

# OVERVIEW

THE AUDITOR  
STATE OF HAWAII

## Sunset Evaluation Update: Travel Agencies

### Summary

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

We found that unreliable travel agencies have caused consumers to suffer financial losses and undelivered services. In 1992, the Regulated Industries Complaints Office (RICO) received 166 complaints against travel agencies—the fifth highest among the 45 occupations under RICO's jurisdiction. Chapter 468L, enacted in 1991, is designed to protect consumers by requiring that travel agencies channel customer payments through a client trust account. Travel agencies also must disclose to customers the agencies' ticket cancellation policies, refund policies, and other rights.

Under the law, travel agencies must register with the Department of Commerce and Consumer Affairs. An executive secretary in the department's Professional and Vocational Licensing Division administers the regulatory program on behalf of the director of commerce and consumer affairs. RICO handles consumer complaints and pursues legal action when appropriate.

It is too early to fully assess the protections provided by the new travel agency law but we found that several issues need attention. First, Chapter 468L requires travel agencies to file a notarized statement of compliance with the trust account requirements. However, this does not verify compliance. Second, for group travel the department's rules permit travel agencies to make consumer disclosures to the group leader (tour conductor) if the leader will in turn accept responsibility for informing the members of the group. This may not ensure that group members are fully informed. Third, the administrative rules are unclear, repetitive, or contradictory in addressing advance moneys, forfeiture of registration, grounds for discipline, and proof of the trust account's existence.

We also found that the department has incorrectly charged two funds established by the previous travel agency law, Chapter 468K. The travel agency recovery fund is to be used to pay customers' claims against insolvent travel agencies. The travel agency education fund is to be used to inform licensees and the public about the new travel agency law. But the department has used both funds to pay for claims and expenses of the other without statutory authority to do so. Furthermore, it now wishes to use the balance in the education fund to pay outstanding claims of the recovery fund.

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## Recommendations and Response

We recommend that the Legislature reenact Chapter 468L, Hawaii Revised Statutes to continue the regulation of travel agencies.

We also recommend that the department should ensure effective implementation of the new law by monitoring compliance with the trust account provision, and if compliance is weak, consider proposing legislation requiring travel agencies to submit an annual statement of trust account balances and activities. In addition, the department should monitor consumer disclosures in group travel and insist on notification of each group member if necessary. The department should also improve its administrative rules to make them clear, concise, and consistent.

Finally, the department should obtain statutory authorization to use the balance in the education fund to pay outstanding claims of the recovery fund and to transfer any remaining balance to the department's compliance resolution fund.

The Department of Commerce and Consumer Affairs concurs that Chapter 468L should be reenacted. It says that it will monitor and audit client trust accounts in response to complaints as it deems necessary and appropriate. It will also respond to complaints about the lack of disclosure from group travelers. We believe that the department should not simply respond to complaints but take more active steps to ensure that consumers are protected.

The department will examine the issues we raised concerning improving its rules. It has already submitted an administration bill that would provide statutory authorization to use the balance in the education fund to pay outstanding claims against the recovery fund.

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