

OVERVIEW

THE AUDITOR
STATE OF HAWAII

Sunset Evaluation Update: Travel Agencies

Summary

We evaluated the regulation of travel agencies under Chapter 468K, Hawaii Revised Statutes, and conclude that the public interest is best served by reenacting the statute with amendments.

Travel agencies are businesses compensated to act as intermediaries between someone seeking to buy travel services and someone seeking to sell them. To protect the buyers of services against what can be substantial financial losses, travel agencies should be regulated. The Department of Commerce and Consumer Affairs deals with numerous complaints each year involving agencies. In 1989, individual claims ranged from \$18 to \$16,000. In one case settled recently, a single agency amassed over \$322,000 in claims. Travel agencies are among the Better Business Bureau's most complaint-ridden businesses, accounting for almost 20 percent of all reported complaints.

We found a number of problems with the regulatory program. The travel agency recovery fund, created to provide restitution for injured consumers, does not ensure the financial soundness of a travel business and therefore does not on its own provide enough protection. Consumers seeking recovery must negotiate a cumbersome recovery process. Their efforts may be thwarted by the current organization of the fund and by an \$8,000 cap on what can be recovered from an individual agency.

The Office of Consumer Protection, the agency that implements general consumer protection laws, is not the appropriate agency to enforce the travel agency licensing laws. All other occupational licensing laws are enforced by the Regulated Industries Complaints Office, the agency created in 1982 especially for this purpose.

Recommendations and Response

We recommend that Chapter 468K be reenacted to continue regulation of travel agencies and sales representatives. As an added measure of protection for the consumer, the Legislature should consider requiring travel agencies to post a \$5,000 bond or letter of credit. Consumers would also benefit by raising the ceiling on recovery from an individual agency, by adopting an administrative

hearings process for seeking restitution from the recovery fund, and by making the director of commerce and consumer affairs the trustee of the recovery fund. The latter would remove a potential conflict of interest inherent in the current organization under which trustees who are also travel agents administer the recovery fund. The Legislature should also consider assigning responsibility for enforcement to the Department of Commerce and Consumer Affairs and its Regulated Industries Complaints Office.

The Department of Commerce and Consumer Affairs supports the general recommendations in our report and offers several alternatives to address the issues we raised. The trustees of the travel agency recovery fund agree with our recommendation to raise the limit on recovery from the fund, but they do not agree that the State should require bond or letter of credit from travel agencies appointed by carriers. Both the trustees and their attorney say that the Office of Consumer Protection should continue to handle enforcement and that the director of commerce and consumer affairs should not be made trustee of the recovery fund.

Background

Our 1980 evaluation recommended that all travel agencies be regulated. Chapter 468J, the previous statute governing travel agencies, had exempted agencies appointed by carriers. Appointed agencies were not required to be licensed or to post a bond. We felt the exemption to be unjustified because consumers could suffer losses even if an agency were appointed.

The Legislature replaced Chapter 468J with the current statute, Chapter 468K. The new chapter regulated both appointed and nonappointed agencies, but it dropped the requirement for a bond and substituted a recovery fund.

About 2,000 agencies and their representatives are licensed. Fees constitute the only requirement for licensure. Application fees range from \$25 to \$40, recovery fund contributions are \$50 for agencies and \$25 for sales representatives. Licensees also contribute to the compliance resolution fund.

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