

Amendment No. 2

Whitsonto HB1163

Amendment No. _____

Signature of Sponsor

AMEND

Senate Bill No. 634*

House Bill No. 1163

Signature of Sponsor

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, Part 1, is amended by adding the following new section:

(a) For purposes of this section:

(1) "Travel promoter" means a person who maintains one (1) or more business entities or business locations in this state and who sells, provides, furnishes, contracts for, or arranges travel services on behalf of another person for a fee, commission, or other valuable consideration. "Travel promoter" does not include a transportation carrier if the carrier provides, furnishes, contracts for, or arranges only transportation services that are directly provided by the transportation carrier as the substantial portion of the transportation carrier's business; and

(2) "Travel services":

(A) Means arranging or booking vacation or travel packages, travel reservations, or travel accommodations; and

(B) Does not include property or estate management services.

(b)

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(1) A travel promoter shall not commingle in the same account or fund those funds that belong to the travel promoter or the travel promoter's business entity with customer funds that are held for disbursement for payment of travel services.

(2) A travel promoter shall deposit into a trust account any funds the travel promoter receives from a customer for disbursement for payment of travel services.

(c)

(1) Each travel promoter that conducts business in this state shall establish and maintain a separate general trust account in a state or national bank authorized by law to administer trust funds in this state.

(2) Funds required by subdivision (c)(1) to be deposited in a trust account must be identified or earmarked with an identifier unique to the customer or transaction for which the funds were deposited and are being held for disbursement.

(d)

(1) Each travel promoter shall post a bond in an amount of ten thousand dollars (\$10,000) for each of the promoter's business locations in this state. The bond must be made with a bond issued by a corporate surety authorized to do business in this state.

(2) The bond must be maintained for two (2) years following the date on which the travel promoter business location ceases to conduct business in this state.

(e) In an action brought by the attorney general and reporter pursuant to this section, the attorney general and reporter may request that the total amount of the bond posted by the travel promoter be awarded to this state for consumer restitution. Any consumer who has entered into an agreement with a travel promoter that is not fulfilled by the travel promoter may make a claim against the bond.

(f) The bond requirement of subsection (d) does not apply to a travel promoter that has, for at least seven (7) consecutive years, operated under substantially the same ownership and control. A travel promoter claiming the exemption pursuant to this subsection (f) shall maintain documentation as of January 1 of each year in which the

exemption is claimed that demonstrates the required period of ownership. The documentation must be retained for a period of at least five (5) years from the end of the year in which the exemption is claimed. The documentation must be made available for examination upon request of any law enforcement agency or the attorney general. A refusal to provide the documentation constitutes a violation of this section.

(g)

(1) In lieu of the surety bond required in this section, a travel promoter may maintain a current audited financial statement prepared by a certified public accountant licensed in this state that demonstrates that the travel promoter has a financial net worth of at least one million dollars (\$1,000,000) available to satisfy any claims.

(2) Any travel promoter claiming the exemption pursuant to this subsection (g) shall maintain documentation as of January 1 of each year in which the exemption is claimed that demonstrates that at least one million dollars (\$1,000,000) is available to satisfy any claims. Such proof must be retained for a period of at least five (5) years from the end of the year in which the exemption is claimed. The documentation must be made available for examination upon request of any law enforcement agency or the attorney general. A refusal to provide the documentation constitutes a violation of this section.

(h) A violation of this section constitutes an unfair or deceptive act prohibited under § 47-18-104, and is punishable as provided in this part. Each act in violation of this section constitutes a separate violation.

SECTION 2. This act shall take effect January 1, 2020, the public welfare requiring it.