

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 634 - HB 1163

April 3, 2019

SUMMARY OF ORIGINAL BILL: Effective January 1, 2020, requires travel promoters to post a \$10,000 surety bond per business location, with certain exemptions based on net worth or length of ownership, available to the Attorney General and Reporter or an unfulfilled consumer for customer restitution. Establishes that a violation of this Act is an unfair and deceptive act or practice in violation of the *Consumer Protection Act of 1977 (the Act)*.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

IMPACT TO COMMERCE OF ORIGINAL BILL:

Other Commerce Impact – Business expenditures will increase for travel promoters by unknown amounts to issue and retain a surety bond through a commercial provider.

SUMMARY OF AMENDMENT (006728): Deletes and rewrites all language after the enacting clause such that the substantive changes are: (1) establishing that only travel promoters with one or more business entities or business locations in this state are subject to the proposed legislation; (2) clarifying that travel services, provided by a travel promotor, do not include property or estate management services; and (3) requiring travel promoters to establish and maintain a separate trust account to retain customer funds that are held for disbursement for payment of travel services.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- The proposed legislation may result in an increase in formal complaints to the Division of Consumer Affairs; however, any such increase is estimated to be accommodated within existing resources.

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- The proposed legislation may result in an increase in bond payout; however, any such cases are assumed to be rare resulting in no significant impact to state or local government.
- Committing an unfair or deceptive practice under *the Act* is a Class B misdemeanor offense.
- There will not be a sufficient number of prosecutions for state or local government to experience any significant increase in revenue or expenditures.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Other Commerce Impact – Business expenditures will increase for travel promoters by unknown amounts as the result of trust administrative fees charged by the respective financial institutions and retaining a surety bond through a commercial provider.

Assumptions for the bill as amended:

- Business expenditures will increase for travel promoters by paying a one-time percentage of the bond amount to issue a surety bond with a surety company. The percentage owed of the \$10,000 bond is based upon the individual business’ financial strength; however, a one percent premium for a strong candidate would cost \$100 (\$10,000 x 1%) every renewal cycle per location.
- Business expenditures will only significantly increase in the case of an unfulfilled agreement, resulting in the issuance of a full bond payout for customer restitution; it is presumed that most businesses will comply with the provisions of this legislation and would not be liable for the \$10,000 payout.
- The proposed amendment requires a travel promotor conducting business in this state to establish and maintain a separate trust fund, with a state or national bank authorized to administer trust funds, to retain and distribute customer funds for payment of travel services.
- Trust administration fees vary by a wide range, but typically include initial fees, and flat fees or percentages of the amount of assets in the trust fund.
- Once customer funds are placed in a trust fund, business expenditures will increase by unknown amounts to pay the chosen bank’s trust administration fees.
- Any impact on jobs in Tennessee is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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