

AMENDED IN SENATE JUNE 4, 2012
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, and 1757, and 10296 of, to add Section 1754 to, to repeal Section Sections 10295 and 10296 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 the Insurance Commissioner to issue a limited lines travel insurance agent license to any organization engaged in transacting travel insurance, ~~as specified, including through~~ travel retailers, ~~as specified. The bill those~~

terms are defined, and would also revise the definition of define a limited lines travel insurance agent to mean an insurer designee that is licensed to transact travel insurance, under specified conditions. The bill would require the licensed limited lines travel insurance agent and a travel retailer to follow administrative and disclosure requirements, such as including the agent's name, license number, and contact identification information on and making certain disclosures to the consumer in the marketing materials and fulfillment packages, and requiring the agent to establish and maintain a register of noting 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 those provisions and 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, 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 and a renewal fee in an amount determined by the Department of Insurance commissioner as sufficient to defray the department's actual costs of processing the application, as specified increased reasonable costs incurred by the department to implement the provisions of this bill.

The bill would authorize the commissioner to take disciplinary action against a limited lines travel insurance agent for a violation of the provisions of the Insurance Code by a travel retailer or a travel retailer's employee.

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:

1 1752. The commissioner may issue a limited lines travel
2 insurance agent license to any organization engaged in transacting
3 travel insurance, ~~including through~~ travel retailers not otherwise
4 meeting the conditions set forth in Section 1754.

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 Section 1753 of the Insurance Code is repealed.

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

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

9 (a) “Limited lines travel insurance agent” means an insurer
10 designee that is licensed to transact travel insurance, as ~~specified~~
11 *defined* in subdivision (b).

12 (b) “Transact” means, for the purposes of this article, the
13 following activities when engaged in by a travel retailer:

14 (1) *Offering and disseminating information to a prospective or*
15 *current policyholder on behalf of a limited lines travel insurance*
16 *agent, including brochures, buyer guides, descriptions of coverage,*
17 *and price.*

18 (2) *Referring specific questions regarding coverage features*
19 *and benefits from a prospective or current policyholder to a limited*
20 *lines travel insurance agent.*

21 (3) *Disseminating and processing applications for coverage,*
22 *coverage selection forms, or other similar forms in response to a*
23 *request from a prospective or current policyholder.*

24 (4) *Collecting premiums from a prospective or current*
25 *policyholder on behalf of a limited lines travel insurance agent.*

26 (5) *Receiving and recording information from a policyholder*
27 *to share with a limited lines travel insurance agent.*

28 ~~(b)~~

29 (c) (1) “Travel insurance” means insurance coverage for
30 personal risks ~~incident~~ *incidental* to planned travel, including, ~~but~~
31 ~~not limited to,~~ *one or more of the following:*

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

33 (B) Loss of baggage or personal effects.

34 (C) Damages to accommodations or rental vehicles.

35 (D) Sickness, accident, disability, or death occurring during
36 travel.

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

1 (3) *Travel insurance does not include damage waiver contracts,*
 2 *as defined in paragraph (5) of subdivision (a) of Section 1936 of*
 3 *the Civil Code. The phrase “damage waiver” or “collision damage*
 4 *waiver” cannot be used to describe travel insurance coverage,*
 5 *but the insurance contract may otherwise refer to “damage*
 6 *waiver” or “collision damage waiver” provided by a company,*
 7 *as defined in paragraph (1) of subdivision (a) of Section 1936 of*
 8 *the Civil Code.*

9 (e)

10 (d) ~~“Travel retailer” means a business organization engaged in~~
 11 ~~transacting travel insurance that makes, arranges, or offers travel~~
 12 ~~services and may offer and disseminate travel insurance as a~~
 13 ~~service to its customers on behalf of and under the direction of a~~
 14 ~~limited lines travel insurance agent.~~

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

16 1754. Transaction of travel insurance under the license of an
 17 organization holding a limited lines travel insurance agent license
 18 shall be subject to the following conditions:

19 (a) ~~A limited lines travel insurance agent may authorize a travel~~
 20 ~~retailer may to transact travel insurance on behalf of and under a~~
 21 ~~limited lines travel insurance agent pursuant to this article its~~
 22 ~~authority under the following conditions:~~

23 (1) ~~The licensed limited lines travel insurance agent is clearly~~
 24 ~~identified as the licensed limited lines travel insurance agent on~~
 25 ~~marketing materials and fulfillment packages distributed by the~~
 26 ~~travel retailers to customers. The marketing materials and~~
 27 ~~fulfillment packages shall include the agent’s name, business~~
 28 ~~address, e-mail address, telephone number, and license number;~~
 29 ~~and contact information.~~

30 (2) ~~The licensee shall establish limited lines travel insurance~~
 31 ~~agent, at the time of licensure and maintain thereafter, maintains~~
 32 ~~a register of noting each travel retailer that transacts travel~~
 33 ~~insurance on the licensee’s behalf. The register shall be maintained~~
 34 ~~and updated annually by the licensee in a form prescribed by, or~~
 35 ~~format acceptable to, the commissioner and shall include the name~~
 36 ~~and contact information of the travel retailer and an officer or~~
 37 ~~person who directs or controls the travel retailer’s operations, and~~
 38 ~~the travel retailer’s federal employer identification number (FEIN).~~
 39 ~~The licensee shall also certify that the registered travel retailer~~
 40 ~~complies with Section 1033 of Title 18 of the United States Code.~~

1 The licensee shall submit the register for review and inspection
2 upon request by the department.

3 (3) ~~The licensed limited lines travel insurance agent shall~~
4 ~~designate~~ *has designated* one of its employees to be responsible
5 for its compliance with the insurance laws, rules, and regulations
6 of the state. ~~That employee shall also hold a license issued by the~~
7 ~~Insurance Commissioner that authorizes the employee to transact~~
8 ~~insurance as described in Section 1625 and paragraphs (1) and (2)~~
9 ~~of subdivision (a) of Section 1626. The limited lines travel~~
10 ~~insurance agent and its designated responsible employees shall~~
11 ~~hold property, casualty, life-only, and accident and health agent~~
12 ~~licenses, to the extent required by this chapter, based upon the~~
13 ~~types of insurance transacted by the licensee.~~

14 (4) ~~The employee designated by the licensed limited lines travel~~
15 ~~insurance agent described in, pursuant to paragraph (3), and the~~
16 ~~president, secretary, treasurer, and any other officer or person who~~
17 ~~directs or controls the operations of the limited lines travel~~
18 ~~insurance agent shall any of the organization's partners, members,~~
19 ~~controlling persons, officers, directors, and managers~~ comply
20 with the background check requirements as required by the
21 commissioner.

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

24 (6) ~~The licensed limited lines travel insurance agent requires~~
25 ~~uses all reasonable means at its disposal to ensure compliance by~~
26 ~~the travel retailer and the travel retailer's employees with their~~
27 ~~obligations under this article. This includes requiring each~~
28 ~~employee of the travel retailer whose duties include transacting~~
29 ~~travel insurance to receive training. The training shall be provided~~
30 ~~whenever there is a material change that requires a modification~~
31 ~~to the training materials, but in no event less frequently than every~~
32 ~~three years. Training materials used by or on behalf of the limited~~
33 ~~lines travel agent to train the employees of a travel retailer shall~~
34 ~~be submitted to the department at the time the travel agent applies~~
35 ~~for a license under this article, and whenever modified thereafter.~~
36 ~~The training materials, at a minimum, should contain instruction~~
37 ~~on the types of insurance offered, ethical sales practices, and~~
38 ~~disclosures to prospective insurance customers. Any changes to~~
39 ~~previously submitted training materials shall be submitted to the~~
40 ~~department with the changes highlighted 30 days prior to their use~~

1 by the limited lines travel insurance agent. Training materials and
2 changes to those materials submitted to the department pursuant
3 to this subdivision shall be deemed approved for use by the limited
4 lines travel insurance agent unless it is notified by the department
5 to the contrary. Failure by a limited lines travel insurance agent to
6 submit training materials or changes for departmental review or
7 use of unapproved or disapproved training materials shall constitute
8 grounds for denial of an application for a license, nonrenewal of
9 a license, or suspension of a license, or other action as deemed
10 appropriate by the commissioner.

11 *(7) The limited lines travel insurance agent or the travel retailer*
12 *provides disclosure to the consumer in either the marketing*
13 *materials or fulfillment packages is substantively similar to the*
14 *following:*

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

23 *(8) The travel retailer makes all of the following disclosures to*
24 *the prospective insured:*

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

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

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

32 *(ii) Evaluate the adequacy of the prospective insured's existing*
33 *insurance coverage.*

34 *(b) A travel retailer and its employees, who meet that meets the*
35 *requirements set forth in this section and whose activities are*
36 *limited to offering and selling travel insurance on behalf of a*
37 *licensed limited lines travel insurance agent, are is authorized to*
38 *receive compensation. For the purpose of this section, "offering*
39 *and selling" includes licensable and nonlicensable activity.*

1 ~~(e) Neither the insurer nor the licensed limited lines travel~~
2 ~~insurance agent may otherwise pay any compensation to a travel~~
3 ~~retailer or its employees, based primarily on the number of~~
4 ~~customers electing coverage from the travel retailer. However,~~
5 ~~nothing in this article shall prohibit payment of compensation to~~
6 ~~a travel retailer or its employees for activities under the limited~~
7 ~~lines travel insurance agent's license that are incidental to the travel~~
8 ~~retailer's or its employees overall compensation.~~

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

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

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

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

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

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

26 *(C) Take any other action authorized under this code.*

27 *(3) A limited lines travel insurance agent who aids and abets a*
28 *travel retailer in the transaction of travel insurance, as defined in*
29 *this code, or aids and abets a travel retailer in any activity*
30 *concerning travel insurance after being directed to revoke the*
31 *travel retailer's authorization, in addition to any other action*
32 *authorized under this code, shall be subject to a monetary penalty*
33 *pursuant to paragraphs (2) and (3) of subdivision (a) of Section*
34 *12921.8.*

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

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

1 SEC. 6. Section 1755 is added to the Insurance Code, to read:
 2 1755. (a) An applicant for a limited lines travel insurance agent
 3 license under this article shall submit the following documents to
 4 the commissioner:

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

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

16 ~~(3) An application fee, and for each license period thereafter, a~~
 17 ~~renewal fee, in an amount or amounts determined by the~~
 18 ~~department as sufficient to defray the department's actual cost of~~
 19 ~~processing the application or renewal and implementing this article.~~

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

26 (b) Notwithstanding any other provision of law to the contrary,
 27 the provisions set forth in Sections 1667, 1668, 1668.5, 1669, 1670,
 28 1738, and 1739 apply to any application for or issuance of a license
 29 pursuant to this article.

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

33 SEC. 7. Section 1757 of the Insurance Code is amended to
 34 read:

35 1757. The commissioner may adopt ~~reasonable~~ rules and
 36 regulations ~~necessary for the convenient administration of the~~
 37 ~~provisions of this code~~ respecting the implementation of this article.

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

39 ~~SEC. 9. Section 10296 of the Insurance Code is amended to~~
 40 ~~read:~~

1 ~~10296. The following written notice shall be provided to every~~
2 ~~potential applicant for a policy of travel insurance that includes~~
3 ~~coverage for sickness, accident, or disability, or death benefits, or~~
4 ~~all of those benefits and is offered pursuant to the provisions of~~
5 ~~Article 15 (commencing with Section 1752) of Chapter 5 of Part~~
6 ~~2 of Division 1 at the time the sales presentation is made:~~

7
8 ~~“NOTICE: This plan contains disability insurance benefits or~~
9 ~~health insurance benefits, or both, that only apply during the~~
10 ~~covered trip. You may have coverage from other sources that~~
11 ~~already provides you with these benefits. You should review your~~
12 ~~existing policies. If you have any questions about your current~~
13 ~~coverage, call your insurer or health plan.”~~

14 ~~SEC. 9. Section 10296 of the Insurance Code is repealed.~~

15 ~~10296. The following written notice shall be provided to every~~
16 ~~potential applicant for a transportation ticket policy at the time the~~
17 ~~sales presentation is made:~~

18 ~~“NOTICE: This plan contains disability insurance benefits or~~
19 ~~health insurance benefits, or both, that only apply during the~~
20 ~~covered trip. You may have coverage from other sources that~~
21 ~~already provides you with these benefits. You should review your~~
22 ~~existing policies. If you have any questions about your current~~
23 ~~coverage, call your insurer or health plan.”~~