



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-4242/1  
EKL:skw&kjf

## 2021 ASSEMBLY BILL 491

August 4, 2021 - Introduced by Representatives KRUG, MURSAU and SUBECK,  
cosponsored by Senator TESTIN. Referred to Committee on Insurance.

1     **AN ACT** *to amend* 76.60 and 628.02 (1) (b) 8.; *to repeal and recreate* 632.977;  
2             and *to create* 628.34 (15) and 629.01 (5) (g) of the statutes; **relating to:**  
3             regulating travel insurance.

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### *Analysis by the Legislative Reference Bureau*

This bill adopts the model travel insurance act that was approved by the National Association of Insurance Commissioners in 2018.

Current law regulates travel insurance in several ways, including authorizing the commissioner of insurance to issue a limited lines travel insurance producer license to intermediaries and allowing travel retailers to offer and disseminate travel insurance under a limited lines travel insurance firm license, subject to various requirements imposed on the travel insurance producer and travel retailer. The bill maintains these requirements and allows third-party administrators, managing general agents, and “travel administrators,” defined below, to apply for a limited lines travel insurance producer license. The bill also regulates travel insurance in additional ways.

#### ***Travel administrators***

The bill imposes requirements related to “travel administrators,” who are defined as persons who directly or indirectly underwrite, collect charges or premiums from, or adjust or settle claims of Wisconsin residents in connection with travel insurance. The bill specifies that the term “travel administrator” does not include an individual working for and subject to the supervision and control of a travel administrator; an intermediary selling insurance or engaging in

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administrative and claims related activities within the scope of the intermediary's license; a travel retailer; an attorney acting in his or her professional capacity; or an affiliated business entity of a licensed insurer. Under the bill, a person may only act or represent the person as a travel administrator in Wisconsin if the person is a licensed property and casualty insurance intermediary for activities permitted under the license or the person holds a valid managing general agent or third-party administrator license. The bill provides that an insurer is responsible for the acts of a travel administrator who is administering travel insurance underwritten by the insurer and requires that the insurer ensure that the travel administrator maintains all relevant books and records. The bill also provides that travel administrators are not subject to regulation as public adjusters.

***Travel protection plans***

The bill imposes requirements on travel protection plans, which are defined as plans that provide any combination of travel insurance, travel assistance services, and cancellation fee waivers. Under the bill, a travel protection plan may be offered for one price for the combined items if there is sufficient disclosure of the items and the plan's fulfillment materials contain specified information about the items. Additionally, the bill provides that a person who cancels a travel protection plan that includes travel insurance may receive a full refund if the insured has not started the trip or filed a claim and the cancellation occurs no later than 15 days after delivery of the fulfillment materials by postal mail or 10 days if delivered by other means, unless the policy specifies a greater number of days.

***Disclosures***

The bill requires that all documents provided to a prospective purchaser be consistent with the travel insurance policy, forms, endorsements, rate filings, and certificate of insurance. Additionally, the bill requires that the policy and a travel protection plan's fulfillment materials state whether the travel insurance is primary or secondary to other coverage and that the policy information and fulfillment materials be provided to a plan's purchaser as soon as practicable after the purchase. For travel insurance policies that contain a preexisting condition exclusion, the bill requires that a prospective purchaser be given information about the exclusion prior to purchase and that information about the exclusion be included in fulfillment materials.

***Opt out provisions***

The bill prohibits a person offering, soliciting, or negotiating travel insurance or a travel protection plan on an individual or group basis from requiring the purchaser to affirmatively deselect coverage when purchasing a trip.

***Unfair marketing practices***

The bill prohibits the marketing of blanket travel insurance as free and the offering or selling of a travel insurance policy that could never result in payment of any claims for any insured. The bill specifies that it is not an unfair marketing practice to include a summary of policy coverage on an Internet site marketing travel insurance so long as the summary is accurate and prospective purchasers have access to the policy's full provisions through electronic means. The bill also specifies

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that it is not an unfair marketing practice for a travel retailer or limited lines travel insurance producer to require that a person purchasing a trip to a location that requires insurance coverage choose, as a condition of purchasing the trip, between purchasing the coverage through the travel retailer or producer or agreeing to obtain and provide proof of coverage prior to departure.

***Other provisions***

The bill specifies that travel insurance may be offered as a blanket policy. The bill also specifies that an intermediary licensed in a major line of authority is authorized to sell, solicit, and negotiate travel insurance and that a property and casualty insurance intermediary does not have to be appointed by an insurer to sell, solicit, or negotiate travel insurance. Under the bill, travel insurance is generally treated in a manner similar as marine insurance for purposes of rates and forms, underwriting standards, and the state premium tax on foreign insurers. The bill authorizes an insurer to establish and use eligibility and underwriting standards for travel insurance based on travel protection plans designed for individual or identified marketing or distribution channels so long as the standards meet any requirements related to standards for inland marine insurance.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 76.60 of the statutes is amended to read:

2           **76.60 Fire, travel, and marine insurers; license fees.** Every insurer doing

3 a fire, travel, or marine insurance business, other than domestic insurers and

4 insurers excepted under s. 76.61, shall pay to the state, in respect to travel or marine

5 insurance a tax of 0.5 percent and in respect to fire insurance a tax of 2.375 percent

6 on the amount of its gross premiums, as calculated under s. 76.62. In case any

7 insurer discontinues business in this state and reinsures the whole or a part of its

8 risks without making payment of this tax, the insurer accepting such reinsurance

9 shall pay the tax. If several insurers make such reinsurance the tax shall be

10 apportioned among the insurers in proportion to the original premiums upon the

11 business in this state so reinsured by each such insurer. Upon the payment of the

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1 tax provided in this section, and the fees required by s. 601.31, such insurer may be  
2 licensed to transact its business until May 1 in the ensuing year, unless before then  
3 its license is revoked or forfeited according to law. In the case of travel insurance,  
4 the premiums subject to tax under this section are the premiums for travel  
5 insurance, as defined in s. 632.977 (1) (i), paid by an individual who is a resident of  
6 this state and who purchases travel insurance coverage under an individual or group  
7 policy or paid by a person who is a resident of or has a principal place of business in  
8 this state and who purchases blanket travel insurance, as defined in s. 632.977 (1)  
9 (a).

10 **SECTION 2.** 628.02 (1) (b) 8. of the statutes is amended to read:

11 628.02 (1) (b) 8. A travel retailer, as defined in s. 632.977 (1) ~~(d)~~ (k), or an  
12 employee or authorized representative of a travel retailer, that offers and  
13 disseminates, as defined in s. 632.977 (1) ~~(am)~~ (f), travel insurance under s. 632.977.

14 **SECTION 3.** 628.34 (15) of the statutes is created to read:

15 628.34 (15) TRAVEL INSURANCE. (a) In this subsection:

16 1. "Blanket travel insurance" has the meaning given in s. 632.977 (1) (a).

17 2. "Limited lines travel insurance producer" has the meaning given in s.  
18 632.977 (1) (e).

19 3. "Travel insurance" has the meaning given in s. 632.977 (1) (i).

20 4. "Travel retailer" has the meaning given in s. 632.977 (1) (k).

21 (b) No person may market blanket travel insurance as free.

22 (c) No person may offer or sell a travel insurance policy that could never result  
23 in payment of any claims for any insured under the policy.

24 (d) When travel insurance is marketed to a prospective purchaser through the  
25 Internet site of the insurer or an aggregator Internet site that provides access to

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1 information on insurance products from more than one insurer, the inclusion on the  
2 Internet site of a summary of the travel insurance policy's coverage does not violate  
3 this section if the summary is accurate and the prospective purchaser has access to  
4 the policy's full provisions through electronic means.

5 (e) When a person purchases a trip or travel package to a destination  
6 jurisdiction that requires insurance coverage, a travel retailer or limited lines travel  
7 insurance producer supplying the trip or travel package does not violate this section  
8 by requiring that the person, as a condition of purchasing the trip or travel package,  
9 choose between purchasing the required coverage through the travel retailer or  
10 limited lines travel insurance producer or agreeing to obtain and provide proof of the  
11 required coverage prior to departure.

12 **SECTION 4.** 629.01 (5) (g) of the statutes is created to read:

13 629.01 (5) (g) A travel administrator, as defined in s. 632.977 (1) (g).

14 **SECTION 5.** 632.977 of the statutes is repealed and recreated to read:

15 **632.977 Travel insurance. (1) DEFINITIONS.** In this section:

16 (a) "Blanket travel insurance" means a policy of travel insurance issued to an  
17 eligible group that provides coverage for specific classes of persons defined in the  
18 policy, without a separate charge to any individual group member.

19 (b) "Cancellation fee waiver" means a contractual agreement between a  
20 supplier of travel services and a purchaser of the services to waive a nonrefundable  
21 cancellation fee provision of the underlying travel contract with or without regard  
22 to the reason for the cancellation or form of reimbursement.

23 (c) "Eligible group" means two or more persons who are engaged in a common  
24 enterprise or have an economic, educational, or social affinity or relationship,  
25 including any of the following:

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1           1. An entity engaged in the business of providing travel or travel services if,  
2 with regard to a particular travel or type of travel or travelers, all members or  
3 customers of the entity have a common exposure to the risk attendant to such travel.  
4 For purposes of this subdivision, “entity engaged in the business of providing travel  
5 or travel services” includes a tour operator, lodging provider, vacation property  
6 owner, hotel, resort, travel club, travel agency, property manager, cultural exchange  
7 program, and common carrier or operator, owner, or lessor of a means of  
8 transportation of passengers, including an airline, cruise line, railroad, steamship  
9 company, and public bus carrier.

10           2. A college, school, or other institution of learning, covering any group of  
11 students, teachers, employees, or volunteers.

12           3. An employer covering any group of employees, volunteers, contractors, board  
13 of directors, dependents, or guests.

14           4. A sports team, camp, or sponsor of a sports team or camp, covering any group  
15 of participants, members, campers, employees, officials, supervisors, or volunteers.

16           5. A religious, charitable, recreational, educational, or civic organization,  
17 including a branch of any such organization, covering any group of members,  
18 participants, or volunteers.

19           6. A financial institution or financial institution vendor, or a parent holding  
20 company, trustee, or agent of or designated by one or more financial institutions or  
21 financial institution vendors, including accountholders, credit card holders, debtors,  
22 guarantors, or purchasers.

23           7. An incorporated or unincorporated association, including a labor union, that  
24 has a common interest, constitution, and bylaws and is organized and maintained

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1 in good faith for purposes other than obtaining insurance for its members or  
2 participants, covering any group of its members or participants.

3 8. Subject to the commissioner's permitting the use of a trust, a trust or its  
4 trustees if the trust is established, created, or maintained for the benefit of the  
5 members, employees, or customers of one or more associations described in subd. 7.,  
6 covering any group of the members, employees, or customers.

7 9. An entertainment production company covering any group of participants,  
8 volunteers, audience members, contestants, or workers.

9 10. A volunteer fire department, ambulance, rescue, police, or court or a first  
10 aid, civil defense, or similar volunteer group.

11 11. A preschool, daycare institution for children or adults, or senior citizen club.

12 12. An automobile or truck rental or leasing company covering any group of  
13 individuals who may become renters, lessees, or passengers defined by their travel  
14 status on the rented or leased vehicles. The common carrier, the operator, owner or  
15 lessor of a means of transportation, or the automobile or truck rental or leasing  
16 company, is the policyholder under a policy to which this section applies.

17 13. Any other group for which the commissioner has determined that the  
18 group's members are engaged in a common enterprise or have an economic,  
19 educational, or social affinity or relationship, and that issuance of a travel insurance  
20 policy to the group is not contrary to the public interest.

21 (d) "Fulfillment materials" means documentation sent to a purchaser of a  
22 travel protection plan that confirms the purchase of the plan and provides  
23 information about the plan's coverage and travel assistance services.

24 (e) "Limited lines travel insurance producer" means a person licensed under  
25 sub. (4) (a) to sell, solicit, or negotiate travel insurance.

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1 (f) “Offer and disseminate” means to provide general information, including a  
2 description of coverage and price, as well as to process applications, collect  
3 premiums, and perform other activities permitted by statute or rule.

4 (g) “Travel administrator” means a person who directly or indirectly  
5 underwrites, collects charges or premiums from, or adjusts or settles claims of  
6 residents of this state in connection with travel insurance, but does not include any  
7 of the following:

8 1. An individual working for a travel administrator to the extent that the  
9 individual’s activities are subject to the supervision and control of the travel  
10 administrator.

11 2. An intermediary selling insurance or engaged in administrative and claims  
12 related activities within the scope of the intermediary’s license.

13 3. A travel retailer.

14 4. An individual adjusting or settling claims while acting in his or her  
15 professional capacity as an attorney.

16 5. A business entity that is affiliated with a licensed insurer while acting as a  
17 travel administrator for the direct and assumed insurance business of the affiliated  
18 insurer.

19 (h) 1. “Travel assistance services” means services that are furnished in  
20 connection with planned travel, the provision of which does not result in the transfer  
21 or shifting of risk that would constitute the business of insurance, and for which the  
22 purchaser is not indemnified based on a fortuitous event.

23 2. “Travel assistance services” includes security advisories, destination  
24 information, vaccination and immunization information services, travel reservation  
25 services, entertainment, activity and event planning, translation assistance,



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1 emergency messaging, international legal and medical referrals, medical case  
2 monitoring, coordination of transportation arrangements, emergency cash transfer  
3 assistance, medical prescription replacement assistance, passport and travel  
4 document replacement assistance, lost luggage assistance, concierge services, and  
5 any other service furnished in connection with planned travel that meets the  
6 conditions of subd. 1.

7 (i) 1. "Travel insurance" means limited lines insurance coverage for personal  
8 risks incident to planned travel, including any of the following:

9 a. Interruption or cancellation of a trip or event.

10 b. Loss of baggage or personal effects.

11 c. Damages to accommodations or rental vehicles.

12 d. Sickness, accident, disability, or death occurring during travel.

13 e. Emergency evacuation.

14 f. Repatriation of remains.

15 g. As determined by the commissioner, any other contractual obligation to  
16 indemnify or pay a specified amount upon a determinable contingency related to  
17 travel.

18 2. "Travel insurance" does not include any of the following:

19 a. Major medical plans that provide comprehensive medical protection for trips  
20 lasting longer than 6 months.

21 b. An insurance product that requires a specific insurance intermediary license  
22 other than the license required under sub. (4).

23 c. Travel assistance services.

24 d. Cancellation fee waivers.

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1 (j) "Travel protection plan" means a plan that provides travel insurance, travel  
2 assistance services, or cancellation fee waivers, or any combination of the 3 items.

3 (k) "Travel retailer" means a business entity that makes, arranges, or offers  
4 travel services.

5 **(2) APPLICABILITY.** This section shall apply to travel insurance that covers a  
6 resident of this state and is sold, solicited, negotiated, or offered in this state and any  
7 travel insurance policy or certificate that is delivered or issued for delivery in this  
8 state.

9 **(3) GENERAL PROVISIONS.** (a) Travel insurance may be provided in this state  
10 under an individual or group policy or as blanket travel insurance.

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

18 (c) An insurer may establish and use eligibility and underwriting standards for  
19 travel insurance based on travel protection plans designed for individual or  
20 identified marketing or distribution channels so long as the standards meet any  
21 requirement imposed by statute or rule related to eligibility and underwriting  
22 standards for inland marine insurance.

23 (d) An intermediary licensed in a major line of authority is authorized to sell,  
24 solicit, and negotiate travel insurance. An intermediary with a property and

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1 casualty line of authority is not required to become appointed by an insurer in order  
2 to sell, solicit, or negotiate travel insurance.

3 (4) LIMITED LINES TRAVEL INSURANCE PRODUCERS. (a) The commissioner may  
4 issue a limited lines travel insurance producer license to a person who is licensed as  
5 an intermediary or managing general agent, a person who is is licensed as a 3rd party  
6 administrator, or a person who is a travel administrator. A person seeking a license  
7 under this paragraph shall apply on a form and in the manner prescribed by the  
8 commissioner. The license shall authorize the person to sell, solicit, or negotiate  
9 travel insurance through an insurer. No person may act as a limited lines travel  
10 insurance producer in this state unless licensed under this paragraph.

11 (b) A limited lines travel insurance producer and any travel retailer offering  
12 and disseminating travel insurance on behalf of and under the control of the limited  
13 lines travel insurance producer are subject to ss. 601.41 (4), 601.43, 601.44, 601.61  
14 to 601.64, and 628.34.

15 (c) As the insurer designee, a limited lines travel insurance producer is  
16 responsible for the acts of each travel retailer offering and disseminating travel  
17 insurance on behalf of and under the control of the limited lines travel insurance  
18 producer. The limited lines travel insurance producer shall use reasonable means  
19 to ensure compliance by the travel retailer with sub. (5).

20 (d) A limited lines travel insurance producer and a travel retailer offering and  
21 disseminating travel insurance on behalf of and under the control of the limited lines  
22 travel insurance producer are exempt from the examination and education  
23 requirements under s. 628.04 (3).

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1           **(5) TRAVEL RETAILERS.** (a) A travel retailer may offer and disseminate travel  
2 insurance in this state under the license of a limited lines travel insurance producer  
3 only if all of the following conditions are satisfied:

4           1. The limited lines travel insurance producer or travel retailer provides to a  
5 purchaser of travel insurance the material terms, or a description of the material  
6 terms, of the travel insurance coverage; a description of the process for filing a claim;  
7 a description of the review or cancellation process for the travel insurance policy; and  
8 the identity and contact information of the insurer and limited lines travel insurance  
9 producer.

10          2. The limited lines travel insurance producer keeps a register of each travel  
11 retailer that offers and disseminates travel insurance on the producer's behalf. The  
12 register shall include the name, contact information, and federal tax identification  
13 number of each travel retailer, the name and contact information of an officer or other  
14 person who directs or controls the travel retailer's operations, and a certification by  
15 the limited lines travel insurance producer that the travel retailer complies with 18  
16 USC 1033. The limited lines travel insurance producer shall keep the register  
17 updated and shall submit the register to the commissioner upon request.

18          3. The limited lines travel insurance producer designates an employee who is  
19 a licensed producer as the person responsible for compliance with the statutes and  
20 rules of this state that are applicable to the limited lines travel insurance producer  
21 and travel retailer.

22          4. The employee designated under subd. 3., the officers of the limited lines  
23 travel insurance producer, and any other person who directs or controls the limited  
24 lines travel insurance producer's insurance operations comply with any  
25 fingerprinting requirements applicable to insurance producers.

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1           5. The limited lines travel insurance producer pays all applicable licensing fees  
2 under s. 601.31 (1) (L) 2.

3           6. The limited lines travel insurance producer requires each employee and  
4 authorized representative of the travel retailer whose duties include offering and  
5 disseminating travel insurance to receive a program of instruction or training. The  
6 program of instruction or training shall be subject to review by the commissioner and  
7 shall contain, at a minimum, instruction on the types of insurance offered, ethical  
8 sales practices, and the disclosures required under this section to prospective and  
9 actual purchasers of travel insurance.

10           (b) A travel retailer who offers and disseminates travel insurance shall make  
11 available to prospective purchasers brochures and other written materials that, at  
12 a minimum, meet all of the following conditions:

13           1. Have been approved by the insurer.

14           2. Provide the identity and contact information of the insurer and the limited  
15 lines travel insurance producer.

16           3. Explain that the purchase of travel insurance is not required for the  
17 purchase of any other product or service from the travel retailer.

18           4. Explain that a travel retailer, or an employee or authorized representative  
19 of a travel retailer, who is not licensed as a limited lines travel insurance producer  
20 may provide general information about the insurance offered by the travel retailer,  
21 including a description of the coverage and price, but is not qualified or authorized  
22 to answer technical questions about the terms and conditions of the insurance or to  
23 evaluate the adequacy of the prospective purchaser's existing insurance coverage.

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1 (c) A travel retailer, or an employee or authorized representative of a travel  
2 retailer, who is not licensed as a limited lines travel insurance producer may not do  
3 any of the following:

4 1. Evaluate or interpret technical terms, benefits, or conditions of travel  
5 insurance coverage.

6 2. Evaluate or provide advice concerning a prospective purchaser's existing  
7 insurance coverage.

8 3. Hold himself or herself out as an insurer, a limited lines travel insurance  
9 producer, or an insurance expert.

10 (d) A travel retailer whose insurance related activities are limited to offering  
11 and disseminating travel insurance on behalf of and under the control of a limited  
12 lines travel insurance producer that meets the conditions under this subsection is  
13 authorized to receive related compensation upon registration under par. (a) 2.

14 **(6) TRAVEL ADMINISTRATORS.** (a) A person may not act or represent the person  
15 as a travel administrator in this state unless the person is a licensed property and  
16 casualty insurance intermediary in this state for activities permitted under that  
17 license or holds a valid managing general agent or 3rd-party administrator license  
18 in this state.

19 (b) An insurer shall be responsible for the acts of a travel administrator  
20 administering travel insurance underwritten by the insurer and shall ensure that  
21 the travel administrator maintains all books and records relevant to the insurer. The  
22 books and records shall be made available by the travel administrator to the  
23 commissioner upon request.

24 **(7) TRAVEL PROTECTION PLANS.** (a) A travel protection plan that offers any  
25 combination of travel insurance, travel assistance services, and cancellation fee

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1       waivers may be offered for one price for the combined items if all of the following  
2       conditions are met:

3             1. The plan clearly discloses to the customer, at or prior to the time of purchase,  
4       the items included in the plan, and the customer is provided an opportunity, at or  
5       prior to the time of purchase, to obtain additional information regarding the features  
6       and pricing of each item.

7             2. The fulfillment materials describe the items included in the plan and  
8       include, as applicable, the travel insurance policy or certificate of insurance, contact  
9       information for any person providing travel assistance services, and the cancellation  
10      fee waivers.

11            (b) Unless the insured has started a covered trip or filed a claim under the  
12      travel insurance coverage, a policyholder or certificate holder who cancels a travel  
13      protection plan that includes travel insurance may receive a full refund of the travel  
14      protection plan's price if the cancellation occurs no later than 15 days after the date  
15      the fulfillment materials are delivered to the policyholder or certificate holder by  
16      postal mail or 10 days after the date the fulfillment materials are delivered to the  
17      policy holder or certificate holder by means other than postal mail. A policy or  
18      certificate may increase the number of days provided for under this paragraph. For  
19      purposes of this paragraph, "delivered" means handing fulfillment materials to the  
20      policyholder or certificate holder or sending fulfillment materials to the policyholder  
21      or certificate holder by postal mail or electronic means.

22            **(8) DISCLOSURES.** (a) All documents provided to a prospective purchaser prior  
23      to the purchase of travel insurance, including sales, advertising, and marketing  
24      materials, shall be consistent with the travel insurance policy, forms, endorsements,  
25      rate filings, and certificate of insurance.

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1 (b) The information described in sub. (5) (a) 1. and fulfillment materials shall  
2 be provided to the purchaser of a travel protection plan as soon as practicable  
3 following the purchase of the plan.

4 (c) For a travel insurance policy or certificate that contains a preexisting  
5 condition exclusion, a prospective purchaser shall be provided, prior to the time of  
6 purchase, information about the exclusion and an opportunity to learn more about  
7 the exclusion. Information about the exclusion shall be included in the fulfillment  
8 materials.

9 (d) An insurer shall disclose in the policy or certificate of insurance and the  
10 fulfillment materials whether the travel insurance is primary or secondary to other  
11 applicable coverage.

12 **(9) OPT OUT PROHIBITED.** A person offering, soliciting, or negotiating travel  
13 insurance or a travel protection plan on an individual or group basis may not use a  
14 negative option or opt out process that requires the purchaser to take an affirmative  
15 action to deselect coverage when purchasing a trip.

**SECTION 6. Effective date.**

16  
17 (1) This act takes effect on the first day of the 3rd month beginning after  
18 publication.

19 (END)