

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 728**

Introduced by Lindstrom, 18.

Read first time January 05, 2022

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to insurance; to amend section 44-4052,  
2 Reissue Revised Statutes of Nebraska; to adopt the Travel Insurance  
3 Act; to eliminate travel insurance provisions; to harmonize  
4 provisions; to provide an operative date; to repeal the original  
5 section; and to outright repeal section 44-4068, Reissue Revised  
6 Statutes of Nebraska.

7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 10 of this act shall be known and may be  
2 cited as the Travel Insurance Act.

3           Sec. 2. (1) The purpose of the Travel Insurance Act is to promote  
4 the public welfare by creating a comprehensive legal framework within  
5 which travel insurance may be sold in this state.

6           (2) The requirements of the Travel Insurance Act shall apply to  
7 travel insurance that covers any resident of this state or that is sold,  
8 solicited, negotiated, or offered in this state and to policies and  
9 certificates of travel insurance that are delivered or issued for  
10 delivery in this state. The act shall not apply to cancellation fee  
11 waivers or travel assistance services except as expressly provided in the  
12 act.

13           (3) All other applicable provisions of the insurance laws of this  
14 state shall continue to apply to travel insurance, except that the  
15 specific provisions of the Travel Insurance Act shall supersede any  
16 general provisions of law that would otherwise be applicable to travel  
17 insurance.

18           Sec. 3. For purposes of the Travel Insurance Act, unless the  
19 context otherwise requires:

20           (1) Aggregator site means a website that provides access to  
21 information regarding insurance products from more than one insurer,  
22 including product and insurer information, for use in comparison  
23 shopping;

24           (2) Blanket travel insurance means a policy of travel insurance  
25 issued to any eligible group providing coverage for specific classes of  
26 persons defined in the policy with coverage provided to all members of  
27 the eligible group without a separate charge to individual members of the  
28 eligible group;

29           (3) Cancellation fee waiver means a contractual agreement between a  
30 supplier of travel services and its customer to waive some or all of the  
31 nonrefundable cancellation fee provisions of the supplier's underlying

1 travel contract with or without regard to the reason for the cancellation  
2 or form of reimbursement. A cancellation fee waiver is not insurance;

3 (4) Department means the Department of Insurance;

4 (5) Director means the Director of Insurance;

5 (6) Eligible group means two or more persons who are engaged in a  
6 common enterprise or have an economic, educational, or social affinity or  
7 relationship, including, but not limited to:

8 (a)(i) Any entity engaged in the business of providing travel  
9 services, including, but not limited to, a tour operator, a lodging  
10 provider, a vacation property owner, a hotel, a resort, a travel club, a  
11 travel agency, a property manager, a cultural exchange program, and a  
12 common carrier, or (ii) the operator, owner, or lessor of a means of  
13 transportation of passengers, including, but not limited to, any airline,  
14 cruise line, railroad, steamship company, or public bus company, so long  
15 as, within the particular mode of travel, all members or customers of the  
16 group have a common exposure to risk attendant to such travel;

17 (b) Any college, school, or other institution of learning covering  
18 students, teachers, employees, or volunteers;

19 (c) Any employer covering any group of employees, volunteers,  
20 contractors, board of directors, dependents, or guests;

21 (d) Any sports team or camp, or any sponsor of a sports team or  
22 camp, covering participants, members, campers, employees, officials,  
23 supervisors, or volunteers;

24 (e) Any religious, charitable, recreational, educational, or civic  
25 organization, or any branch thereof, covering any group of members,  
26 participants, or volunteers;

27 (f) Any financial institution or financial institution vendor, or  
28 parent holding company, trustee, or agent of or designated by one or more  
29 financial institutions or financial institution vendors, including  
30 account holders, credit card holders, debtors, guarantors, or purchasers;

31 (g) Any incorporated or unincorporated association, including a

1 labor union, having a common interest, constitution, and bylaws and  
2 organized and maintained in good faith for purposes other than obtaining  
3 insurance for members or participants of such association covering its  
4 members;

5 (h) Any trust or the trustees of a fund established, created, or  
6 maintained for the benefit of covering members, employees, or customers,  
7 subject to the approval of the use of such trust by the director and the  
8 requirements of the premium tax provisions in section 5 of this act, in  
9 one or more associations described in subdivision (6)(g) of this section;

10 (i) Any entertainment production company covering any group of  
11 participants, audience members, contestants, employees, or volunteers;

12 (j) Any volunteer fire department or ambulance, rescue, first-aid,  
13 police, court, civil defense, or other similar volunteer group;

14 (k) Any preschool, daycare institution for children or adults, or  
15 senior citizen club;

16 (l) Any automobile or truck rental or leasing company covering a  
17 group of individuals who may become renters, lessees, or passengers  
18 defined by their travel status on the rented or leased vehicles. The  
19 common carrier, the operator, owner, or lessor of a means of  
20 transportation, or the automobile or truck rental or leasing company is  
21 the policyholder under a policy to which this subdivision applies; or

22 (m) Any other group if the director has determined that the members  
23 are engaged in a common enterprise or have an economic, educational, or  
24 social affinity or relationship and that issuance of the policy would not  
25 be contrary to the public interest;

26 (7) Fulfillment materials means documentation sent to the purchaser  
27 of a travel protection plan confirming the purchase and providing the  
28 travel protection plan's coverage and assistance details;

29 (8) Group travel insurance means travel insurance issued to any  
30 eligible group;

31 (9) Limited lines travel insurance producer means a:

1       (a) Licensed managing general agent or third-party administrator;

2       (b) Licensed insurance producer, including a limited lines insurance  
3 producer; or

4       (c) Travel administrator;

5       (10) Offer and disseminate means providing general information,  
6 including a description of the coverage and price, as well as processing  
7 the application and collecting premiums;

8       (11) Primary certificate holder means an individual person who  
9 elects and purchases travel insurance under a group travel insurance  
10 policy;

11       (12) Primary policyholder means an individual person who elects and  
12 purchases individual travel insurance;

13       (13) Travel administrator means a person who directly or indirectly  
14 underwrites, collects charges, collateral, or premiums from, or adjusts  
15 or settles claims on, residents of this state in connection with travel  
16 insurance. A person shall not be considered a travel administrator if  
17 such person's only actions that would otherwise cause such person to be  
18 considered a travel administrator include:

19       (a) A person working for a travel administrator and such person's  
20 activities are subject to the supervision and control of the travel  
21 administrator;

22       (b) An insurance producer selling insurance or engaged in  
23 administrative and claims-related activities within the scope of the  
24 producer's license;

25       (c) A registered travel retailer offering and disseminating travel  
26 insurance under the license of a limited lines travel insurance producer  
27 in accordance with the Travel Insurance Act;

28       (d) A person adjusting or settling claims in the normal course of  
29 that person's practice or employment as an attorney and such person does  
30 not collect charges or premiums in connection with insurance coverage; or

31       (e) A business entity that is affiliated with a licensed insurer

1 while acting as a travel administrator for the direct and assumed  
2 insurance business of an affiliated insurer;

3 (14) Travel assistance services means noninsurance services for  
4 which the consumer is not indemnified based on a fortuitous event and if  
5 providing the service does not result in transfer or shifting of risk  
6 that would constitute the business of insurance. Travel assistance  
7 services are not insurance and not related to insurance. Travel  
8 assistance services includes, but is not limited to:

9 (a) Security advisories, destination information, and vaccination  
10 and immunization information services;

11 (b) Travel reservation services;

12 (c) Entertainment, activity, and event planning;

13 (d) Translation assistance services;

14 (e) Emergency messaging services;

15 (f) International legal and medical referral services;

16 (g) Medical case monitoring services;

17 (h) Transportation arrangement and coordination services;

18 (i) Emergency cash transfer assistance services;

19 (j) Medical prescription replacement assistance services;

20 (k) Passport and travel document replacement assistance services;

21 (l) Lost luggage assistance services;

22 (m) Concierge services; and

23 (n) Any other service that is furnished in connection with planned  
24 travel;

25 (15)(a) Travel insurance means insurance coverage for personal risks  
26 incident to planned travel, including: Interruption or cancellation of a  
27 trip or event; loss of baggage or personal effects; damages to  
28 accommodations or rental vehicles; sickness, accident, disability, or  
29 death occurring during travel; emergency evacuation; repatriation of  
30 remains; or any other contractual obligations to indemnify or pay a  
31 specified amount to the traveler upon determinable contingencies related

1 to travel as approved by the director.

2 (b) Travel insurance does not include a major medical plan that  
3 provides comprehensive medical protection for travelers with trips  
4 lasting longer than six months, including those working or residing  
5 overseas as an expatriate, or any other product that requires a specific  
6 insurance producer license;

7 (16) Travel protection plan means a plan that provides travel  
8 insurance, travel assistance services, cancellation fee waivers, or any  
9 combination thereof; and

10 (17) Travel retailer means a business entity that makes, arranges,  
11 or offers planned travel and may offer and disseminate travel insurance  
12 as a service to its customers on behalf of and under the direction of a  
13 limited lines travel insurance producer.

14 Sec. 4. (1) No person may act as a limited lines travel insurance  
15 producer or travel retailer unless such person holds the appropriate  
16 license or registration as required by the Travel Insurance Act.

17 (2) The department may issue a limited lines travel insurance  
18 producer license to an individual or business entity that files with the  
19 department an application for a limited lines travel insurance producer  
20 license in a form and manner prescribed by the department. A limited  
21 lines travel insurance producer may sell, solicit, or negotiate travel  
22 insurance through a licensed insurer.

23 (3) A travel retailer may offer and disseminate travel insurance  
24 under a limited lines travel insurance producer only if the following  
25 conditions are met:

26 (a) The limited lines travel insurance producer or travel retailer  
27 provides to the purchaser of travel insurance:

28 (i) A description of the material terms or the actual material terms  
29 of the travel insurance policy;

30 (ii) A description of the process for filing a claim;

31 (iii) A description of the review or cancellation process for the

1 travel insurance policy; and

2 (iv) The identity and contact information of the insurer and limited  
3 lines travel insurance producer;

4 (b)(i) The limited lines travel insurance producer, at the time of  
5 licensure, establishes and maintains a register on a form prescribed by  
6 the department of each travel retailer that offers travel insurance on  
7 behalf of such limited lines travel insurance producer. The register  
8 shall include the name, address, and contact information of the travel  
9 retailer and an officer or person who directs or controls the travel  
10 retailer's operation and the travel retailer's federal tax identification  
11 number. The limited lines travel insurance producer shall submit such  
12 register to the department upon request; and

13 (ii) The limited lines travel insurance producer certifies that the  
14 registered travel retailer complies with 18 U.S.C. 1033. The grounds for  
15 suspension or revocation and the penalties applicable to resident  
16 insurance producers under the Insurance Producers Licensing Act shall be  
17 applicable to limited lines travel insurance producers and travel  
18 retailers;

19 (c) The limited lines travel insurance producer designates one of  
20 its employees who is a licensed individual producer as the designated  
21 responsible producer responsible for the compliance with travel insurance  
22 laws and rules and regulations applicable to such limited lines travel  
23 insurance producers and travel retailers;

24 (d) The designated responsible producer, president, secretary,  
25 treasurer, and any other officer or person who directs or controls the  
26 limited lines travel insurance producer's insurance operations complies  
27 with the fingerprinting requirements applicable to insurance producers in  
28 the state where the limited lines travel insurance producer resides;

29 (e) The limited lines travel insurance producer has paid all  
30 applicable licensing fees as set forth in section 44-4064 and any other  
31 applicable state law; and



1       (f) The limited lines travel insurance producer requires each  
2 employee and authorized representative of the travel retailer whose  
3 duties include offering and disseminating travel insurance to receive a  
4 program of instruction or training, which may be subject to review by the  
5 director. The training material shall include, at a minimum, instructions  
6 on the types of insurance offered, ethical sales practices, and required  
7 disclosures to prospective customers.

8       (4) A limited lines travel insurance producer and travel retailers  
9 registered under its license are exempt from the examination requirements  
10 in section 44-4052 and the continuing education requirements in sections  
11 44-3901 to 44-3908.

12       (5) The director may take disciplinary action against a limited  
13 lines travel insurance producer pursuant to section 44-4059.

14       (6) Any travel retailer offering and disseminating travel insurance  
15 shall make brochures or other written materials available to a  
16 prospective purchaser that:

17       (a) Provide the identity and contact information of the insurer and  
18 the limited lines travel insurance producer;

19       (b) Explain that the purchase of travel insurance is not required in  
20 order to purchase any other product or service from the travel retailer;  
21 and

22       (c) Explain that an unlicensed travel retailer is permitted to  
23 provide general information about the insurance offered by the travel  
24 retailer, including a description of the coverage and price, but is not  
25 qualified or authorized to answer technical questions about the terms and  
26 conditions of the travel insurance offered by the travel retailer or to  
27 evaluate the adequacy of the customer's existing insurance coverage.

28       (6) A travel retailer's employee or authorized representative who is  
29 not licensed as an insurance producer shall not:

30       (a) Evaluate or interpret the technical terms, benefits, or  
31 conditions of the offered travel insurance coverage;

1       (b) Evaluate or provide advice concerning a prospective purchaser's  
2 existing insurance coverage; or

3       (c) Hold such travel retailer employee or authorized representative  
4 out as a licensed insurer, licensed producer, or insurance expert.

5       (7) A travel retailer whose insurance-related activities, and those  
6 of its employees and authorized representatives, are limited to offering  
7 and disseminating travel insurance on behalf of and under the direction  
8 of a limited lines travel insurance producer meeting the conditions  
9 stated in this section is authorized to receive related compensation for  
10 the services upon registration by the limited lines travel insurance  
11 producer.

12       (8) The limited lines travel insurance producer is responsible for  
13 the acts of the travel retailer and shall use reasonable means to ensure  
14 that the travel retailer complies with the Travel Insurance Act.

15       (9) Any person licensed in a major line of authority as an insurance  
16 producer is authorized to sell, solicit, and negotiate travel insurance.  
17 A property and casualty insurance producer is not required to become  
18 appointed by an insurer in order to sell, solicit, or negotiate travel  
19 insurance.

20       Sec. 5. (1) A travel insurer shall pay premium tax, as provided in  
21 Chapter 77, article 9, on travel insurance premiums paid by:

22       (a) An individual primary policyholder who is a resident of this  
23 state;

24       (b) A primary certificate holder who is a resident of this state and  
25 elects coverage under a group travel insurance policy; or

26       (c) A blanket travel insurance policyholder that is a resident in,  
27 or has its principal place of business or the principal place of business  
28 of an affiliate or subsidiary that has purchased blanket travel insurance  
29 in this state for eligible blanket group members, subject to any  
30 apportionment rules which apply to the insurer across multiple taxing  
31 jurisdictions or that permit the insurer to allocate premium on an

1 apportioned basis in a reasonable and equitable manner in those  
2 jurisdictions.

3 (2) A travel insurer shall:

4 (a) Document the state of residence or principal place of business  
5 of the policyholder or certificate holder; and

6 (b) Report as premium only the amount allocable to travel insurance  
7 only and not any amounts received for travel assistance services or  
8 cancellation fee waivers.

9 Sec. 6. Travel protection plans may be offered for one price for  
10 the combined features that the travel protection plan offers in this  
11 state if:

12 (1) Such plans clearly disclose to the consumer, at or prior to the  
13 time of purchase, that the plans include travel insurance, travel  
14 assistance services, and cancellation fee waivers as applicable, and the  
15 person provides information and an opportunity, at or prior to the time  
16 of purchase, for the consumer to obtain additional information regarding  
17 the features and pricing of each; and

18 (2) The fulfillment materials:

19 (a) Describe and delineate the travel insurance, travel assistance  
20 services, and cancellation fee waivers in the travel protection plans;  
21 and

22 (b) Include the travel insurance disclosures and contact information  
23 for persons providing the travel assistance services and cancellation fee  
24 waivers, as applicable.

25 Sec. 7. (1) All persons offering travel insurance to residents of  
26 this state are subject to the Unfair Insurance Trade Practices Act except  
27 as otherwise provided in this section. In the event of a conflict between  
28 the Travel Insurance Act and other provisions of the insurance laws of  
29 this state regarding the sale and marketing of travel insurance and  
30 travel protection plans, the provisions of the Travel Insurance Act shall  
31 control.

1       (2) Offering or selling a travel insurance policy that could never  
2 result in payment of any claims for any insured under the policy is an  
3 unfair trade practice.

4       (3)(a) All documents provided to consumers prior to the purchase of  
5 travel insurance including, but not limited to, sales materials,  
6 advertising materials, and marketing materials, shall be consistent with  
7 the terms of the travel policy, including, but not limited to, forms,  
8 endorsements, policies, rate filings, and certificates of insurance.

9       (b) For travel insurance policies or certificates that contain  
10 preexisting condition exclusions, information and an opportunity to learn  
11 more about the preexisting condition exclusions shall be provided to  
12 consumers any time prior to the time of purchase of such travel insurance  
13 and in the fulfillment materials provided.

14       (c)(i) Fulfillment materials and the information described in  
15 subdivision (3)(a) of section 4 of this act shall be provided to a  
16 policyholder or certificate holder as soon as practicable following the  
17 purchase of a travel protection plan. Unless the insured has either  
18 started a covered trip or filed a claim under the travel insurance  
19 policy, a policyholder or certificate holder may cancel a policy or  
20 certificate for a full refund of the travel protection plan price from  
21 the date of purchase of a travel protection plan until at least:

22       (A) Fifteen days following the date of delivery of the travel  
23 protection plan fulfillment materials by postal mail; or

24       (B) Ten days following the date of delivery of the travel protection  
25 plan fulfillment materials by means other than postal mail.

26       (ii) For purposes of this subdivision, delivery means handing  
27 fulfillment materials to the policyholder or certificate holder or  
28 sending fulfillment materials by postal mail or electronic means to the  
29 policyholder or certificate holder.

30       (d) The travel insurance policy documentation and fulfillment  
31 materials shall disclose whether the travel insurance is primary or

1 secondary to other applicable coverage.

2 (e) If travel insurance is marketed directly to a consumer through  
3 an insurer's website or through an aggregator site, it shall not be an  
4 unfair trade practice or other violation of law where an accurate summary  
5 or short description of the coverage is provided on the web page, so long  
6 as the consumer has access to the full provisions of the policy through  
7 electronic means.

8 (4) No person offering, soliciting, or negotiating travel insurance  
9 or travel protection plans on an individual or group basis may do so by  
10 using a negative option or opt out, which requires a consumer to take an  
11 affirmative action to deselect coverage, such as unchecking a box on an  
12 electronic form, when the consumer purchases a trip.

13 (5) It shall be an unfair trade practice to market blanket travel  
14 insurance coverage as free.

15 (6) When a consumer's destination jurisdiction requires insurance  
16 coverage, it shall not be an unfair trade practice to require that a  
17 consumer choose between the following options as a condition of  
18 purchasing a trip or travel package:

19 (a) Purchasing the insurance coverage required by the destination  
20 jurisdiction through the travel retailer or limited lines travel  
21 insurance producer supplying the trip or travel package; or

22 (b) Agreeing to obtain and provide proof of insurance coverage that  
23 meets the destination jurisdiction's requirements prior to departure.

24 Sec. 8. (1) No person shall act as or represent that such person is  
25 a travel administrator for travel insurance in this state unless such  
26 person:

27 (a) Is a licensed property and casualty insurance producer in this  
28 state for activities permitted under such producer license;

29 (b) Holds a valid managing general agent license in this state; or

30 (c) Holds a valid third-party administrator license in this state.

31 (2) A travel administrator and such travel administrator's employees

1 are exempt from the licensing requirements of adjusters for travel  
2 insurance such administrator and its employees administer.

3 (3) An insurer is responsible for the acts of a travel administrator  
4 administering travel insurance underwritten by the insurer and is  
5 responsible for ensuring that the travel administrator maintains all  
6 books and records relevant to the insurer to be made available by the  
7 travel administrator to the department upon request.

8 Sec. 9. (1) Travel insurance shall be classified and filed for  
9 purposes of rates and forms under an inland marine line of insurance,  
10 however, travel insurance that provides coverage for sickness, accident,  
11 disability, or death occurring during travel, either exclusively, or in  
12 conjunction with related coverages of emergency evacuation, repatriation  
13 of remains, or incidental limited property and casualty benefits such as  
14 baggage or trip cancellation, may be filed under either an accident and  
15 health line of insurance or an inland marine line of insurance.

16 (2) Travel insurance may be in the form of an individual, group, or  
17 blanket policy.

18 (3) Eligibility and underwriting standards for travel insurance may  
19 be developed and provided based on travel protection plans designed for  
20 individual or identified marketing or distribution channels, so long as  
21 those standards also meet this state's underwriting standards for inland  
22 marine lines of insurance.

23 Sec. 10. The department may adopt and promulgate rules and  
24 regulations to carry out the Travel Insurance Act.

25 Sec. 11. Section 44-4052, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27 44-4052 (1) A resident individual applying for an insurance producer  
28 license shall pass a written examination unless exempt pursuant to  
29 section 44-4056, ~~44-4068,~~ or 44-4069, or subsection (4) of section 4 of  
30 this act. The examination shall test the knowledge of the individual  
31 concerning the lines of authority for which application is made, the

1 duties and responsibilities of an insurance producer, and the insurance  
2 laws, rules, and regulations of this state. Examinations required by this  
3 section shall be developed and conducted under rules and regulations  
4 adopted and promulgated by the director.

5 (2) The director may make arrangements, including contracting with  
6 an outside testing service, for administering examinations and collecting  
7 the nonrefundable fee set forth in section 44-4064.

8 (3) Each individual applying for an examination shall remit a  
9 nonrefundable fee as prescribed by the director as set forth in section  
10 44-4064.

11 (4) An individual who fails to appear for the examination as  
12 scheduled or fails to pass the examination shall reapply for an  
13 examination and remit all required fees and forms before being  
14 rescheduled for another examination.

15 Sec. 12. This act becomes operative on January 1, 2023.

16 Sec. 13. Original section 44-4052, Reissue Revised Statutes of  
17 Nebraska, is repealed.

18 Sec. 14. The following section is outright repealed: Section  
19 44-4068, Reissue Revised Statutes of Nebraska.