

AMENDED IN ASSEMBLY APRIL 11, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2354

Introduced by Assembly Member Solorio

February 24, 2012

An act to amend Sections 1752, 1757, and 10296 of, to add Section 1754 to, to repeal Section 10295 of, and to repeal and add Sections 1753 and 1755 of, the Insurance Code, relating to travel insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2354, as amended, Solorio. Travel insurance.

Existing law authorizes the issuance of limited licenses as travel insurance agents for employees of railroads, steamships, airlines, and other organizations engaged in transporting persons as common carriers and to individuals or employees of persons engaged in selling transportation on those common carriers.

This bill would revise and recast the provisions related to travel insurance by, among other things, changing the definition of travel insurance to delete references to transportation ticket policies in disability insurance policies and include interruption or cancellation of a trip or event, loss of baggage or personal effects, damages to accommodations or rental vehicles, and sickness, accident, disability, or death occurring during travel. The bill would also authorize ~~limited licenses as the Insurance Commissioner to issue a limited lines travel insurance agents to be issued agent license to any person organization~~ engaged in transacting travel insurance, as specified, including, ~~but not limited to, a travel retailer, as defined retailers, as specified.~~ The bill would also ~~authorize a travel retailer~~ *revise the definition of a limited lines travel insurance agent to mean an insurer designee that is licensed*

to transact travel insurance on behalf of and under the license of a limited lines travel insurance agent licensed as a business organization and following certain, under specified conditions. The bill would require the licensed limited lines travel insurance agent to follow administrative and disclosure requirements, such as including the agent's name, license number, and contact information on the marketing materials and packages, and requiring the agent to establish and maintain a register of each travel retailer that transacts travel insurance.

Existing law requires that a limited license to sell travel insurance be applied for and renewed in the same manner as is provided for a licensee to act as a property broker-agent or a casualty broker-agent, and *that an applicant* pay a filing fee, except that an applicant for a limited license as a travel insurance agent need not pass a qualifying examination.

This bill would delete the filing fee and the requirement that the license be applied for and renewed in the same manner as is provided for a licensee to act as a property broker-agent or a casualty broker-agent, *those provisions* and additionally would *instead* require that the applicant for a limited lines travel insurance agent license file with the Insurance Commissioner a written application for licensure, signed by the applicant or an officer of the applicant, in the form prescribed by the commissioner, and a notice of appointment appointing the licensee as the insurer's agent a certificate by the insurer on a form prescribed by the commissioner stating, among other things, that the insurer has satisfied itself that the applicant is trustworthy and competent to act as its limited lines travel insurance agent, and an application fee in an amount determined by the Department of Insurance as sufficient to defray the department's actual costs of processing the application, as specified.

The bill would make conforming changes and delete obsolete provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1752 of the Insurance Code is amended
- 2 to read:
- 3 1752. ~~Limited licenses as travel insurance agents may be issued~~
- 4 ~~to any person~~ *The commissioner may issue a limited lines travel*

1 *insurance agent license to any organization* engaged in transacting
2 travel insurance, including travel retailers not otherwise meeting
3 the conditions set forth in Section 1754.

4 SEC. 2. Section 1753 of the Insurance Code is repealed.

5 SEC. 3. Section 1753 is added to the Insurance Code, to read:

6 1753. As used in this article, the following terms have the
7 following meanings:

8 (a) “Limited lines travel insurance agent” means an insurer
9 designee, ~~such as a managing general underwriter, managing~~
10 ~~general agent, or licensed limited lines travel insurance agent that~~
11 ~~is licensed to transact travel insurance, as specified in subdivision~~
12 ~~(b).~~

13 (b) (1) “Travel insurance” means insurance coverage for
14 personal risks incident to planned travel, including, but not limited
15 to, ~~one or more of~~ the following:

16 (A) Interruption or cancellation of a trip or event.

17 (B) Loss of baggage or personal effects.

18 (C) Damages to accommodations or rental vehicles.

19 (D) Sickness, accident, disability, or death occurring during
20 travel.

21 (2) Travel insurance does not include major medical plans, which
22 provide comprehensive medical protection for travelers with trips
23 lasting six months or longer, including for example, those working
24 overseas as an ~~ex-patriot~~ *expatriate* or military personnel being
25 deployed.

26 (c) “Travel retailer” means a business organization engaged in
27 transacting travel insurance.

28 SEC. 4. Section 1754 is added to the Insurance Code, to read:

29 1754. *Transaction of travel insurance under the license of an*
30 *organization holding a limited lines travel insurance agent license*
31 *shall be subject to the following conditions:*

32 (a) A travel retailer may transact travel insurance on behalf of
33 and under ~~the license of a limited lines travel insurance agent~~
34 ~~licensed as a business organization, only if the licensee holds a~~
35 ~~qualifying license and appointment under this article, and all of~~
36 ~~the following apply:~~ *a limited lines travel insurance agent pursuant*
37 *to this article under the following conditions:*

38 (1) ~~The licensee~~ *The licensed limited lines travel insurance*
39 *agent* is clearly identified as the licensed limited lines travel
40 insurance agent on marketing materials and fulfillment packages

1 distributed by the travel retailers to customers. ~~Identification shall~~
2 ~~include the licensee's name~~ *The materials and packages shall*
3 *include the agent's name, license number, and contact information.*

4 (2) The licensee shall establish at the time of licensure and
5 maintain a register of each travel retailer that transacts travel
6 insurance on the licensee's behalf. The register shall be maintained
7 and updated annually by the licensee in a form prescribed by, or
8 format acceptable to, the commissioner and shall include the name
9 and contact information of the travel retailer and an officer or
10 person who directs or controls the travel retailer's operations, and
11 the travel retailer's federal employer identification number (FEIN).
12 The licensee shall also certify that the registered travel retailer
13 complies with Section 1033 of Title 18 of the United States Code.
14 The licensee shall submit the register for review and inspection
15 upon request by the department.

16 ~~(3) The licensee has designated one of its employees as a~~
17 ~~licensed individual producer responsible for the licensee's~~
18 ~~compliance with the insurance laws, rules, and regulations of the~~
19 ~~state.~~

20 ~~(4) The designated responsible limited lines travel insurance~~
21 ~~agent, president, secretary, treasurer, and any other officer or person~~
22 ~~who directs or controls the licensee's insurance operations comply~~
23 ~~with the fingerprinting requirements applicable to insurance~~
24 ~~producers in the resident state of the business organization.~~

25 *(3) The licensed limited lines travel insurance agent shall*
26 *designate one of its employees to be responsible for its compliance*
27 *with the insurance laws, rules, and regulations of the state. That*
28 *employee shall also hold a license issued by the Insurance*
29 *Commissioner that authorizes the employee to transact insurance*
30 *as described in Section 1625 and paragraphs (1) and (2) of*
31 *subdivision (a) of Section 1626.*

32 *(4) The employee designated by the licensed limited lines travel*
33 *insurance agent described in paragraph (3), and the president,*
34 *secretary, treasurer, and any other officer or person who directs*
35 *or controls the operations of the limited lines travel insurance*
36 *agent shall comply with the background check requirements as*
37 *required by the commissioner.*

38 ~~(5) The licensee~~ *The licensed limited lines travel insurance*
39 *agent has paid all applicable insurance agent licensing fees required*
40 *under California law.*

(6) ~~The licensee~~ *The licensed limited lines travel insurance agent* requires each employee of the travel retailer whose duties include transacting travel insurance to receive ~~a program of instruction or 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 ~~licensee~~ *limited lines travel agent* to train the employees of a travel retailer shall be submitted to the department at the time the ~~business organization~~ *travel 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 ~~licensee~~ *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 ~~licensee~~ *limited lines travel insurance agent* unless it is notified by the department to the contrary. Failure by a ~~licensed business organization~~ *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, ~~as appropriate or other action as deemed appropriate by the commissioner.~~

(b) ~~A travel retailer, including its employees, whose activities are limited to offering and disseminating travel insurance on behalf of and under the direction of a licensee meeting the conditions stated in subdivision (a), is authorized to do so and receive related compensation. For purposes of this section, "offering and disseminating" means a nonlicensable activity of providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other nonlicensable activities permitted by the state.~~

(b) A travel retailer and its employees, who meet 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, are authorized to

1 *receive compensation. For the purpose of this section, “offering*
2 *and selling” includes licensable and nonlicensable activity.*

3 ~~(c) The licensee—Neither the insurer nor the licensed limited~~
4 ~~lines travel insurance agent may—not otherwise pay any~~
5 ~~compensation to a travel retailer or its employees, based primarily~~
6 ~~on the number of customers electing coverage from the travel~~
7 ~~retailer. However, nothing in this—code article shall prohibit~~
8 ~~payment of compensation to a travel retailer or its employees for~~
9 ~~activities under the limited lines travel insurance agent’s license~~
10 ~~that are incidental to the travel retailer’s or its employees overall~~
11 ~~compensation.~~

12 ~~(d) As the insurer designee, the licensee is responsible for the~~
13 ~~acts of the travel retailer.~~

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

19 SEC. 5. Section 1755 of the Insurance Code is repealed.

20 SEC. 6. Section 1755 is added to the Insurance Code, to read:

21 ~~1755. (a) An applicant for a limited lines travel insurance agent~~
22 ~~license need not pass a qualifying examination.~~

23 ~~(b) An applicant for a limited lines travel insurance agent license~~
24 ~~under this article shall file the following documents with the~~
25 ~~commissioner:~~

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

29 ~~(2) A notice of appointment appointing the licensee as the~~
30 ~~insurer’s agent.~~

31 *1755. (a) An applicant for a limited lines travel insurance*
32 *agent license under this article shall submit the following*
33 *documents to the commissioner:*

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

37 *(2) A certificate by the insurer that is to be named in the limited*
38 *lines travel insurance agent license, stating that the insurer has*
39 *satisfied itself that the named applicant is trustworthy and*
40 *competent to act as its limited lines travel insurance agent and*

1 *that the insurer will appoint the applicant to act as its agent if the*
2 *travel insurance agent license applied for is issued by the*
3 *commissioner. The certification shall be subscribed by an officer*
4 *or managing agent of the insurer on a form prescribed by the*
5 *commissioner.*

6 *(3) An application fee, and for each license period thereafter,*
7 *a renewal fee, in an amount or amounts determined by the*
8 *department as sufficient to defray the department's actual cost of*
9 *processing the application or renewal and implementing this*
10 *article.*

11 *(b) Notwithstanding any other provision of law to the contrary,*
12 *the provisions set forth in Sections 1667, 1668, 1668.5, 1669, 1670,*
13 *1738, and 1739 apply to any application for or issuance of a*
14 *license pursuant to this article.*

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

18 SEC. 7. Section 1757 of the Insurance Code is amended to
19 read:

20 1757. The commissioner may ~~make~~ *adopt* reasonable rules and
21 regulations necessary for the convenient administration of the
22 provisions of this code respecting the implementation of this article.

23 SEC. 8. Section 10295 of the Insurance Code is repealed.

24 SEC. 9. Section 10296 of the Insurance Code is amended to
25 read:

26 10296. The following written notice shall be provided to every
27 potential applicant for a policy of travel insurance that includes
28 coverage for sickness, accident, or disability, *or death benefits, or*
29 *all of those benefits* and is offered pursuant to the provisions of
30 Article 15 (commencing with Section 1752) of Chapter 5 of Part
31 2 of Division 1 at the time the sales presentation is made:

32
33 “NOTICE: This plan contains disability insurance benefits or
34 health insurance benefits, or both, that only apply during the
35 covered trip. You may have coverage from other sources that
36 already provides you with these benefits. You should review your
37 existing policies. If you have any questions about your current
38 coverage, call your insurer or health plan.”

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