

CHAPTER 468L
TRAVEL AGENCIES

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Cross References

Sunset evaluations modified, see §§26H-4 and 26H-5.

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"[PART I. GENERAL PROVISIONS]"

Note

Sections 468L-1 to 468L-12 designated as Part I by revisor.

§468L-1 Definitions. As used in this chapter:

"Advertisement" includes, but is not limited to, any oral, written, graphic, or pictorial statement or representation, including those made through any electronic or print medium.

"Charter tour" means any travel services in which a travel agency contracts with an air carrier and offers for sale a charter, with or without related ground transportation or hotel accommodations.

"Charter tour operator" means any person who sells or offers for sale charter tours, whether offered on a wholesale or retail basis, excluding any direct air carrier as defined by title 14, Code of Federal Regulations, section 380.2, as amended, or any other person to whom the provisions of this chapter do not apply.

"Consumer" means any purchaser of travel services other than a retailer or wholesaler of travel services.

"Department" means the department of commerce and consumer affairs.

"Director" means the director of commerce and consumer affairs.

"Person" means any sole proprietorship, organization, trust, group, association, partnership, joint venture, corporation, limited liability company, limited liability partnership, society or other entity, or any combination of any of the foregoing.

"Qualified charter tour client trust assets" means cash or cash equivalents held by a bank or a similar federally-insured financial institution in one or more separate charter tour client trust accounts maintained in compliance with sections 468L-5 and 468L-23. Qualified charter tour client trust assets shall not be commingled with any other accounts, funds, or moneys held by a charter tour operator. Qualified charter tour client trust assets shall not include any of the following:

- (1) Any notes receivable;
- (2) Federal or state bonds or letters of credit; or

- (3) Any other general or administrative expenditure that is not directly related to the payment for travel services.

"Qualified charter tour client trust liabilities" means all cash or cash equivalents received by a charter tour operator for travel services, and shall be accounted for in a charter tour trust liability account on the books and records of the charter tour operator.

"Qualified prepaid charter tour client trust assets" means the following cash expenditures for future travel services made in advance of the commencement of a charter tour advance payments for:

- (1) Air transportation;
- (2) Hotel accommodations; or
- (3) Baggage handling or ground transportation charges.

"Travel agency" means any person who for compensation or other consideration, acts or attempts to act as an intermediary between a person seeking to purchase travel services and any person seeking to sell travel services.

"Travel services" includes transportation by air, sea, or rail; related ground transportation; hotel accommodations; or package tours, whether offered on a wholesale or retail basis. This chapter shall not apply to any hotel as defined under section 486K-1, or air carrier as defined by the Federal Aviation Act of 1958 (49 U.S.C.S. Appx §1301), as amended, for travel services for which they do not accept:

- (1) Consumer moneys for services other than their own; or
- (2) Commissions or any other form of consideration. [L 1991, c 285, pt of §1; am L 1992, c 199, §1; am L 1999, c 258, §§2, 4]

" **§468L-2 Registration and renewal.** (a) A travel agency shall register with the director prior to engaging in the business of selling or advertising to sell travel services.

(b) Each travel agency shall renew its registration on or before December 31 of each odd-numbered year. A statement on a form designed and provided by the department verifying that the practices of the travel agency are in accordance with section 468L-5, shall be filed with the renewal.

(c) A travel agency that sells activities individually or as part of a tour package shall register with the director as an activity desk under section 468M-2. [L 1991, c 285, pt of §1; am L 1992, c 157, §1; am L 1997, c 40, §21; am L 2016, c 148, §2]

" **[§468L-2.5] Denial of registration.** The director may deny the registration of any travel agency or charter tour operator

when a travel agency or charter tour operator, its directors, officers, owners, members, managers, or general partners:

- (1) Fails to meet the requirements for registration as provided in this chapter;
- (2) Fails to satisfy a civil fine, penalty, or restitution order arising out of any administrative or enforcement action brought by any governmental agency for conduct involving fraud or dishonest dealing, or for any violation of any state's travel agency or charter tour operator licensing laws or rules;
- (3) Has a pending criminal, administrative, or enforcement proceeding brought against it in any jurisdiction for conduct involving fraud or dishonest dealing, or for any violation of any state's travel agency or charter tour operator licensing laws or rules;
- (4) Has had an order or judgment entered against it in the past ten years in any criminal, administrative, or enforcement action for conduct involving fraud or dishonest dealing, or for any violation of any state's travel agency or charter tour operator licensing laws or rules;
- (5) Fails to establish and maintain a client trust account in accordance with this chapter;
- (6) Makes any false statement, representation, or certification in any document or record required to be maintained under this chapter;
- (7) Fails to keep, maintain, and disclose upon request the books and records required to be maintained under this chapter; or
- (8) Violates this chapter or any rule or order of the director. [L 2001, c 62, pt of §2]

" **[\$468L-2.6] Revocation, suspension, and renewal of registration.** In addition to any other action authorized by law, the director may revoke, suspend, or refuse to renew the registration of any travel agency or charter tour operator that violates this chapter. [L 2001, c 62, pt of §2]

" **[\$468L-3] Powers and duties of the director.** The director shall have the following powers and duties:

- (1) To adopt, amend, and repeal rules in accordance with chapter 91 to carry out the purposes of this chapter;
- (2) To issue and renew registrations pursuant to this chapter and to deny or refuse to renew for failure to comply with this chapter;
- (3) To establish fees;

- (4) To do all things necessary to carry out the functions, powers, and duties set forth in this chapter;
- (5) Suspend or revoke any registration for any violation of this chapter; and
- (6) Inspect and audit the books and records of any travel agency as they pertain to the deposits to and withdrawals from the trust account. The travel agency shall immediately make available to the director such books and records as may be requested at the travel agency's place of business or at a location designated by the director. For that purpose, the director shall have full and free access to the office and places of business of the travel agency. The director may contract with a consultant to inspect and audit the books and records of any travel agency, the cost of which shall be borne by the travel agency if a violation of this chapter is established. [L 1991, c 285, pt of §1]

" **§468L-4 Statement required to be furnished to consumer.** A travel agency shall not receive money or other valuable consideration in payment for travel services, unless at the time of receipt of money or other valuable consideration, the travel agency furnishes to the consumer making the payment a written statement conspicuously setting forth the following information:

- (1) The name, business address, and telephone number of the travel agency;
- (2) The amount paid, the date of such payment, the purpose of the payment made, and an itemized statement of the balance due, if any;
- (3) The name and address of the financial institution that maintains the travel agency trust account, and the name of the trust account;
- (4) The name of the entity with which the travel agency has arranged travel services and pertinent information such as, but not limited to, the types of accommodation, dates and times of services, and all restrictions, limitations, conditions, and fee assessments that pertain to the person's right to cancel, obtain a refund, change itinerary, or make a claim for lost tickets; and
- (5) The cancellation provisions of the contract between the travel agency and the consumer, and the rights and obligations of the parties in the event of such cancellation. [L 1991, c 285, pt of §1; am L 1992, c 157, §2]

" **§468L-5 Client trust accounts; maintenance of and withdrawal from such accounts.** (a) Within five business days of receipt, all travel agencies shall deposit all sums received from a consumer, for travel services offered by the travel agency in a trust account maintained in a federally insured financial institution located in Hawaii. A travel agency shall be deemed to have complied with this section if:

- (1) Travel services are paid for by the consumer by means of a credit, charge or debit card, or by means of a centrally billed travel account, and the travel agency submits the charge data to the appropriate payment processing or card issuing company within five days of the charge; and
- (2) Any moneys received from these means by the agency are handled in accordance with the provisions of this section.

(b) The trust account required by this section shall be established and maintained for the benefit of the consumers paying money to the travel agency. The travel agency shall not in any manner encumber the amounts in trust and shall not withdraw money therefrom except:

- (1) In partial or full payment for travel services to the entity directly providing the travel services; or
- (2) To make refunds as required by this chapter.

A travel agency may make payment through another travel agency; provided that any such payment is treated as if it were a payment by a consumer.

(c) This section shall not prevent the withdrawal from the trust account of:

- (1) The amount of the sales commission, up to a maximum of fifteen per cent;
- (2) Any interest earned and credited to the trust account; or
- (3) Any remaining funds of a consumer once all travel services have been provided or once tickets or other similar documentation binding upon the ultimate provider of the travel services have been provided.

(d) At the time of registration, the agency shall file with the department the account number and the name of the financial institution at which the trust account is held. The agency shall notify the department of any change in the account number or location within three business days of the change.

(e) The director, by rule, may allow for the use of other types of funds or accounts; provided that the protection for consumers is no less than that provided by this section. [L 1991, c 285, pt of §1; am L 1992, c 157, §3]

" **[\$468L-5.5] Recordkeeping requirements for client trust accounts.** (a) A travel agency or charter tour operator shall maintain all books and records necessary to comply with this chapter and its rules.

(b) A travel agency or charter tour operator shall keep and maintain for a period of at least two years copies of all bank statements, deposit slips, canceled checks, drafts, and wire or electronic transaction documents relating to client trust accounts. The travel agency, charter tour operator, or any branch offices shall make such records available for inspection and audit within three business days of a written request by the director. Nothing herein shall prevent the director from inspecting and auditing the books and records of the travel agency, charter tour operator, or any branch offices, as otherwise provided under this chapter or its rules. [L 2001, c 62, pt of §2]

" **[\$468L-5.6] Violations; summary suspension; penalties.**

(a) Any violations by a travel agency or charter tour operator of any law or rule relating to client trust accounts shall constitute a prima facie showing of fraud on the part of the travel agency or charter tour operator.

(b) Upon a violation by a travel agency or charter tour operator of any law or rule relating to client trust accounts, the director may suspend or restrict the registration of the travel agency or charter tour operator as provided under section 436B-23. The director, as part of a proceeding brought under section 436B-23, may order a freeze of the bank or deposit accounts of the travel agency or charter tour operator.

(c) A travel agency or charter tour operator that violates any provision of this chapter may be fined not more than \$1,000 for each violation; provided that a charter tour operator also shall be assessed an administrative fine pursuant to section 468L-27 for any violation of that section. [L 2001, c 62, pt of §2]

" **[\$468L-5.7] Court action for failure to maintain client trust accounts.**

(a) Whenever a travel agency or charter tour operator fails to establish or maintain a client trust account for the benefit of the consumers paying money to the travel agency pursuant to section 468L-5 or [468L-5.5] or the rules relating to travel agencies and charter tour operators, the director may file an action in circuit court to obtain an injunction or other appropriate order or judgment.

(b) The director shall not be required to post a bond in any action brought under this section. [L 2001, c 62, pt of §2]

" **[§468L-6] Disclosure on airline awards.** (a) In the event an airline award is purchased, the following disclosure shall be made in a sales contract, in bold face print, no less than eight-point type, and in a manner reasonably calculated to draw the attention of the reader:

"THIS CONTRACT IS FOR THE SALE OF AN AIRLINE AWARD. CERTAIN AIRLINES HAVE TAKEN THE POSITION THAT THEY MAY VOID AIRLINE AWARDS AT THEIR DISCRETION, AT ANY TIME. IF ANY SUCH VOIDING OCCURS, (name of travel agency) WILL REFUND TO PURCHASER THE PROPORTIONATE AMOUNT OF THE PRICE PAID WITHIN THIRTY (30) DAYS."

(b) For the purposes of this section, "airline award" means any coupon, certificate, voucher, benefit, or tangible thing promised, given, sold, or otherwise transferred by any airline to a consumer in exchange for mileage, credits, bonuses, segments, or other units of value credited to the consumer as an incentive to fly on the airline. [L 1991, c 285, pt of §1]

" **§468L-7 Consumer's rights.** (a) Any travel agency registered under this chapter shall have the following obligations to any consumer who purchases travel services from the travel agency:

- (1) The consumer shall have the right to be informed by the travel agency, prior to the purchase of any travel services from the travel agency, of any limitations, conditions, events, circumstances, or any other business or commercial factors that may affect the availability of the travel services and the ability of the consumer to obtain a refund of moneys paid for the travel services;
- (2) The consumer shall have the right to rely on any promises, guarantees, representations, or information provided by the travel agency, regarding travel services, including but not limited to, the availability of travel services offered or sold by the travel agency, the conditions for obtaining a refund of moneys paid for the travel services, and the nature or quality of the travel services provided;
- (3) The consumer shall have the right to have the travel agency fulfill any term or condition of the contract for travel services between the consumer and the travel agency, whether the term or condition was made in writing or otherwise by the travel agency;
- (4) The consumer shall have the right to have the travel agency fulfill any promises, guarantees, or representations made regarding travel services, whether the promises, guarantees, or representations

are made by the travel agency in written or verbal form;

- (5) The consumer shall have the right to be informed of all conditions, if any, upon which the contract between the travel promoter and the entity providing the transportation or related services may be canceled, and the respective rights and obligations of all parties in the event of cancellation;
- (6) The consumer shall have the right to obtain the ticket or other similar documentation binding upon the ultimate provider of the travel services from the travel agency, upon making full payment to the travel agency for the travel services purchased; and
- (7) The consumer shall have the right to a refund, within fourteen calendar days from the date the refund is requested, of all moneys paid to a travel agency for travel services not performed in accordance with the contract for travel services, less any of the following amounts:
 - (A) Any amounts for cancellation fees that were previously disclosed to the consumer; and
 - (B) Any amounts held by the ultimate provider of the travel services, or by a representative of the ultimate provider of travel services that the travel agent was required to contract with by the ultimate provider.

(b) The travel agency shall provide a written disclosure of the consumer's rights under this section to the consumer no later than at the time the travel agency issues the ticket for travel services to the consumer; provided that in the case of repeat customers or business accounts the disclosure need only be given once and except as otherwise provided by rule.

(c) The department may develop a form for the written disclosure of consumer rights under this chapter, and if such form is developed, all travel agencies who have not obtained approval from the department to use a form developed by the travel agency shall utilize the department's form in order to comply with the provisions of this section. [L 1991, c 285, pt of §1; am L 1992, c 157, §4]

" **§468L-7.5 Prohibited acts.** No travel agency or charter tour operator shall engage in any of the following:

- (1) Selling or advertising to sell travel or charter tour services without first registering or renewing a registration with the director under this chapter;
- (2) Conducting business as a registered travel agency or charter tour operator without establishing and

maintaining a client trust account, in accordance with sections 468L-5, 468L-5.5, and 468L-24 and the rules relating to travel agencies and charter tour operators;

- (3) Failing to provide evidence of the establishment of a client trust account or to notify the department of the name of the financial institution at which the client trust account is held or of any change in the account number or location within three business days of any change, in accordance with section 468L-5 and the rules relating to travel agencies and charter tour operators;
- (4) Making any false statement, representation, or certification in any application, document, or record required to be submitted, filed, or retained under this chapter;
- (5) Misrepresenting the consumer's right to cancel and to receive an appropriate refund or reimbursement as provided under this chapter;
- (6) Failing to provide a written statement to the consumer containing specific information as required by section 468L-4;
- (7) Failing to provide or otherwise comply with the disclosure requirements of sections 468L-6 and 468L-7;
- (8) Failing to make available to the director such books and records as may be requested by the director pursuant to sections 468L-3(6), 468L-5.5, and 468L-28 and the rules relating to travel agencies and charter tour operators;
- (9) Promoting travel for prostitution;
- (10) Selling, advertising, or otherwise offering to sell travel services or facilitate travel:
 - (A) For the purpose of engaging in a commercial sexual act;
 - (B) That consists of tourism packages or activities using and offering sexual acts as enticement for tourism; or
 - (C) That provides or purports to provide access to or that facilitates the availability of sex escorts or sexual services; or
- (11) Otherwise violating any of the provisions of this chapter or its rules.

For purposes of paragraph (10):

"Commercial sexual act" means any sexual contact, as defined in section 707-700, for which anything of value is given to or received by any person.

"Sexual act" means any sexual contact as defined in section 707-700. [L 2001, c 62, pt of §2; am L 2004, c 82, §3]

Cross References

Promoting travel for prostitution, class C felony offense, see §712-1208.

" **[\$468L-8] Restitution.** Any person who engages in an act or practice that violates any provision of this chapter or rules adopted pursuant hereto may be ordered by a court of proper jurisdiction to make restitution to all persons injured by the act or practice. [L 1991, c 285, pt of §1]

" **[\$468L-9] Injunctions.** In any civil proceedings brought pursuant to this chapter, the court may also enjoin any activity that violates this chapter. [L 1991, c 285, pt of §1]

" **[\$468L-10] Consumer right of action.** Any person who suffers damage as a result of a violation of this chapter shall be entitled to injunctive relief restraining further violations, and may sue to recover damages in any circuit court of the State, and, if successful, shall recover three times the actual damages or \$1,000, whichever is greater. In any action brought under this chapter, the prevailing party shall be entitled to the recovery of costs of suit, including reasonable attorney's fees. [L 1991, c 285, pt of §1]

" **[\$468L-11] Remedies cumulative.** Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to remedies or penalties available under other laws of this State. [L 1991, c 285, pt of §1]

" **[\$468L-12] Criminal penalties.** A person commits the criminal offense of theft if the person, being a travel agency or an agent, employee, or independent contractor of a travel agency, knowingly or intentionally violates section 468L-5(a), (b), or (c). [L 1991, c 285, pt of §1]

"[PART II. CHARTER TOUR OPERATORS]

[\$468L-21] Charter tour operator registration as travel agency required. (a) No person shall engage in the business of a charter tour operator unless that person has registered as a travel agency with the director under section 468L-2 and complies with the provisions of this chapter applicable to a

travel agency engaged in the business of a charter tour operator.

(b) An application for registration of a charter tour operator as a travel agency or for renewal of a registration of a charter tour operator as a travel agency shall be made on a form provided by the department. In addition to the information required to be provided by all applicants for registration as a travel agency, the form shall require an applicant for registration as a travel agency which intends to engage in the business of a charter tour operator to:

- (1) Provide evidence that a charter tour client trust account has been established in accordance with sections 468L-5 and 468L-23;
- (2) State whether the applicant intends to operate seven or more charter tours during any twelve months or shorter period of the registration period;
- (3) State whether the applicant intends to operate sixteen or more charter tours during any twelve months or shorter period of the registration period; and
- (4) Provide evidence that the applicant has complied with the financial performance requirements of section 468L-22. [L 1999, c 258, pt of §3]

" **[§468L-22] Charter tour operator financial performance requirements.** (a) The department shall not approve the initial registration or the renewal of registration of a travel agency that wishes to engage in the business of a charter tour operator and to operate not more than six charter tours during any twelve-month period of the registration period, or during the remainder of the registration period if less than twelve months, for which application is made unless the applicant provides proof that the applicant has obtained a bond, letter of credit, or other security in compliance with title 14, Code of Federal Regulations, section 380.34, as the same may be amended, or any successor or replacement federal statute or regulation thereto.

(b) The department shall not approve the initial registration or the renewal of registration of a travel agency that wishes to engage in the business of a charter tour operator and to operate seven or more charter tours during any twelve months or shorter period of the registration period for which application is made unless the applicant either:

- (1) Posts a performance or financial guaranty-type bond naming the director as the obligee that may be canceled only if the charter tour operator gives ninety days' prior written notice to the surety and the surety gives sixty days' prior written notice to the director of cancellation of the bond; or

(2) Obtains an irrevocable letter of credit that is a guarantee of payment for a term of one year naming the director as beneficiary, with a provision for automatic extension for additional annual periods, and that may be canceled only if the charter tour operator gives prior written notice by certified mail to the director and to the issuer at least ninety days before the letter's expiration date or the date on which the charter tour operator intends the letter to cease being effective, or the issuer gives prior written notice by certified mail to the director at least sixty days before the expiration date.

(c) The bond or letter of credit shall be issued by a surety or federally-insured lending institution authorized to do business in the State to indemnify any consumer who may suffer loss as a result of nonperformance by a charter tour operator.

(d) A charter tour operator shall not provide the required coverage through multiple bonds or irrevocable letters of credit but shall provide either a single bond or a single irrevocable letter of credit. A charter tour operator may substitute the bond with an irrevocable letter of credit and vice versa pursuant to subsection (h), but shall not provide one in addition to the other to reach the required aggregate amount of coverage.

(e) Upon cancellation or expiration of the bond or letter of credit, the surety or insurer shall remain liable for any claims against the bond or letter of credit for a period of six months; provided that:

- (1) The debts were incurred while the bond or letter of credit was in effect; and
- (2) The director notifies the surety or insurer, as the case may be, of any claims within ninety days of discovery of any claims.

(f) The surety or insurer shall not be required to release any moneys or collateral to the charter tour operator during the six months after cancellation of the bond or expiration of the letter of credit.

(g) The amount of coverage of the bond or irrevocable letter of credit shall be:

- (1) Equal to \$300,000, less the amount of any security provided by the applicant under title 14, Code of Federal Regulations, section 380.34, as the same may be amended, or any successor or replacement federal statute or regulation thereto, for a travel agency planning to engage in the business of a charter tour operator and to operate seven to fifteen charter tours

- during any twelve months or shorter period of the registration period for which application is made; or
- (2) Equal to \$1,000,000, less the amount of any security provided by the applicant under title 14, Code of Federal Regulations, section 380.34, as the same may be amended, or any successor or replacement federal statute or regulation thereto, for a travel agency planning to engage in the business of a charter tour operator and to operate more than fifteen charter tours during any twelve months or shorter period of the registration period for which application is made.

(h) A bond shall be accepted as replacement for another bond or an irrevocable letter of credit and an irrevocable letter of credit shall be accepted as replacement for another irrevocable letter of credit or a bond if:

- (1) The effective date of a replacement bond is prior to or on the cancellation date of the bond being replaced or the expiration date of the irrevocable letter of credit being replaced, as the case may be, and the replacement bond is received by the director before the cancellation date or the expiration date, as the case may be; or
- (2) The replacement irrevocable letter of credit is received by the director at least fifteen days prior to the expiration date of the irrevocable letter of credit being replaced or is received by the director on or before the cancellation date of the bond being replaced, as the case may be.

(i) A charter tour operator shall not operate more than six charter tours during any twelve-month period unless the charter tour operator has provided and maintains in effect a bond or letter of credit in accordance with subsection (b), in the amount specified in subsection (g)(1), if the charter tour operator operates between seven and fifteen charter tours, or in the amount specified in subsection (g)(2), if the charter tour operator operates more than fifteen charter tours. [L 1999, c 258, pt of §3]

" **[\$468L-23] Charter tour client trust account.** Every travel agency engaged in the business of a charter tour operator shall establish and maintain a separate charter tour client trust account solely for the purpose of the travel agency's charter tour business. The charter tour client trust account shall be maintained in accordance with sections 468L-5 and 468L-24. [L 1999, c 258, pt of §3]

" **[\$468L-24] Maintenance of charter tour operator accounts.**

(a) Every charter tour operator shall maintain adequate books and records that provide for a proper accounting of total qualified charter tour client trust assets and qualified charter tour client trust liabilities for all charter tours for which funds have been accepted.

(b) Every charter tour operator shall maintain in its books and records a charter tour trust liability account for the purpose of accounting for qualified charter tour client trust liabilities.

(c) The charter tour trust liability account shall only be adjusted in the following manner:

- (1) The charter tour trust liability account shall be reduced by the amount of actual payments made by the charter tour operator for air transportation, hotel accommodations, baggage handling, or ground transportation charges with respect to the charter tour operator's current obligations to provide travel services or to past travel services provided by the charter tour operator; provided that the charter tour trust liability account shall not be reduced for any expenditure which constitutes a qualified prepaid charter tour client trust asset;
- (2) The charter tour trust liability account shall be reduced by the amount of payments made by the charter tour operator of federal transportation taxes that are payable as a result of a charter tour and for commissions payable to third party travel agents; and
- (3) Only after:
 - (A) All of the liabilities described in paragraphs (1) and (2) with respect to a specific charter tour have been satisfied through payment;
 - (B) The obligation to provide travel services has been fully provided; and
 - (C) The travel has been completed;

then and only then, may any funds remaining in the charter tour client trust account relating to the specific charter tour be withdrawn from the charter tour client trust account and deposited into the general accounts of the charter tour operator, and the charter tour trust liability account shall be reduced by the amount so withdrawn from the charter tour client trust account. [L 1999, c 258, pt of §3]

" **[\$468L-25] Maintenance of qualified charter tour client trust assets by charter tour operators.** A charter tour operator shall regularly maintain qualified charter tour client trust assets in an amount which is equal to or exceeds the qualified

charter tour client trust liabilities of the charter tour operator. A charter tour operator shall be deemed to be in substantial compliance with the provisions of this section even if, during any twelve-month period, qualified charter tour client trust liabilities exceed qualified charter tour client trust assets for any one, but not more than one, quarterly reporting period applicable under section 468L-26; provided that qualified charter tour client trust assets at all times shall be equal to or exceed not less than ninety per cent of qualified charter tour client trust liabilities. [L 1999, c 258, pt of §3]

" **[§468L-26] Quarterly report filing requirements for charter tour operators.** Not later than forty-five days after the end of each quarter, each registered travel agency engaging in the business of a charter tour operator, at its own expense, shall file a quarterly report that shall cover the immediately preceding quarter. Each report shall include a statement by an independent certified public accountant that the charter tour client trust account has been maintained in accordance with the requirements of sections 468L-5, 468L-23, and 468L-24, or specifying the grounds on which such a statement cannot be made. [L 1999, c 258, pt of §3]

" **[§468L-27] Failure by charter tour operator to file required reports; lack of compliance by charter tour operators; remedies.** (a) Any registered travel agency engaged in the business of a charter tour operator which fails to file any report required to be filed under this chapter or which files a report indicating that the charter tour operator is not in compliance with the provisions of this chapter, including without limitation, any report which indicates that the charter tour client trust account is not in compliance with the requirements of this chapter, shall be deemed not to be in substantial compliance with the requirements of this chapter.

(b) In addition to any other remedy available, the director may cause a citation to be issued with respect to a registered travel agency engaged in the business of a charter tour operator that has not acted or is not acting in compliance with any provision of this chapter.

(c) Each citation shall be in writing and shall describe the basis of the citation, including the specific statutory provision alleged to have been violated and may contain an order of abatement directing the travel agency to cease engaging in the business of a charter tour operator and an assessment of administrative fines as provided by this section. All fines collected under this section shall be deposited in the special fund established under section 26-9(o).

(d) Any registered travel agency engaged in the business of a charter tour operator who violates this section shall be assessed an administrative fine of up to:

- (1) \$25,000 for the first violation;
- (2) \$50,000 for the second violation; and
- (3) \$75,000 for any subsequent violations.

(e) Service of a citation issued under this section shall be made by personal service or by certified mail, restricted delivery, sent to the last known business address of the travel agency.

(f) Any person issued a citation under this section may submit a written request, within twenty days from the service of the citation, to the director for a hearing with respect to the violations alleged, the scope of the order of abatement, or the amount of the administrative fine assessed.

(g) If the person issued a citation under this section timely notifies the director of a request for a hearing, the director shall afford an opportunity for a hearing under chapter 91.

(h) If the person issued a citation under this section does not submit a written request to the director for a hearing within twenty days from the service of the citation, the citation shall be transmitted to the director for issuance of a final order.

(i) The sanctions and disposition authorized under this section shall be separate and in addition to all other remedies provided by law.

(j) The director may adopt rules pursuant to chapter 91 necessary for the purpose of this section. [L 1999, c 258, pt of §3]

" **[\$468L-28] Audit of charter tour operators.** (a) The department may audit the records of any charter tour operator with respect to its funds. For that purpose, the department shall have free access to the office and places of business of the charter tour operator. Notwithstanding section 468L-3(6), the department may contract with a private consultant to audit the records of any charter tour operator, the cost of which shall be borne by the charter tour operator regardless of whether a violation of this chapter is established.

(b) The director, upon notice and hearing pursuant to chapter 91, may temporarily suspend or may revoke the registration as a travel agency of any charter tour operator who fails to cooperate with the department in any examination or audit of the charter tour operator conducted or contracted for by the director. [L 1999, c 258, pt of §3]

" **[\$468L-29] Violation of charter tour operator provisions.**
Without limitation to any other remedies or penalties that may be applicable, any person who knowingly accepts moneys for charter tours without being registered as a travel agency in compliance with this chapter, or any charter tour operator that knowingly is not in compliance with the provisions of this chapter and continues to accept moneys for charter tours, shall be guilty of a misdemeanor. [L 1999, c 258, pt of §3]