

the application of the provision to other persons or circumstances is not affected.

Passed the House March 11, 1986.

Passed the Senate March 11, 1986.

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Filed in Office of Secretary of State April 4, 1986.

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## CHAPTER 283

[Engrossed Substitute House Bill No. 1870]

### CHARTER AND TOUR OPERATORS

AN ACT Relating to charter and tour operators; adding a new chapter to Title 19 RCW; providing an effective date; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Sec. 1. The legislature finds and declares that advertising, sales, and business practices of certain travel charter or tour operators have worked financial hardship upon the people of this state; that the travel business has a significant impact upon the economy and well-being of this state and its people; that problems have arisen regarding certain segments of the travel charter or tour operator business; and that the public welfare requires regulation of travel charter or tour operators in order to eliminate unfair advertising, sales and business practices. The legislature further finds it necessary to establish standards that will safeguard the people against financial hardship and to encourage fair dealing and prosperity in the travel business.

**NEW SECTION.** Sec. 2. (1) "Travel charter or tour operator" means a person who sells, provides, furnishes, contracts for, arranges, or advertises in this state that he or she can or may arrange, or has arranged air, sea, or land transportation either separately or in conjunction with other services. "Travel charter or tour operator" does not include:

- (a) An air carrier;
- (b) An ocean carrier;
- (c) A motor carrier;
- (d) A rail carrier;
- (e) A charter party carrier;
- (f) An auto transportation carrier;
- (g) A person who operates a travel agency business and meets standards no less than those required on the effective date of this act for authorized agents of the airline reporting corporation;
- (h) A person who:
- (i) Has operated a travel tour or charter business for at least three years under the same ownership or management;

(ii) Has total annual revenue, not including airline transportation fares, of at least five hundred thousand dollars;

(iii) Has a certificate of insurance issued by a company authorized to conduct an insurance business under the laws of any state for at least one million dollars for errors and omissions; and

(iv) Has in effect a surety bond for at least one hundred thousand dollars to the benefit of any consumer who has made payment to the person operating the travel tour or charter business; or

(i) A person who sells membership in an organization, club, or association that entitles the purchaser to obtain transportation or other services from a travel charter or tour operator and who does not arrange or provide for transportation.

(2) "Advertise" means to make any representation in conjunction with, or to effect the sale of, travel services and includes communication with other members of the same partnership, corporation, joint venture, association, organization, group or other entity.

(3) "Passenger" is a person who purchases travel arrangements in Washington state and on whose behalf money or other consideration has been given or is to be given to another, including another member of the same partnership, corporation, joint venture, association, organization, group or other entity, for procuring transportation or other travel services.

(4) "Adequate bond" means a bond executed by an authorized surety insurer in an amount not less than fifty thousand dollars or an amount equal to ten percent of the total revenue of the two highest consecutive months for the travel charter or tour operator's business during the prior calendar year, whichever is greater, but in no case, more than five hundred thousand dollars, for the benefit of every person for whom services have not been delivered by the wrongful act of the principal acting in the course and scope of his or her occupation or business or by any official, agent, or employee of the principal acting in the course or scope of his or her employment or agency.

**NEW SECTION.** Sec. 3. A travel charter or tour operator shall not advertise that air, sea, or land transportation either separately or in conjunction with other services is or may be available unless he or she has, prior to such advertisement, received written confirmation with a carrier for the transportation advertised.

**NEW SECTION.** Sec. 4. At or prior to the time of full or partial payment for air, sea, or land transportation or any other services offered by the travel charter or tour operator in conjunction with such transportation, the travel charter or tour operator shall furnish to the person making the payment a written statement conspicuously setting forth the following information:

(1) The name and business address and telephone number of the travel charter or tour operator.

(2) The amount paid, the date of such payment, the purpose of the payment made, and an itemized statement of the balance due, if any.

(3) The location and number of the trust account or bond required by this statute.

(4) The name of the carrier with whom the travel charter or tour operator has contracted to provide the transportation, the type of equipment contracted, and the date, time, and place of each departure: PROVIDED, That the information required in this subsection may be provided at the time of final payment.

(5) The conditions, if any, upon which the contract between the travel charter or tour operator and the passenger may be canceled, and the rights and obligations of all parties in the event of such cancellation.

(6) A statement in eight-point boldface type in substantially the following form:

"If transportation or other services are canceled by the travel charter or tour operator, all sums paid to the travel charter or tour operator for services not performed in accordance with the contract between the travel charter or tour operator and the passenger will be refunded within fourteen days after the cancellation by the travel charter or tour operator to the passenger or the party who contracted for the passenger unless mutually acceptable alternative travel arrangements are provided."

**NEW SECTION.** Sec. 5. (1) If the transportation or other services contracted for are canceled the travel charter or tour operator shall return to the passenger within fourteen days after the cancellation all moneys paid for services not performed in accordance with the contract unless mutually acceptable alternative travel arrangements are provided.

(2) Any material misrepresentation with regard to the transportation and other services offered shall be deemed to be a cancellation necessitating the refund required by this section.

**NEW SECTION.** Sec. 6. (1) Except as otherwise provided in subsection (3) of this section, a travel charter or tour operator shall deposit ninety percent of all sums received for transportation or any other services offered by the travel charter or tour operator in conjunction with such transportation in a trust account in a federally insured financial institution.

(2) The trust account required by this section shall be created and maintained for the benefit of the passengers paying money to the travel charter or tour operator. The travel charter or tour operator shall not in any manner encumber the corpus of the account and shall not withdraw money therefrom except: (a) In an amount equal to partial or full payment for the services contracted for the passengers to the carrier or person providing the other services offered by the travel charter or tour operator; or (b) to make the refunds as required by section 5 of this act or as provided for by written contract between the travel charter and tour operator and passengers. A

travel charter and tour operator may withdraw from the account any interest earned and credited to the trust account for the sole benefit of the travel charter and tour operator after all services have been provided as contracted.

(3) A travel charter and tour operator, instead of maintaining a trust account as provided in subsections (1) and (2) of this section, may maintain an adequate bond.

(4) A violation of any provision of this section shall constitute a gross misdemeanor punishable under RCW 9A.20.021(2).

NEW SECTION. Sec. 7. A travel charter or tour operator is not required to comply with section 6 of this act if a written agreement exists between the travel charter or tour operator and a person who meets the requirements of section 2(1)(h) of this act to provide full service in the event the travel charter or tour operator defaults in providing services to passengers, and the travel charter or tour operator states the existence of this agreement in all of its promotional brochures. Any misleading statement is a violation of this section, and shall constitute a gross misdemeanor punishable under RCW 9A.20.021(2).

NEW SECTION. Sec. 8. A violation of sections 3 through 7 of this act shall constitute a violation of RCW 19.86.020.

NEW SECTION. Sec. 9. This chapter does not apply to the sale of public transportation by a public charter operator who is complying with regulations of the United States department of transportation.

NEW SECTION. Sec. 10. Sections 1 through 9 of this act shall constitute a new chapter in Title 19 RCW.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 12. This act shall take effect January 1, 1987.

Passed the House March 11, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor April 4, 1986.

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## CHAPTER 284

[House Bill No. 1899]

STATE LAND BANK

AN ACT Relating to a state land bank; amending RCW 30.04.020; adding a new chapter to Title 31 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington: