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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/21/2008	.	
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1 The Committee on Criminal Justice (King) recommended the  
2 following **amendment**:

3  
4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause  
6 and insert:

7 Section 1. Subsections (2) through (5), (7) through (10),  
8 and (11) of section 559.927, Florida Statutes, are renumbered as  
9 subsections (3) through (6), (8) through (11), and (13),  
10 respectively, subsection (6) is renumbered as subsection (7) and  
11 amended, and new subsections (2) and (12) are added to that  
12 section, to read:

13 559.927 Definitions.--For the purposes of this part, the  
14 term:

15 (2) "Certifying party" means a seller of travel registering  
16 under s. 559.928 or a seller of travel who is exempt under s.  
17 559.935(2) or (3).



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18        (7)+(6)- "Prearranged travel, tourist-related services, or  
19 tour-guide services" includes, but is not limited to, car  
20 rentals, lodging, transfers, and sightseeing tours and all other  
21 such services which are reasonably related to air, sea, rail,  
22 motor coach, or other medium of transportation, or accommodations  
23 for which a purchaser receives a premium or contracts or pays  
24 prior to or after departure. These terms also include services  
25 for which a purchaser, whose legal residence is outside the  
26 United States, contracts or pays prior to departure, and any  
27 arrangement by which a purchaser prepays for, receives a  
28 reservation or any other commitment to provide services prior to  
29 departure for, or otherwise arranges for travel directly to a  
30 terrorist state and which originates in Florida.

31        (12) "Terrorist state" means any state, country, or nation  
32 designated by the United States Department of State as a state  
33 sponsor of terrorism.

34        Section 2. Subsections (1) and (2) of section 559.928,  
35 Florida Statutes, are amended to read:

36        559.928 Registration.--

37        (1) Each seller of travel shall annually register with the  
38 department, providing: its legal business or trade name, mailing  
39 address, and business locations; the full names, addresses, and  
40 telephone numbers, and social security numbers of its owners or  
41 corporate officers and directors and the Florida agent of the  
42 corporation; a statement whether it is a domestic or foreign  
43 corporation, its state and date of incorporation, its charter  
44 number, and, if a foreign corporation, the date it registered  
45 with the State of Florida, and occupational license where  
46 applicable; the date on which a seller of travel registered its  
47 fictitious name if the seller of travel is operating under a



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48 fictitious or trade name; the name of all other corporations,  
49 business entities, and trade names through which each owner of  
50 the seller of travel operated, was known, or did business as a  
51 seller of travel within the preceding 5 years; a list of all  
52 authorized independent agents, including the agent's trade name,  
53 full name, mailing address, business address, and telephone  
54 numbers, ~~and social security number~~; the business location and  
55 address of each branch office and full name and address of the  
56 manager or supervisor; the certification required under s.  
57 559.9285; and proof of purchase of adequate bond ~~or establishment~~  
58 ~~of a letter of credit or certificate of deposit~~ as required in  
59 this part. A certificate evidencing proof of registration shall  
60 be issued by the department and must be prominently displayed in  
61 the seller of travel's primary place of business.

62 (2) (a) Registration fees shall be as follows:

63 1. Three hundred dollars ~~\$300~~ per year per registrant  
64 certifying its business activities under s. 559.9285(1)(a).

65 2. One thousand dollars per year per registrant certifying  
66 its business activities under s. 559.9285(1)(b).

67 3. Twenty-five hundred dollars per year per registrant  
68 certifying its business activities under s. 559.9285(1)(c).

69 (b) All amounts collected shall be deposited by the Chief  
70 Financial Officer to the credit of the General Inspection Trust  
71 Fund of the Department of Agriculture and Consumer Services  
72 pursuant to s. 570.20, for the sole purpose of administration of  
73 this part.

74 Section 3. Section 559.9285, Florida Statutes, is created  
75 to read:

76 559.9285 Certification of business activities.--

77 (1) Each certifying party, as defined in s. 559.927(2):



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78       (a) Which does not offer for sale, at wholesale or retail,  
79 prearranged travel, tourist-related services, or tour-guide  
80 services for individuals or groups directly to any terrorist  
81 state and which originate in Florida;

82       (b) Which only offers for sale, at wholesale or retail,  
83 prearranged travel, tourist-related services, or tour-guide  
84 services for individuals or groups directly to any terrorist  
85 state and which originate in Florida, but engages in no other  
86 business dealings or commerce with any terrorist state; or

87       (c) Which offers for sale, at wholesale or retail,  
88 prearranged travel, tourist-related services, or tour-guide  
89 services for individuals or groups directly to any terrorist  
90 state and which originate in Florida, and also engages in any  
91 other business dealings or commerce with any terrorist state,

92  
93 shall annually certify its business activities by filing a  
94 disclosure statement with the department that accurately  
95 represents the scope of the seller's business activities  
96 according to the criteria provided in either paragraph (a),  
97 paragraph (b), or paragraph (c).

98       (2) (a) If a certifying party changes the scope of the  
99 business activities certified pursuant to subsection (1), the  
100 certifying party shall file the following with the department no  
101 later than 15 days from the change in activities:

- 102       1. An amended certificate pursuant to subsection (1); and  
103       2. The applicable registration fee pursuant to s. 559.928.

104       (b) Within 15 days of filing the amended certificate, the  
105 certifying party shall provide the department with a bond in the  
106 proper amount for the certified business activity pursuant to s.  
107 559.929.



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108       (3) The department shall specify by rule the form of each  
109 certification under this section, which shall include the  
110 following information:

111       (a) The legal name, any trade names or fictitious names,  
112 mailing address, physical address, telephone number or numbers,  
113 fax number or numbers, all Internet and electronic contact  
114 information, and registration number, if applicable, of the  
115 certifying party.

116       (b) Each terrorist state with which the certifying party  
117 engages in any business or commerce.

118       (c) The legal name, any trade names or fictitious names,  
119 mailing address, physical address, telephone number or numbers,  
120 fax number or numbers, and all Internet and electronic contact  
121 information of every other commercial entity with which the  
122 certifying party engages in business or commerce that is related  
123 in any way to the certifying party's business or commerce with  
124 any terrorist state. The information disclosed pursuant to this  
125 paragraph shall not constitute customer lists, customer names, or  
126 trade secrets protected under s. 570.544(7).

127       (d) The type of all prearranged travel, tourist-related  
128 services, or tour-guide services the certifying party offers for  
129 sale to individuals or groups traveling directly to any terrorist  
130 state and which originate in Florida, and the frequency with  
131 which such services are offered.

132       Section 4. Section 559.929, Florida Statutes, is amended to  
133 read:

134       559.929 Security requirements.--

135       (1) An application must be accompanied by a performance  
136 bond in an amount set by the department under paragraph (a),  
137 paragraph (b), or paragraph (c) not to exceed \$25,000, or in the



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138 ~~amount of \$50,000 if the seller of travel is offering vacation~~  
139 ~~certificates.~~ The surety on such bond shall be a surety company  
140 authorized to do business in the state.

141 (a) Each seller of travel which certifies its business  
142 activities under s. 559.9285(1) (a) shall provide a performance  
143 bond in an amount not to exceed \$25,000, or in the amount of  
144 \$50,000 if the seller of travel is offering vacation  
145 certificates.

146 (b) Each seller of travel which certifies its business  
147 activities under s. 559.9285(1) (b) shall provide a performance  
148 bond in an amount not to exceed \$100,000, or in the amount of  
149 \$150,000 if the seller of travel is offering vacation  
150 certificates.

151 (c) Each seller of travel which certifies its business  
152 activities under s. 559.9285(1) (c) shall provide a performance  
153 bond in an amount not to exceed \$250,000, or in the amount of  
154 \$300,000 if the seller of travel is offering vacation  
155 certificates.

156 ~~(2) In lieu of the performance bond required in this part,~~  
157 ~~a registrant or applicant for registration may establish a~~  
158 ~~certificate of deposit or an irrevocable letter of credit in a~~  
159 ~~Florida banking institution in the amount of the performance~~  
160 ~~bond. The department shall be the beneficiary to this certificate~~  
161 ~~of deposit, and the original shall be filed with the department.~~  
162 ~~Any such letter of credit shall provide that the issuer will give~~  
163 ~~the department not less than 120 days written notice prior to~~  
164 ~~terminating or refusing to renew the letter of credit.~~

165 ~~(2)(3) The bond, letter of credit, or certificate of~~  
166 ~~deposit shall be in favor of the department for the use and~~  
167 ~~benefit of any traveler who is injured by the fraud,~~



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168 misrepresentation, breach of contract, financial failure, or  
169 violation of any provision of this part by the seller of travel.  
170 Such liability may be enforced either by proceeding in an  
171 administrative action as specified in subsection (3) ~~(4)~~ or by  
172 filing a judicial suit at law in a court of competent  
173 jurisdiction. However, in such court suit the bond, ~~letter of~~  
174 ~~credit, or certificate of deposit~~ posted with the department  
175 shall not be amenable or subject to any judgment or other legal  
176 process issuing out of or from such court in connection with such  
177 lawsuit, but such bond, ~~letter of credit, or certificate of~~  
178 ~~deposit~~ shall be amenable to and enforceable only by and through  
179 administrative proceedings before the department. It is the  
180 intent of the Legislature that such bond, ~~letter of credit, or~~  
181 ~~certificate of deposit~~ shall be applicable and liable only for  
182 the payment of claims duly adjudicated by order of the  
183 department. The bond, ~~letter of credit, or certificate of deposit~~  
184 shall be open to successive claims, but the aggregate amount may  
185 not exceed the amount of the bond, ~~letter of credit, or~~  
186 ~~certificate of deposit~~. In addition to the foregoing, a bond  
187 provided by a registrant or applicant for registration which  
188 certifies its business activities under s. 559.9285(1)(b) or (c)  
189 shall be in favor of the department, with payment in the  
190 following order of priority:  
191 (a) All expenses for prosecuting the registrant or  
192 applicant in any administrative or civil action under this part,  
193 including fees for attorneys and other professionals, court costs  
194 or other costs of the proceedings, and all other expenses  
195 incidental to the action.



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196        (b) All costs and expenses of investigation prior to the  
197 commencement of an administrative or civil action under this  
198 part.

199        (c) Any unpaid administrative fine imposed by final order  
200 or any unpaid civil penalty imposed by final judgment under this  
201 part.

202        (d) Damages or compensation for any traveler injured as  
203 provided in this subsection.

204        (3)~~(4)~~ Any traveler may file a claim against the bond,  
205 ~~letter of credit, or certificate of deposit~~ which shall be made  
206 in writing to the department within 120 days after an alleged  
207 injury has occurred or is discovered to have occurred. The  
208 proceedings shall be held in accordance with ss. 120.569 and  
209 120.57.

210        (4)~~(5)~~ In any situation in which the seller of travel is  
211 currently the subject of an administrative, civil, or criminal  
212 action by either the department, the Department of Legal Affairs,  
213 or the state attorney concerning compliance with this part, the  
214 right to proceed against the bond, ~~letter of credit, or~~  
215 ~~certificate of deposit,~~ as provided in subsection (3) ~~(4)~~, shall  
216 be suspended until after any enforcement action becomes final.

217        (5)~~(6)~~ The department may waive the bond, ~~letter of credit,~~  
218 ~~or certificate of deposit~~ requirement on an annual basis if the  
219 seller of travel has had 5 or more consecutive years of  
220 experience as a seller of travel in Florida in compliance with  
221 this part, has not had any civil, criminal, or administrative  
222 action instituted against the seller of travel in the vacation  
223 and travel business by any governmental agency or any action  
224 involving fraud, theft, misappropriation of property, violation  
225 of any statute pertaining to business or commerce with any





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226 terrorist state, or moral turpitude, and has a satisfactory  
227 consumer complaint history with the department, and certifies its  
228 business activities under s. 559.9285. Such waiver may be revoked  
229 if the seller of travel violates any provision of this part. A  
230 seller of travel which certifies its business activities under s.  
231 559.9285(1)(b) or (c) is be entitled to the waiver provided in  
232 this subsection.

233 Section 5. Subsection (2) of section 559.9335, Florida  
234 Statutes, is amended, subsections (22), (23), and (24) are  
235 renumbered as subsections (24), (25), and (26), respectively, and  
236 new subsections (22) and (23) are added to that section, to read:  
237 559.9335 Violations.--It is a violation of this part for  
238 any person:

239 (2) To conduct business as a seller of travel without an  
240 annual purchase of a performance bond ~~or establishment of a~~  
241 ~~letter of credit or certificate of deposit~~ in the amount set by  
242 the department unless exempt pursuant to s. 559.935.

243 (22) To offer to sell, at wholesale or retail, prearranged  
244 travel, tourist-related services, or tour-guide services for  
245 individuals or groups directly to any terrorist state and which  
246 originate in Florida, without disclosing such business activities  
247 in a certification filed under s. 559.9285(1)(b) or (c).

248 (23) To violate any state or federal law restricting or  
249 prohibiting commerce with terrorist states.

250 Section 6. Subsections (2), (3), and (4) of section  
251 559.935, Florida Statutes, are amended to read:

252 559.935 Exemptions.--

253 (2) Sections 559.928, 559.929, 559.9295, 559.931, and  
254 559.932 shall not apply to:



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255 (a) Sellers of travel directly issuing airline tickets who  
256 have contracted with the Airlines Reporting Corporation for the  
257 most recent consecutive 3 years or more under the same ownership  
258 and control, ~~and~~ who do not offer vacation certificates, and who  
259 annually certify their business activities under s.

260 559.9285(1) (a). ~~or~~

261 (b) Sellers of travel offering vacation certificates who  
262 have contracted with the Airlines Reporting Corporation for the  
263 most recent consecutive 5 years or more under the same ownership  
264 and control and who annually certify their business activities  
265 under s. 559.9285(1) (a).

266  
267 This exemption does not apply to sellers of travel certifying  
268 their business activities under s. 559.9285(1) (b) or (c).

269 (3) Sections 559.928, 559.929, 559.9295, 559.931, and  
270 559.932 shall also not apply to a seller of travel that is an  
271 affiliate of an entity exempt pursuant to subsection (2) subject  
272 to the following conditions:

273 (a) In the event the department finds the affiliate does  
274 not have a satisfactory consumer complaint history or the  
275 affiliate fails to respond to a consumer complaint within 30  
276 days, the related seller of travel exempt pursuant to subsection  
277 (2) shall be liable for the actions of the affiliate, subject to  
278 the remedies provided in ss. 559.9355 and 559.936.

279 (b) In the event the department is unable to locate an  
280 affiliate, the related seller of travel exempt pursuant to  
281 subsection (2) shall be fully liable for the actions of the  
282 affiliate, subject to the remedies provided in ss. 559.9355 and  
283 559.936.



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284 (c) In order to obtain an exemption under this subsection,  
285 the affiliate shall file an affidavit of exemption on a form  
286 prescribed by the department and shall certify its business  
287 activities under s. 559.9285(1)(a). The affidavit of exemption  
288 shall be executed by a person who exercises identical control  
289 over the seller of travel exempt pursuant to subsection (2) and  
290 the affiliate. Failure to file an affidavit of exemption or  
291 certification under s. 559.9285(1)(a) prior to engaging in seller  
292 of travel activities shall subject the affiliate to the remedies  
293 provided in ss. 559.9355 and 559.936.

294 (d) Revocation by the department of an exemption provided  
295 to a seller of travel under subsection (2) shall constitute  
296 automatic revocation by law of an exemption obtained by an  
297 affiliate under the subsection.

298 (e) This subsection shall not apply to:

299 1. An affiliate that independently qualifies for another  
300 exemption under this section ~~s. 559.935~~.

301 2. An affiliate that sells, or offers for sale, vacation  
302 certificates.

303 3. An affiliate that certifies its business activities  
304 under s. 559.9285(1)(b) or (c).

305 (f) For purposes of this section, an "affiliate" means an  
306 entity that meets the following:

307 1. The entity has the identical ownership as the seller of  
308 travel that is exempt under subsection (2).

309 2. The ownership controlling the seller of travel that is  
310 exempt under subsection (2) also exercises identical control over  
311 the entity.



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312           3. The owners of the affiliate hold the identical  
313 percentage of voting shares as they hold in the seller of travel  
314 that is exempt under subsection (2).

315           (4) The department may revoke the exemption provided in  
316 subsection (2) or subsection (3) if the department finds that the  
317 seller of travel does not have a satisfactory consumer complaint  
318 history, has been convicted of a crime involving fraud, theft,  
319 misappropriation of property, deceptive or unfair trade  
320 practices, or moral turpitude, or has not complied with the terms  
321 of any order or settlement agreement arising out of an  
322 administrative or enforcement action brought by a governmental  
323 agency or private person based on conduct involving fraud, theft,  
324 misappropriation of property, deceptive or unfair trade  
325 practices, or moral turpitude.

326           Section 7. Section 559.9355, Florida Statutes, is amended  
327 to read:

328           559.9355 Administrative remedies; penalties.--

329           (1) The department may enter an order doing one or more of  
330 the following if the department finds that a person has violated  
331 or is operating in violation of any of the provisions of this  
332 part or the rules or orders issued thereunder:

333           (a) Issuing a notice of noncompliance pursuant to s.  
334 120.695.

335           (b) Imposing an administrative fine not to exceed \$5,000  
336 for each act or omission.

337           (c) Imposing an administrative fine not to exceed \$10,000  
338 for each act or omission in violation of s. 559.9335(22) or (23).

339           ~~(d)(e)~~ Directing that the person cease and desist specified  
340 activities.



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341        (e)~~(d)~~ Refusing to register or canceling or suspending a  
342 registration.

343        (f)~~(e)~~ Placing the registrant on probation for a period of  
344 time, subject to such conditions as the department may specify.

345        (g)~~(f)~~ Canceling an exemption granted under s. 559.935.

346        (2) The administrative proceedings which could result in  
347 the entry of an order imposing any of the penalties specified in  
348 subsection (1) are governed by chapter 120.

349        (3) The department has the authority to adopt rules  
350 pursuant to chapter 120 to implement this section and ss.  
351 559.928, 559.929, 559.934, and 559.935.

352        Section 8. Subsections (3) through (6) of section 559.936,  
353 Florida Statutes, are renumbered as subsections (4) through (7),  
354 respectively, and a new subsection (3) is added to that section  
355 to read:

356        559.936 Civil penalties; remedies.--

357        (3) The department may seek a civil penalty of up to  
358 \$10,000 for each act or omission in violation of s. 559.9335(22)  
359 or (23).

360        Section 9. Section 559.937, Florida Statutes, is amended to  
361 read:

362        559.937 Criminal penalties.--Any person or business that  
363 which violates this part:

364        (1) Commits a misdemeanor of the first degree, punishable  
365 as provided in s. 775.082 or s. 775.083.

366        (2) Which violation directly or indirectly pertains to an  
367 offer to sell, at wholesale or retail, prearranged travel,  
368 tourist-related services, or tour-guide services for individuals  
369 or groups directly to any terrorist state and which originate in



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370 Florida, commits a felony of the third degree, punishable as  
371 provided in s. 775.082 or s. 775.083.

372 Section 10. This act shall take effect July 1, 2008.

373  
374 ===== T I T L E A M E N D M E N T =====

375 And the title is amended as follows:

376 Delete everything before the enacting clause  
377 and insert:

378 A bill to be entitled  
379 An act relating to sellers of travel; amending s. 559.927,  
380 F.S.; revising the definition of "prearranged travel,  
381 tourist-related services, or tour-guide services";  
382 defining "certifying party" and "terrorist state";  
383 amending s. 559.928, F.S.; revising provisions relating to  
384 registration as a seller of travel; revising registration  
385 fees; creating s. 559.9285, F.S.; requiring a seller of  
386 travel to annually certify to the Department of  
387 Agriculture and Consumer Services the scope of its  
388 business activities by filing a disclosure statement;  
389 categorizing certifying parties; providing requirements of  
390 a certifying party that changes its scope of business;  
391 requiring such certifying party to provide the department  
392 with appropriate bond; requiring the department to specify  
393 by rule the form of certification; specifying required  
394 certification information; amending s. 559.929, F.S.;  
395 revising requirements with respect to the performance bond  
396 which must accompany registration or an application for  
397 registration as a seller of travel; specifying amounts of  
398 bonds for certification categories; eliminating  
399 alternative means of satisfying security requirements;



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400 providing for priority of payment with respect to such  
401 bonds; revising conditions under which the department may  
402 annually waive the bond; precluding specified  
403 certification categories from waiver of bond; amending s.  
404 559.9335, F.S.; providing that it is a violation of the  
405 Florida Sellers of Travel Act to offer to sell, at  
406 wholesale or retail, prearranged travel, tourist-related  
407 services, or tour-guide services for individuals or groups  
408 directly to any terrorist state which originate in Florida  
409 without disclosing such business activities in a  
410 certification filed with the department and to violate any  
411 state or federal law restricting or prohibiting commerce  
412 with terrorist states; amending s. 559.935, F.S.; revising  
413 provisions which exempt certain sellers of travel and  
414 affiliates thereof from specified registration, security,  
415 disclosure, and recordkeeping requirements; amending s.  
416 559.9355, F.S.; imposing an administrative fine for each  
417 act or omission in violation of the prohibited offer to  
418 sell, at wholesale or retail, prearranged travel, tourist-  
419 related services, or tour-guide services for individuals  
420 or groups directly to any terrorist state which originate  
421 in Florida without disclosing such business activities in  
422 a certification or in violation of any state or federal  
423 law restricting or prohibiting commerce with terrorist  
424 states; amending s. 559.936, F.S.; authorizing the  
425 department to seek a specified civil penalty for each act  
426 or omission in violation of the prohibited offer to sell,  
427 at wholesale or retail, prearranged travel, tourist-  
428 related services, or tour-guide services for individuals  
429 or groups directly to any terrorist state which originate



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430 | in Florida without disclosing such business activities in  
431 | a certification or in violation of any state or federal  
432 | law restricting or prohibiting commerce with terrorist  
433 | states; amending s. 559.937, F.S.; providing a criminal  
434 | penalty for a violation of the Florida Sellers of Travel  
435 | Act which directly or indirectly pertains to an offer to  
436 | sell, at wholesale or retail, prearranged travel, tourist-  
437 | related services, or tour-guide services for individuals  
438 | or groups directly to any terrorist state which originate  
439 | in Florida; providing an effective date.