

Assembly Bill No. 2354

CHAPTER 257

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

[Approved by Governor September 7, 2012. Filed with
Secretary of State September 7, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2354, 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 authorize the Insurance Commissioner to issue a limited lines travel insurance agent license to any organization engaged in transacting travel insurance through travel retailers, as those terms are defined, and would define a limited lines travel insurance agent to mean an insurer designee that is licensed to transact travel insurance. 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 identification information and making certain disclosures to the consumer in the marketing materials and fulfillment packages, and requiring the agent to establish and maintain a register 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 commissioner as sufficient to defray the 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.

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

SECTION 1. Section 1752 of the Insurance Code is amended to read:

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.

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 Section 1753 of the Insurance Code is repealed.

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

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.

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

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 18 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 paragraphs (2) and (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.

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 Section 1755 of the Insurance Code is repealed.

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

1755. (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.

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

1757. The commissioner may adopt rules and regulations for the implementation of this article.

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 Section 10295 of the Insurance Code is repealed.

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 Section 10296 of the Insurance Code is repealed.