

ACT 157

S.B. NO. 2780

A Bill for an Act Relating to Travel Agencies.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 468L-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Each travel agency shall renew its registration on or before December 31 of each odd-numbered year. [A special report prepared and signed by a licensed public accountant or certified public accountant] A notarized 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. The director, by rule, may permit alternatives to the [special report] notarized statement that [provides] provide for at least the same level of verification.”

SECTION 2. Section 468L-4, Hawaii Revised Statutes, is amended to read as follows:

“**[§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 [number] 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.”

SECTION 3. Section 468L-5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§468L-5]]~~ **Client trust accounts; maintenance of and withdrawal from such accounts.** (a) Within ~~[three]~~ five business days of receipt, [a travel agency] 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 monies 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 ~~[one]~~ three business ~~[day]~~ 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.”

SECTION 4. Section 468L-7, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(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

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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."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 8, 1992.)