

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 979

(Delegates Kramer and W. Miller)

Economic Matters

Finance

Property and Casualty Insurance - Travel Insurance - Regulation

This bill establishes a regulatory framework for the sale of travel insurance in the State. Among other things, the bill (1) clarifies that travel insurance is classified as inland marine insurance, meaning that a travel insurer must maintain specified levels of paid-in capital stock and file rates in a specified manner; (2) clarifies the manner in which premium taxes must be paid for travel insurance; and (3) authorizes the Insurance Commissioner to adopt regulations to implement the bill.

Fiscal Summary

State Effect: The Maryland Insurance Administration (MIA) can handle the bill's requirements using existing budgeted resources. The rate and form filing requirements codify existing treatment of travel insurance and do not affect State operations or finances. The bill's residency specifications for premium tax collections are not expected to materially affect State operations or finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Definitions and Applicability

The bill expands the definition of "travel insurance" and establishes numerous definitions related to the sale, issuance, and administration of travel insurance. A cancellation fee

waiver or travel assistance services (e.g., lost luggage assistance or a destination information service) may not be construed to be insurance and, therefore, the bill's regulatory framework does not generally apply to these waivers and services. Travel insurance may be sold in the State in the form of an individual, a group, or a blanket policy. The bill applies to all policies of travel insurance and travel protection plans offered, sold, or issued in the State on or after October 1, 2018.

Premium Tax Collection for Travel Insurance

The bill clarifies that an insurer that issues or sells a travel insurance policy in the State is required to pay the premium tax on insurance sold to a resident of the State, certain primary certificate holders, or certain blanket travel insurance policyholders. An insurer must obtain and maintain the documentation necessary to determine whether Maryland or another state is owed any premium taxes, as applicable, and the bill clarifies the manner used to determine which state is owed the premium tax revenue for a policy. Specifically, the state of residence is considered (1) the primary policyholder's state for individual policies; (2) the primary certificate holder's state for group policies; and (3) the state of the principal place of business of the primary blanket policyholder, affiliate, or subsidiary, for blanket policies.

Travel Protection Plan Pricing

A "travel protection plan" means a plan that provides travel insurance and *either* travel assistance services *or* a cancellation fee waiver. The bill authorizes a travel protection plan to be sold together for one price for the combined features, but only if the plan and accompanying fulfillment material (1) provide specified disclosures and information to a consumer and (2) offer the consumer an opportunity at or before the time of purchase to obtain additional information regarding the features and pricing of the insurance, services, and waiver (as applicable) in the plan.

Unfair Trade Practices

A person who offers travel insurance to residents of the State is subject to the provisions of the Insurance Article that govern unfair trade practices, such as unfair methods of competition, deceptive acts, unfair claims settlement practices, and acts of insurance fraud. This includes, among other things, (1) specifications for how certain information must be disclosed to applicants and policyholders and (2) an express prohibition against offering to sell a travel insurance policy that could never result in payment of any claim for any insured under the policy.

Current Law/Background:

Travel Insurance

“Travel insurance” is coverage for personal risk incident to planned travel, including (1) interruption or cancellation of a trip or event; (2) loss of baggage or personal effects; (3) damage to accommodations or a rental vehicle; or (4) sickness, accident, disability, or death occurring during travel, if issued as incidental to other coverage. “Travel insurance” does not include a major medical plan that provides comprehensive medical protection for a traveler on a trip lasting six months or longer. Travel insurance may be sold in the State as one of eight authorized limited lines. A limited lines license authorizes an insurance producer to sell a type of insurance that is otherwise restricted.

Chapter 15 of 2014 expanded the regulatory framework for travel insurance in the State by, among other things, (1) requiring insurance producers selling travel insurance to make specified disclosures about the policy and other information to a customer purchasing or seeking to purchase travel insurance; (2) requiring certain employees of an insurance producer or travel retailer to be registered with MIA and receive ethical sales practices training; (3) authorizing those same employees to disseminate travel insurance information, process applications, and collect premiums; and (4) prohibiting a travel retailer from compensating an employee or authorized representative to sell travel services based primarily on the number of customers who purchase travel insurance.

The National Association of Insurance Commissioners (NAIC) recently convened a workgroup to develop a national framework for model legislation to modernize the regulation of travel insurance. NAIC regularly develops model legislation concerning new and existing insurance issues and encourages its member regulators, which includes MIA, to adopt the legislation. Although NAIC has not officially adopted the model legislation for travel insurance, it released [a draft for public comment](#) in October 2017.

Inland Marine Insurance – Capital Stock and Rate Filing

To qualify for a certificate of authority to engage in one kind of insurance business in the State on or after July 1, 1991, an insurer must have and maintain paid-in capital stock with a fixed nominal or par value in an amount not less than \$750,000 for property insurance and marine insurance other than wet marine and transportation insurance.

Each insurer in the State must file with the Insurance Commissioner all rates, supplementary rate information, policy forms, and endorsements as well as all modifications of rates, supplementary rate information, policy forms, and endorsements that the insurer proposes to use. The rates must be reasonable and adequate for the

applicable class of risks, and they may not discriminate unfairly between risks that involve essentially the same hazards and expense elements.

Unfair Trade Practices

Title 27 of the Insurance Article expressly prohibits certain insurer practices and activities as unfair trade practices. The Insurance Commissioner has general enforcement authority to issue a cease and desist order when a violation is discovered, and penalties are prescribed for different types of violations. Certain activities carry more severe penalties; for example, an insurer may be fined up to \$125,000 for each violation when it fails to act in good faith when settling a first-party claim under a policy of property and casualty insurance.

Additional Information

Prior Introductions: Related legislation, HB 964 of 2017, was assigned to the House Economic Matters Committee, but no further action was taken. Its cross file, SB 702, was assigned to the Senate Finance Committee, but no further action was taken.

Cross File: None designated; however, SB 652 (Senator Middleton – Finance) is identical.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Maryland Insurance Administration; National Association of Insurance Commissioners; Department of Legislative Services

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