

**A SUMMARY OF HOUSE BILLS 4462 AND 4463 AS INTRODUCED 4-13-99**

House Bill 4462 would create a new act, the Travel Promotion Act, to regulate the business of travel promotion. Under the bill, a "travel promoter" would be a person primarily engaged in soliciting and/or selling tickets for transportation or transportation-related services. A person could not act as a travel promoter unless he or she had obtained at least one of the following: at least \$1 million in errors and omissions insurance; a \$10,000 surety bond or letter of credit, payable to his or her customers; proof of accreditation in the Airline Reporting Corporation [ARC], but only if the accreditation required bonding equal to or exceeding the bill's \$10,000 surety bond provision; or an escrow fund. A travel promoter who did not have either insurance, a surety bond, or ARC accreditation would be required to have an escrow fund, and to immediately deposit 90 percent of all money received from a customer for payment of transportation or related services into the account. The account would have to be in a federally-insured depository institution and the travel promoter could not encumber the account in any manner. Withdrawals from the account could be made only for: partial or full payment of transportation or related services for a customer, customer refunds, or interest on the account, which could be withdrawn monthly.

A travel promoter would be required to conspicuously post a sign setting forth the following:

*MICHIGAN TRAVEL DISCLOSURES*

- *Be aware of travel offers that sound "too good to be true", especially if you have been solicited by telephone or received a postcard or certificate in the mail.*
- *Do not give your credit card number or any information about bank accounts before making travel decisions. Never give a courier a cashier's check or money order in exchange for information about a travel package.*
- *Get the complete details in writing about any trip prior to payment. These details should include the total cost (including taxes, port charges, service fees, and surcharges), terms and conditions, restrictions, cancellation penalties, if any, and specific information about all components of the package.*
- *Leave high-pressure sales presentations which do not allow time for evaluation of the offer or which require disclosure of your income.*

- *Be wary of companies that require you to wait at least 60 days before taking the trip or require you to select several dates of departure for the trip.*
- *Be fully informed of the need and reason for additional trip insurance coverage.*
- *If considering a tour package, ask if the tour operator is part of a consumer protection plan or bond program that would protect your payment in the case of the tour company's closing.*
- *Keep all receipts and documents needed to report a problem.*
- *In the event of a problem or cancellation due to the tour operator or travel agent, you may wish to contact the Michigan Better Business Bureau, the Consumer Affairs Department at the Attorney General's office, or an accredited national travel association or organization.*
- *You may have a legal right to sue under the travel promotion act and the Michigan consumer protection act.*

Before the receipt of money or other valuable consideration for transportation or related services from a customer, and at the first personal or telephone contact, a travel promoter could provide the customer a written statement of the above disclosures.

A violation of the bill would be considered an unlawful act under the Michigan Consumer Protection Act.

House Bill 4463 would amend the Michigan Consumer Protection Act (MCL 445.903) to include violations of House Bill 4462 within the definition of "unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce", which the act deems to be unlawful. Under the consumer protection act, a person harmed by an unlawful practice may bring a civil action to recover actual damages or \$250, whichever is greater; seek a declaratory judgment that an act is illegal; seek injunctive relief; or may bring a class action. Further, the attorney general may take action to restrain or enjoin illegal practices under the act, or may bring a class action on behalf of persons harmed. In addition, the bill would clarify the provisions allowing for the promulgation of rules to implement the consumer protection act by indicating that the attorney general could not, by way of making a rule, create additional unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce not already listed in the act. The current language prohibits only the creation of additional unfair trade practices.

Tie-bar. House Bills 4462 and 4463 are tie-barred.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.