 8(C)(5) states that it is not an unfair trade practice to provide summaries of coverage on an insurer or aggregator website, if a consumer has access to the full provisions of the policy. It is uncertain what sort of currently unlawful practice this provision would permit and shield from the UTPA, and it is also unclear why this is specific to insurer or aggregator websites.

- Section 8(D) addresses opt out practices, and the first phrase (which would allow other state or federal law to trump the prohibition) should be deleted. A model law is a recommendation for policymakers, so this proposal should explicitly call on states to prohibit such practices. This subsection should also be revised to address so-called “false choice” scenarios in which consumers are required to select between two options that do not accurately portray their circumstances or situation.

- It is uncertain why Section 8(E) is included. This would allow parties to give away free insurance as an inducement to the purchase of a trip or travel-related service but only if the coverage is not marketed as such.

- As we commented previously, unlicensed travel retailers and limited lines travel insurance producers should be prohibited from making recommendations about a
person’s need for or suitability for coverage. If not addressed in Section 4, Section 9 would an appropriate place to tackle this issue.

Section 9 (Travel Administrators)

For the reasons cited previously, we urge the working group to delete Section 9. The creation of a new type of licensee with such sweeping authority and without clear purpose, application requirements, duties, or obligations is a recipe for mischief and misconduct.

We should also note that there are other problems with Section 9. First, Section 9(A)(1) makes reference to an inland marine line of authority for producers, but no such line exists. Second, Section 9(B) would exempt employees of travel administrators from adjuster licensing requirements. This is in direct conflict with Section 2(A) of the NAIC Third Party Administrator Act, which makes clear that there should be no such exemption for employees of this nature.

Section 12 (Enforcement)

The insurance codes of many states make clear that travel retailers and limited lines travel insurance producers are subject to the Unfair Trades Practices Acts and to the same enforcement provisions that apply to others. Section 12 is a weaker replacement of those explicit statements, and IIABA urges the working group to revise the provision to ensure that they have the clear ability to revoke a travel retailer’s ability to sell travel insurance and take similar enforcement actions.

Conclusion

IIABA thanks you and the working group for your consideration of our views and looks forward to working with you and your colleagues on this initiative. If we can provide you with any additional information or assistance, please feel free to contact me by phone at 202-302-1607 or via email at wes.bissett@iiaba.net.

Very truly yours,

[Signature]

Wesley Bissett
Senior Counsel, Government Affairs
Comments of the Center for Economic Justice

To the NAIC Travel Insurance Working Group

July 24, 2017

CEJ offers the following comments on the first few sections of the NCOIL Travel Insurance Model Act, which is serving as the starting point for the NAIC Travel Insurance Working Group’s drafting effort.

Before we offer our comments on the NCOIL model language, we reference our July 18, 2017 comments in which we urged regulators to collect and publish basic data about travel insurance market participants and consumer market outcomes to provide objective information to inform the working group’s discussion and to improve the ability of non-industry stakeholders to participate in the working group’s discussion.

As a further preliminary comment, we understand the working group will not discuss consumer disclosures in the initial discussions, but we wish to state our disagreement with and opposition to the arguments in the USTIA letter dated July 14, 2017.

USTIA states, “Legal decisions, including U.S. Supreme Court cases make clear that bundling is not deceptive.” USTIA makes a broad, generic statement and (mis)applies it to the specifics of travel insurance. Of course, some bundling can be beneficial and promote competition. Bundling of coverages within a homeowners policy or a personal auto policy is beneficial and promotes competition. But, it is unclear – and dubious – that bundling of insurance and non-insurance products into a travel protection plan is beneficial to consumers, promotes competition or requires unique consumer disclosures or protections. USTIA has made no showing for its claims and the travel industry has refused to provide basic data – available for every other line of insurance – for an empirical analysis of these claims.
In another example of a generic statement about bundling applied to travel protection plans, USTIA states, “Instead, bundling is advantageous to the consumer because it leads to lower costs, improved consumer use of component products, and a better coordinated and consolidated customer service function.” Again, no evidence has been put forth in support of these claims. Our suggested data request to industry would provide evidence to support or refute these claims.

USTIA’s July 14, 2017 letter states:

“Market conditions, moreover, do not warrant additional or earlier disclosures, and there is no legal basis to suggest otherwise. The need for disclosures should be reserved only to circumstances where there is a strong overall impression that the average, reasonable consumer is being deceived, and any disclosure requirements must relate to combating that deception. Based on consumer complaint data, there is no evidence of consumer deception in the travel insurance context.”

Yet, the only “evidence” offered by USTIA is “consumer complaint data,” which are not dispositive of a healthy insurance market, generally, and for travel insurance, in particular. Given that much or most travel insurance is sold by retailers that consumers would generally not recognize as insurance producers, it is likely that the majority of consumer complaints never make it to insurance regulators – the “complaint data” cited by USTIA. As discussed in our July 18, 2017 comments, data on complaints filed with travel producers and insurers, on policy cancellations and on claims denials would provide objective evidence of consumer understanding of travel protection products.

In at least one instance, USTIA’s arguments move beyond generic-without-empirical-support to misleading and deceptive, raising legitimate questions about the veracity of claims of the travel industry regarding its products and services.

In its July 14, 2017 letter, USTIA cites CEJ comment in support of their position. USTIA states that CEJ’s comment was “disclosure is not a panacea,” implying support for their position that no additional disclosures beyond those in the NCOIL model are needed. This is a stunning misrepresentation of our position. CEJ has stated that in certain markets, consumers are so disadvantaged that disclosures cannot overcome the greater market forces of the seller – particularly the case in add-on product markets like some of those in which travel insurance is sold. Our point was that in these non-competitive markets, greater regulatory – not informational – protections are needed for consumers. In addition, in several of our prior comments, we have agreed with the IIABA that, in the absence of the stronger regulatory protections, additional disclosures are needed. If USTIA will misrepresent CEJ’s position on this issue, we have no confidence in their representations about consumer market outcomes.
In its July 14, 2017 letter USTIA, claims that advertising a bundled product is not inherently deceptive. This is, of course a straw man argument. No one has made this argument. The issue is not whether bundling in general is good or bad or whether bundling in general needs certain disclosures, but whether the travel protection bundling sold in specific markets empowers consumers or empowers travel protection producers at the consumer’s expense.

In its July 14, 2017 letter, USTIA argues that there is no “legal basis” for “additional” disclosures based on an interpretation of Federal Trade Commission policy statements. There are several problems with this entire discussion by USTIA. First, the working group is developing a model law to serve as the legal basis for the sale of travel insurance. The legal basis for disclosures will be the policy decisions made by regulators crafting the model and by state legislators adopting the model – not on the basis of hypothetical enforcement by the FTC. Second, USTIA – and the FTC policy statement cited by USTIA – place great weight on consumers’ ability to easily evaluate the product or service and on frequent purchase by the consumer. Insurance is not like other consumer products because the product is a promise for future benefits if certain events occur. Consumers may purchase the product many times before the consumer attempts to utilize the benefit. Consequently, frequent purchase does not equate to frequent use by an insurance consumer. Third, there is no empirical basis for the USTIA argument since the travel industry has refused to provide the data describing markets and consumer outcomes that are available for every other line of insurance.

In summary, we urge the working group to reject USTIA’s misapplication of generic and broad statements to travel insurance/protection and quickly proceed with a data request to provide the necessary empirical evidence to inform the working group’s deliberations.

**Comments on Specific Sections**

**Section 2 Scope and Purposes**

A. The purpose of this Act is to promote the public welfare by creating a comprehensive legal framework within which Travel Insurance and Related Services may be sold in this state through the establishment of clear regulatory obligations for those involved in the development and distribution of Travel Insurance, preserving the unique aspects of Travel Protection Plans, and protecting and benefiting consumers by encouraging fair and effective competition within the market.

B. The requirements of this Act shall apply to Travel Insurance and Related Services, whether or not provided as part of a Travel Protection Plan, where policies and certificates are delivered or issued for delivery in this state. It shall not be applicable to Cancellation Fee Waivers and Travel Assistance Services, except as expressly provided herein.
Discussion: While it may be reasonable for different oversight of non-insurance travel services than for travel insurance, there is clearly a need for regulatory authority over the entire travel assistance package that includes travel insurance for several reasons. First, there needs to be oversight of what products or services are or are not insurance to prevent regulatory arbitrage of shifting insurance products to the non-insurance portion of the travel protection package. Second, regulatory oversight over travel insurance requires oversight of the sales transaction of travel protection packages that feature travel insurance. Third, regulatory oversight of travel protection package is needed to prevent sham non-insurance products.

Cancellation Fee Waiver

We expand on the last point with discussion of “cancellation fee waivers.” Travel protection bundles include insurance products, non-insurance protection in the form of fee waiver or fee cancellation and travel assistance services. We are greatly concerned about sham fee waiver / fee cancellation products and believe a careful definition is needed for so-called non-insurance fee waiver products.

Insurance involves a transfer of risk from a consumer to an insurance company in which the insurance company agrees to pay an amount if certain events occur. Fee waiver products, in theory, are a contractual relationship between the travel provider and consumer in which the travel provider agrees to waive or cancel a fee if certain events occur. In fact, the vast majority of fee waiver products are backed by a contractual liability insurance policy and administered by an insurance company.

We ask the working group to consider the following scenarios.

Scenario 1: the travel provider sells cancellation fee insurance in which an insurance company agrees to pay a certain amount to the travel provider on behalf of the consumer in the event a consumer has to cancel a trip due to specified events.

Scenario 2: the travel provider sells cancellation fee waiver in which the travel provider agrees to waive the cancellation fee if a consumer has to cancel the trip due to specified events. The travel provider purchases a contractual liability policy to cover any cancellation fees waived and charges the consumer the premium amount plus a mark-up as the waiver fee.
In our view, the travel provider is engaged in a sham waiver transaction that robs consumers of insurance protections and robs states of premium tax. We submit that this discussion of cancellation fee waiver demonstrates the need for the model to provide regulators with oversight of the entire travel protection product and the need for to limit the definition of fee waiver products to only those that do not involve an insurance policy to ensure that any fee waiver products are genuine and not sham.

The edits we suggest to Section 2 reflect our belief that consumer protection requires regulators to have oversight of travel insurance and the related services that are part of a travel protection package.

Comments on Oklahoma Suggestions

We recognize that the suggestions ascribed to Mr. Amini of Oklahoma in the July 12, 2017 Discussion Direction document were preliminary. We appreciate Mr. Amini’s extensive efforts on travel insurance and we offer some preliminary comments. We disagree with the proposed sections D and E. Mr. Amini’s proposed section D states:

D. The purpose of this Act is to regulate travel insurance as a product incidental to planned travel. It is not the intention of the Legislature to modify practices and procedures, otherwise lawful in the travel industry, but to provide consumer protections necessary for an informed decision to purchase.

We believe the purpose of the model is to provide a comprehensive framework for the oversight of and requirements for sale of travel insurance and related services – not to regulate a product incidental to planned travel. Further, the purpose of the model – and law, if adopted by the state – may well be to modify current practices and to prohibit – make unlawful – certain practices. Finally, the purpose of the model goes far beyond an informed decision to purchase.

Mr. Amini’s proposed Section E provides a list of the forms of travel insurance sales. It is unclear what purpose is intended by this list, but we disagree with the proposed taxonomy. If travel insurance sales are categorized in a model law, we suggest that “direct sales” should retain its common meaning in insurance of sales by the insurance company to the consumer without a producer or intermediary. Sales by travel retailers are not direct because the travel retailer is a licensed producer. We reserve further comment until we better understand the purpose of the proposed section.
Section 3 Definitions

We offer preliminary comments on some definitions. We expect to offer additional comments on the items below and additional definitions as the working group deliberations unfold. In addition, while we are offering comments based on preliminary decisions by the working group, our comments are not an endorsement of bundled insurance and non-insurance products.

Cancellation Fee Waiver

“Cancellation Fee Waiver” means a contractual agreement between a supplier of travel arrangements or travel services and its customer to waive some or all of the nonrefundable cancellation fee or penalty provisions of the underlying travel contract between the supplier and customer. A Cancellation Fee Waiver is not insurance only if the supplier does not utilize directly or indirectly an insurance policy or policies for reimbursement of fees waived under the contractual agreement with the customer.

Discussion: See discussion in section 2, above.

Eligible Group

The definition of “eligible group” includes a list of different possible groups of individuals but fails to identify or specify the characteristics of the sale or purchase that would distinguish a group policy from an individual policy. For example, item f defines one group as any financial institution or financial institution vendor or parent holding company under which accountholders, debtors, guarantors or purchasers are insured. Since the definition of “group travel insurance” is simply travel insurance sold to an eligible group, by the definition of “eligible group,” for example, a financial institution could purchase a group policy and sell coverage under the group policy in the same way that a travel insurance producer sells individual coverage. The definition of eligible group – or group travel insurance – requires some definition that effectively distinguishes a group policy from individual policies.

In addition, section l is overly broad and vague by authorizing the Commissioner to declare any group of people as an eligible group based on some relationship other than the nature of the sale or purchase. The definition limits the Commissioner’s declaration of a group to situations “not … contrary to the best interests of the public.” It is unclear what is intended by “best interests of the public” and no guidance is provided.
Travel Administrator

According to the definition of “limited lines travel insurance producer,” a travel administrator is such a limited lines travel insurance producer. The definition of travel administrator sets out a list of activities of a travel insurance producer, including “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.” But, the definition of travel insurance administrator then exempts a person engaged in any of five activities from being a travel administrator – including the very activities that define a travel administrator. It is unclear what a travel administrator is or does separate from or in addition to the activities of limited or fully licensed producer or insurer.

Travel Assistance Services

This definition is problematic because it defines activities as non-insurance assistance services that are clearly related providing an insurance benefit. For example, emergency messaging, international legal and medical referrals, medical case monitoring and other items can clearly be related to a travel insurance medical benefit claim.

“Travel Assistance Services” means non-insurance services sold in connection with travel insurance and which are not related to the use of any travel insurance benefit. The Commissioner 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 shall approved all services proposed in a filing as travel assistance by insurance company by the Commissioner in a Travel Insurance filing. Travel Assistance Services are not insurance for purposes of premium tax calculation and not related to insurance.
Travel Retailer

We think it may be useful to have a definition of Travel Retailer for sections later in the model dealing with sales practices, disclosures and rates because travel insurance sales by a travel retailer represent significantly different market forces than direct sales by a travel insurer via a web site. However, the NCOIL definition is flawed. A travel retailer that sells travel insurance should do so pursuant to, at least, a limited lines travel insurance producer license – not under the “direction” of a limited lines licensee. The purpose of a limited lines license is to allow reduced training and education requirements compared to a fully-license producer for purposes of limited types of insurance sales. It makes no sense to further dilute consumer protections by having a limited lines licensee direct a non-licensee. The phrase “as a service” is gratuitous and serves no purpose. For purposes of regulatory oversight, it makes no difference why the travel retailer offers its customers travel

“Travel Retailer” means a person or business entity that makes, arranges or offers travel services and may offer and disseminate travel insurance and related services, in a travel protection plan, as a service to its customers pursuant to on behalf of and under the direction of a Limited Lines Travel Insurance Producer required producer licensing.
July 28, 2017

Commissioner Al Redmer, Chair
Travel Insurance (C) Working Group
NAIC Central Office
1100 Walnut, Suite 1500
Kansas City, MO 64106-2197

Attn: Denise Matthews, Director of Information Systems

Via Electronic Mail: dmatthews@naic.org

RE: Travel Insurance Model Law

Dear Commissioner Redmer:

The American Insurance Association (AIA) appreciates the opportunity to provide comments on the current draft of the National Association of Insurance Commissioner’s (NAIC) Travel Insurance Model Law (Model Law). Included below are our initial observations on the draft and we look forward to continuing to provide feedback as the working group engages in the editing process.

Section 3. Definitions

While not identified in the list of key issues discussed by the regulators, we have seen some comments from regulators and interested parties regarding the definition of “eligible groups.” Therefore, we include some suggestions for your consideration. We support the current definition as it borrows language from existing law and as such states are familiar with how it operates in practice. Nevertheless, we believe this is a great opportunity for regulators to update and modernize the definition of “eligible groups.”

We offer the following suggestions for your consideration:

“Eligible Group” means any of the following:

a. For the purpose of group travel insurance only, 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 of passengers, including but not limited to airlines, cruise lines, railroads, steamship companies, and public bus carriers;

1 AIA comprises approximately 325 major U.S. and non-U.S. insurance companies that write more than $127 billion in premium each year and provide all lines of property-casualty insurance to U.S. consumers and businesses.
b. Any college, school, or other institution of learning covering students, teachers or employees, or volunteers defined by reference to specified hazards incident to activities or operations of the institution of learning;
c. Any employer covering any group of employees, contractors, Board of Directors, dependents or guests, defined by reference to specified hazards incident to activities or operations of the employer;
d. Any sports team, camp, organized recreational activity, 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 defined by reference to specified hazards incident to any activity or operations sponsored or supervised by or on the premises of such organization or branch or through sponsored trips provided through the organization;
f. Any financial institution or financial institution vendor, or parent holding company, trustee, or agent of or designated by one or more financial institution or financial institution vendor, under which accountholders, credit card holders, debtors, guarantors, or purchasers are insured;
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;
h. Any trust or the trustees of a fund established, created or maintained for the benefit of members or customers of one or more associations meeting the above requirements;
i. Any entertainment production company covering any group of participants, volunteers, audience members, contestants, or workers;
j. Any newspaper or other publisher covering its journalists and carriers;
k. Any volunteer fire department, ambulance, rescue, policy, court, or any first aid, civil defense or other such volunteer group, or agency having jurisdiction thereof, covering all or any group of the members, participants or volunteers of such fire department, ambulance, rescue, police, court, or first aid, civil defense or other group;
l. Any organized recreational activity, such as theater groups, musical and instrumental groups, beauty contests, fashion shows, soap box derby, parades, tournaments, etc.;
m. Organized clubs such as bicycle, riding, hunting, fishing, book, dance, art, music, senior citizen;
n. Preschools, Daycare institutions for children or adults; or
lo. 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 best interests of the public.

Section 5. Premium Tax
We continue to review the language recently proposed by Louisiana and Oklahoma and will provide more detailed commentary in the near future. We understand the concerns of fairness raised by regulators, but would stress our goal is to make sure the rules are clear and consistent across the states and allow for seamless implementation by the insurers.
Section 6. Competitive Market
Notwithstanding the Working Group’s decision to delete Section 6, the Working Group’s decision to treat travel insurance consistent with existing state filing regimes is appropriate. We urge regulators to continue with this approach at implementation and not develop more stringent filing requirements for travel insurance policies.

Section 8. Consumer Disclosures
We believe current market disclosures are adequate and provide consumers with the necessary information for informed decisions; however, we look forward to continued discussions with regulators to explore whether there are any gaps. Fundamentally, our goal is to make sure that disclosures requirements are focused on providing consumers with useful information that aids in the decision making process rather than creating confusion and frustration that then obstructs that process. The AIA notes that there are already at least 10 disclosures built into the current Model, and these already include many important consumer protections.

In addition, we would respectfully remind the Working Group that they voted to continue to allow the bundling of insurance and non-insurance products. It was also noted that appropriate disclosures regarding this practice should be considered. Therefore, as potential disclosure obligations are considered, those disclosures should be carefully viewed to make sure they enhance consumer choice and not inadvertently create so much confusion that the unintended outcome is actually a prohibition on bundling.

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Thank you again for the opportunity to provide comments and we look forward to continued collaboration.

Respectfully submitted,

Angela Gleason
Senior Counsel