

Date of Hearing: April 12, 2016

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND
INTERNET MEDIA

Kansen Chu, Chair

AB 2106 (Irwin) – As Amended March 10, 2016

SUBJECT: Sellers of travel: registration.

SUMMARY: Makes various changes to the regulations regarding registration of sellers of travel with the Consumer Law Section of the Attorney General's Office and expands covered entities subject to consumer restitution payments under the Travel Consumers Restitution Fund for violations of the Seller of Travel law.

Specifically, **this bill:**

- 1) Requires sellers of travel to provide the file number issued to them by the Secretary of State to the Consumer Law Section of the Attorney General's Office and further provides that the Attorney General shall suspend the registration of a seller of travel who fails to file this information.
- 2) Prohibits the issuance, approval, or renewal of registration until the seller of travel has paid any outstanding assessments due to the Travel Consumer Restitution Corporation.
- 3) Allows refund payments to persons aggrieved by sellers of travel who had been paid-up participants at any time during the 12 months previous to the time of sale.
- 4) Declares that any person aggrieved who files a claim for payment from the fund would waive his or her right to bring an action at law or equity against the seller of travel as to that claim, as specified, unless the seller of travel had not been a paid-up participant at any time during the 12 months previous to the time of sale.
- 5) Exempts single-member limited liability corporations and "S" Corporations that conduct their activities in accordance with specified procedures.
- 6) Contains technical clean up provisions.

EXISTING LAW:

- 1) Regulates sellers of travel and requires sellers of travel to register by filing with the Consumer Law Section of the Attorney General's Office and pay specified fees for each location of business and specified information about the seller of travel including its business form, its place of organization, and certain personal identification numbers of each of its owners and principals. (Bus. & Prof. Code Sec. 17550 et seq.)
- 2) Prohibits the issuance, approval, or renewal of registration of a seller of travel by the Consumer Law Section, until specified filing and late fees have been paid.

- 3) Defines a "seller of travel" to mean a person who sells, provides, furnishes, contracts for, arranges, or advertises that he or she can or may arrange, or has arranged, wholesale or retail, either of the following:
 - a) Air or sea transportation either separately or in conjunction with other travel services; or
 - b) Land or water vessel transportation, other than sea carriage, either separately or in conjunction with other travel services if the total charge to the passenger exceeds \$300.
- 4) Establishes the Travel Consumer Restitution Corporation in order to provide restitution to a person aggrieved (as defined) by the failure of a seller of travel to refund payments for air or sea transportation or travel services, subject to specified restrictions. (Bus. & Prof. Code Sec. 17550.35. et seq.)
- 5) Requires the Travel Consumer Restitution Corporation to assess, as specified, sellers of travel for the corporation's operations fund and the Travel Consumer Restitution Fund.
- 6) Requires the Attorney General to suspend the registration of a seller of travel who fails to make required payments to the Travel Consumer Restitution Corporation or who submits a check in payment of a registration fee or late fee that is not honored by the institution on which it is drawn.
- 7) Restricts refund payments from the Travel Consumer Restitution Fund to persons aggrieved by sellers of travel who, at the time of sale, were paid-up participants in the fund.
- 8) Declares that any person aggrieved who files a claim for payment from the fund thereby waives his or her right to bring an action at law or equity against the seller of travel as to that claim, as specified, unless the seller of travel was not a paid-up participant.
- 9) Exempts from regulation those sellers of travel who are individual and natural persons that conduct their business activities in accordance with specified procedures.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) *Author and sponsor's statement of need and explanation of legislation.*

According to the author, the purpose of this legislation is to accomplish three things. First, he states that, "the Seller of Travel law does not require that sellers of travel comply with the requirements of current law (outside of the Sellers of Travel law) that they obtain a California State Tax Identification number issued by the Secretary of State. Sellers of travel who are in compliance with this requirement have identified businesses that are not in compliance. AB 2106 will correct this loophole in the existing law to ensure that sellers of travel comply with the requirement that they obtain a California State Tax Identification number issued by the Secretary of State."

In addition, according to the author, "there have been circumstances where the consumer has not been able to recover from the Travel Consumer Restitution Fund [TCRF] because the

seller of travel was late in paying its assessment to the TCRF. To address this problem AB 2106 ensures that a consumer's ability to recover from the Travel Consumer Restitution Fund [TCRF] does not depend on whether the seller of travel was late in paying its assessment to the TRCF."

Finally, the author states, "since the Seller of Travel law was enacted 25 years ago, it has become common for independent agents to organize as a single-member limited liability corporation or as an S-Corporation, to reflect this trend, AB 2106 will update the Seller of Travel law to ensure that independent agents may be a business entity and do not have to be a natural person."

This bill is sponsored by the California Coalition of Travel Organizations [CCTO], which is a coalition of associations of travel agents and tour operators. They urge passage of this measure, writing in part to say, "CCTO was the sponsor of the legislation enacted in 1995 that established California's Seller of Travel [SOT] Law and its landmark Travel Consumer Restitution Fund. AB 2106 would update the existing SOT law in the Business and Professions Code in order to enhance the consumer protections and the efficiency of the law... (Passage of the bill) would enhance the state's unique and effective Seller of Travel Law to the benefit of both California consumers as well as the state's travel industry.

- 2) *Prior related legislation.* AB 1107 (Irwin), Chapter 253, Statutes of 2015, required sellers of travel to maintain all business records for a minimum period of 3 years; authorized the Attorney General to maintain an action for recovery of examination costs and expenses in any court of competent jurisdiction, as specified; required the seller of travel to pay for costs and expenses for any examination if the Attorney General bills the seller of travel, provided that the examination shows that the seller of travel has failed to comply with certain requirements; made a technical change to require specified assessments to be due 45 days from the date the bill for that assessment is sent to the seller of travel, and not 45 days from the date mailed.

REGISTERED SUPPORT / OPPOSITION:

Support

California Coalition of Travel Agents

Opposition

There is no opposition on file.

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