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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
3/18/2008	.	
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1 The Committee on Military Affairs and Domestic Security (Garcia)  
 2 recommended the following **amendment**:

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

5 Delete everything after the enacting clause  
 6 and insert:

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

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

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16        (2) "Certifying party" means a seller of travel registering  
17 under s. 559.928 or a seller of travel who is exempt under s.  
18 559.935(2) or (3).

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

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

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

37        559.928 Registration.--

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



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

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

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

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

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

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

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

77 559.9285 Certification of business activities.--

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

79 (a) Which does not offer for sale, directly or indirectly,  
80 at wholesale or retail, prearranged travel, tourist-related  
81 services, or tour-guide services for individuals or groups to or  
82 within any terrorist state;

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

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

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

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

103 1. An amended certificate pursuant to subsection (1); and

104 2. The applicable registration fee pursuant to s. 559.928.

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105       (b) Within 15 days of filing the amended certificate the  
106 certifying party shall provide the department with a bond in the  
107 proper amount for the certified business activity pursuant to s.  
108 559.929.

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

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

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

119       (c) Each intermediate state, country, or nation through  
120 which the certifying party engages in any business or commerce  
121 with any terrorist state.

122       (d) The legal name, any trade names or fictitious names,  
123 mailing address, physical address, telephone number or numbers,  
124 fax number or numbers, and all Internet and electronic contact  
125 information of every other entity with which the certifying party  
126 engages in business or commerce that is related in any way to the  
127 certifying party's business or commerce with any terrorist state.

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

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



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135 559.929 Security requirements.--

136 (1) An application must be accompanied by a performance  
137 bond in an amount set by the department under paragraph (a),  
138 paragraph (b), or paragraph (c) not to exceed \$25,000, or in the  
139 amount of \$50,000 if the seller of travel is offering vacation  
140 certificates. The surety on such bond shall be a surety company  
141 authorized to do business in the state.

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

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

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

157 ~~(2) In lieu of the performance bond required in this part,~~  
158 ~~a registrant or applicant for registration may establish a~~  
159 ~~certificate of deposit or an irrevocable letter of credit in a~~  
160 ~~Florida banking institution in the amount of the performance~~  
161 ~~bond. The department shall be the beneficiary to this certificate~~  
162 ~~of deposit, and the original shall be filed with the department.~~  
163 ~~Any such letter of credit shall provide that the issuer will give~~



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164 ~~the department not less than 120 days written notice prior to~~  
165 ~~terminating or refusing to renew the letter of credit.~~

166 (2) ~~(3)~~ The bond, ~~letter of credit, or certificate of~~  
167 ~~deposit~~ shall be in favor of the department for the use and  
168 benefit of any traveler who is injured by the fraud,  
169 misrepresentation, breach of contract, financial failure, or  
170 violation of any provision of this part by the seller of travel.  
171 Such liability may be enforced either by proceeding in an  
172 administrative action as specified in subsection (3) ~~(4)~~ or by  
173 filing a judicial suit at law in a court of competent  
174 jurisdiction. However, in such court suit the bond, ~~letter of~~  
175 ~~credit, or certificate of deposit~~ posted with the department  
176 shall not be amenable or subject to any judgment or other legal  
177 process issuing out of or from such court in connection with such  
178 lawsuit, but such bond, ~~letter of credit, or certificate of~~  
179 ~~deposit~~ shall be amenable to and enforceable only by and through  
180 administrative proceedings before the department. It is the  
181 intent of the Legislature that such bond, ~~letter of credit, or~~  
182 ~~certificate of deposit~~ shall be applicable and liable only for  
183 the payment of claims duly adjudicated by order of the  
184 department. The bond, ~~letter of credit, or certificate of deposit~~  
185 shall be open to successive claims, but the aggregate amount may  
186 not exceed the amount of the bond, ~~letter of credit, or~~  
187 ~~certificate of deposit~~. In addition to the foregoing, a bond  
188 provided by a registrant or applicant for registration which  
189 certifies its business activities under s. 559.9285(1)(b) or (c)  
190 shall be in favor of the department, with payment in the  
191 following order of priority:

192 (a) All expenses for prosecuting the registrant or  
193 applicant in any administrative or civil action under this part,



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194 including fees for attorneys and other professionals, court costs  
195 or other costs of the proceedings, and all other expenses  
196 incidental to the action.

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

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

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

205 (3)~~(4)~~ Any traveler may file a claim against the bond,  
206 ~~letter of credit, or certificate of deposit~~ which shall be made  
207 in writing to the department within 120 days after an alleged  
208 injury has occurred or is discovered to have occurred. The  
209 proceedings shall be held in accordance with ss. 120.569 and  
210 120.57.

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

218 (5)~~(6)~~ The department may waive the bond, ~~letter of credit,~~  
219 ~~or certificate of deposit~~ requirement on an annual basis if the  
220 seller of travel has had 5 or more consecutive years of  
221 experience as a seller of travel in Florida in compliance with  
222 this part, has not had any civil, criminal, or administrative  
223 action instituted against the seller of travel in the vacation



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224 and travel business by any governmental agency or any action  
225 involving fraud, theft, misappropriation of property, violation  
226 of any statute pertaining to business or commerce with any  
227 terrorist state, or moral turpitude, and has a satisfactory  
228 consumer complaint history with the department, and certifies its  
229 business activities under s. 559.9285. Such waiver may be revoked  
230 if the seller of travel violates any provision of this part. A  
231 seller of travel which certifies its business activities under  
232 ss. 559.9285(1)(b) or (c) shall not be entitled to the waiver  
233 provided in this subsection.

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

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

244 (22) To offer to sell travel or provide any travel-related  
245 service to purchasers traveling to or within any terrorist state  
246 without disclosing such business activities in a certification  
247 filed under ss. 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. Subsection (2), subsection (3), and subsection  
251 (4) of section 559.935, Florida Statutes, are amended to read:  
252 559.935 Exemptions.--

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

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 ss. 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

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282 affiliate, subject to the remedies provided in ss. 559.9355 and  
283 559.936.

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 travel or provide any travel-related service to a  
368 purchaser traveling to or within any terrorist state, commits a  
369 felony of the third degree, punishable as provided in s. 775.082  
370 or s. 775.083.



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

372  
373 ===== T I T L E A M E N D M E N T =====

374 And the title is amended as follows:

375  
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 their 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;  
400 providing for priority of payment with respect to such

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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 travel or  
406 | provide any travel-related service to a purchaser  
407 | traveling to or within any terrorist state without  
408 | disclosing such business activities in a certification  
409 | filed with the department and to violate any state or  
410 | federal law restricting or prohibiting commerce with  
411 | terrorist states; amending s. 559.935, F.S.; revising  
412 | provisions which exempt certain sellers of travel and  
413 | affiliates thereof from specified registration, security,  
414 | disclosure, and recordkeeping requirements; amending s.  
415 | 559.9355, F.S.; imposing an administrative fine for each  
416 | act or omission in violation of the prohibited offer to  
417 | sell travel or provide any travel-related service to  
418 | purchasers traveling to or within any terrorist state  
419 | without disclosing such business activities in a  
420 | certification or in violation of any state or federal law  
421 | restricting or prohibiting commerce with terrorist states;  
422 | amending s. 559.936, F.S.; authorizing the department to  
423 | seek a specified civil penalty for each act or omission in  
424 | violation of the prohibited offer to sell travel or  
425 | provide any travel-related service to purchasers traveling  
426 | to or within any terrorist state without disclosing such  
427 | business activities in a certification or in violation of  
428 | any state or federal law restricting or prohibiting  
429 | commerce with terrorist states; amending s. 559.937, F.S.;  
430 | providing a criminal penalty for a violation of the

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431 | Florida Sellers of Travel Act which directly or indirectly  
432 | pertains to an offer to sell travel or provide any travel-  
433 | related service to a purchaser traveling to or within any  
434 | terrorist state; providing an effective date.