

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 83
95TH GENERAL ASSEMBLY

0384S.02T

2009

AN ACT

To repeal sections 407.1240, 407.1243, and 407.1249, RSMo, and to enact in lieu thereof three new sections relating to travel clubs.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 407.1240, 407.1243, and 407.1249, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 407.1240, 407.1243, and 407.1249,
3 to read as follows:

407.1240. As used in sections 407.1240 to 407.1252, the following terms shall mean:
2 (1) "Business day", every day except Sundays and holidays;
3 (2) "Holiday", any day that the United States Post Office is closed;
4 (3) "Membership fee", the initial or reoccurring fee that is unrelated to actual
5 pass-through costs associated with the use and enjoyment of travel benefits;
6 (4) "Rescission statement", a statement that shall be printed on all contracts pertaining
7 to the purchase of travel club memberships from a travel club that shall provide in at least
8 fourteen-point bold type the following statement:

9 "Assuming you have [not accessed any travel benefits and have] returned to the travel
10 club all materials delivered to the purchaser at closing, you have the right to rescind this
11 transaction for a period of three business days after the date of this agreement. To exercise the
12 right of rescission, you must deliver to the travel club, either in person or by first class mail
13 postmarked within the three-business-day period, at the address referenced in this contract, a
14 written statement of your desire to rescind this transaction, and all materials **of value** that were
15 provided and given to you at the time of the purchase of your travel club membership.";

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (5) "Surety bond", any surety bond, corporate guaranty, letter of credit, certificate of
17 deposit, or other bond or financial assurance in the sum of fifty thousand dollars that is required
18 to be delivered by travel clubs which have been adjudged to have violated subsection 4 or 5 of
19 section 407.1252 and in the event that such surety bond is accessed subsequent to posting as a
20 result of the need to reimburse purchasers, the amount of the surety bond shall be increased by
21 ten thousand dollars per reimbursement. All surety bonds shall:

22 (a) Serve as a source of funds to reimburse purchasers of travel club memberships who
23 validly exercise their rights under the rescission statement in their contract but who are not, after
24 judgment, provided a refund equal to the purchase price of their unused travel club memberships
25 or, after settlement, equal to the terms of the settlement;

26 (b) Serve as a source of funds to reimburse purchasers of travel club memberships who
27 have been proven to be the subject of fraud;

28 (c) Remain in full force and effect during the period of time the travel club conducts its
29 business activities; and

30 (d) Be deemed acceptable to the attorney general if:

31 a. It is issued by an insurance company that possesses at least a "B+" rating, or its
32 equivalent by A.M. Best or its successors or by any other nationally recognized entity that rates
33 the creditworthiness of insurance companies;

34 b. It is in the form of a letter of credit that is issued by a banking institution with assets
35 of at least seventy-five million dollars;

36 c. It is in the form of a certificate of deposit; or

37 d. It is in a form that otherwise is acceptable to the attorney general;

38 (6) "Travel benefits", benefits that are offered to travel club purchasers and customers
39 that include all forms of overnight resort, condominium, time-share, hotel, motel, and other
40 rental housing of every nature; all forms of air travel and rental car access; all forms of cruise
41 line access; and all other forms of discounted travel benefits of every nature;

42 (7) "Travel club", any business enterprise that either directly, indirectly, or through the
43 use of a fulfillment company or other third party offers to sell to the public the reoccurring right
44 to purchase travel benefits at prices that are represented as being discounted from prices
45 otherwise not generally available to the public and charges members or customers a membership
46 fee that collectively equals no less than seven hundred fifty dollars.

407.1243. 1. No travel club may offer vacation benefits for sale unless the travel club
2 maintains an effective registration statement with the Missouri attorney general that discloses
3 the following information:

4 (1) The name of the travel club, including the name under which the travel club is doing
5 or intends to do business, if it is different from the name of the travel club;

6 (2) The name of any parent or affiliated organization that will engage in business
7 transactions with the purchasers of travel benefits or accept responsibility for statements made
8 by, or acts of, the travel club that relate to sales solicited by the travel club;

9 (3) The travel club's business type and place of organization;

10 (4) If the travel club is an entity, the travel club's formation and governing documents,
11 including articles of organization, bylaws, operating agreements, and partnership agreements;

12 (5) If operating under a fictitious business name, the location where the fictitious name
13 has been registered and the same information for any parent or affiliated organization disclosed
14 under subdivision (2) of this subsection;

15 (6) The names and addresses of the principal owners, officers, and directors of the travel
16 club;

17 (7) The addresses where the travel club shall offer travel club memberships for sale;

18 (8) The name and address of the registered agent in the state of Missouri for service of
19 process for the travel club; [and]

20 (9) A brief description of the travel club memberships the travel club is offering for sale;

21 **and**

22 **(10) The travel club has demonstrated that it possesses liquid assets of at least two**
23 **hundred fifty thousand dollars in the form of one or more certificates of deposit or a letter**
24 **of credit that is issued by a banking institution with assets of at least seventy-five million**
25 **dollars. This provision shall also apply to renewals under section 407.1246. These liquid**
26 **assets shall be available to the attorney general in the event that the travel club is adjudged**
27 **to have failed to satisfy legal obligations to its members. Interest on any instrument**
28 **provided shall accrue to the travel club.**

29 2. The attorney general shall evidence his or her receipt, approval, or disapproval, as the
30 case may be, of a travel club's registration statement or registration renewal statement within
31 thirty days from and after the submission. Upon compliance with the foregoing requirements,
32 the attorney general shall approve the registration statement. Should any registration fail to
33 address any of the registration conditions as set forth above, the attorney general shall advise in
34 writing the registration deficiencies and the manner in which said deficiencies shall be cured.
35 Such advice shall be provided by the attorney general within fifteen working days from the initial
36 filing of the documents.

37 3. Travel clubs that are operational prior to August 28, 2005, may continue their business
38 activities during the pendency of the attorney general's processing of their registration statements;
39 provided that such registration statement is filed with the attorney general within ninety calendar
40 days of August 28, 2005. Registration of a travel club shall not be transferable.

41 4. The registration statement shall additionally have appended thereto:

42 (1) The form of contract under which the travel club proposes to sell travel club
43 memberships which contains the rescission statement;

44 (2) A check made to the order of the Missouri attorney general in the amount of fifty
45 dollars.

407.1249. Assuming a purchaser [has not otherwise accessed any travel benefits and]
2 returns to the travel club all materials of value delivered to the purchaser at closing, all
3 purchasers of travel club memberships from a travel club that is registered shall have the
4 nonwaivable right for a period of three business days after the date of their purchase to rescind
5 and cancel their travel club purchase and receive a full refund of all sums otherwise paid to the
6 travel club within fifteen business days of such rescission, minus the actual and reasonable cost
7 of processing the refund, including credit card fees if applicable. **Use of travel club benefits**
8 **during such rescission period shall not waive the right afforded by this section.** Individuals
9 who purchase travel club memberships from a travel club that is not registered under sections
10 407.1240 to 407.1252 shall have a nonwaivable right for a period of three years from the date
11 of purchase to rescind and cancel their travel club membership and shall receive a full refund
12 within fifteen business days of such rescission.

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