

By: Hartnett

H.B. No. 972

Substitute the following for H.B. No. 972:

By: Quintanilla

C.S.H.B. No. 972

A BILL TO BE ENTITLED

AN ACT

relating to the cancellation of travel club membership agreements;
providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 12, Business & Commerce Code, is amended by
adding Chapter 601A to read as follows:

CHAPTER 601A. CANCELLATION OF AGREEMENT FOR TRAVEL CLUB MEMBERSHIP

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 601A.001. DEFINITIONS. In this chapter:

(1) "Purchaser" means an individual who enters into an
agreement with a seller to purchase a travel club membership.

(2) "Seller" means a person who offers to sell or sells
a travel club membership.

(3) "Travel club membership" means a membership that
gives its members the right to purchase or obtain travel services
from or through a seller.

(4) "Travel service" means the arranging or booking
of:

(A) a vacation or travel package;

(B) a reservation for rental of a motor vehicle;

(C) a ticket for domestic or foreign travel by
any mode of transportation; or

(D) a hotel or other lodging.

Sec. 601A.002. APPLICABILITY OF CHAPTER. (a) This chapter

1 applies only to an agreement for the purchase of a travel club
2 membership in which:

3 (1) the seller or the seller's agent engages in a
4 personal solicitation of a sale to an individual; and

5 (2) the agreement is for consideration that exceeds
6 \$25, payable in installments or in cash.

7 (b) This chapter does not apply to an agreement relating to:

8 (1) a timeshare plan that is in compliance with
9 Chapter 221, Property Code; or

10 (2) the sale of a product or service or a program
11 related to, offered in conjunction with, or used to promote the
12 timeshare plan.

13 [Sections 601A.003-601A.050 reserved for expansion]

14 SUBCHAPTER B. PURCHASER'S RIGHT TO CANCEL AGREEMENT; REQUIRED

15 NOTICES

16 Sec. 601A.051. PURCHASER'S RIGHT TO CANCEL AGREEMENT FOR
17 TRAVEL CLUB MEMBERSHIP. (a) In addition to any other rights or
18 remedies available, a purchaser may cancel an agreement for a
19 travel club membership not later than midnight of the fifth
20 business day after the date the purchaser signs the agreement.

21 (b) A seller may retain payments made by the purchaser for
22 specific travel services used in connection with a travel club
23 membership agreement before the date of the cancellation period
24 prescribed by Subsection (a).

25 Sec. 601A.052. NOTICE OF PURCHASER'S RIGHT TO CANCEL
26 REQUIRED. (a) A seller must provide a purchaser with a copy of an
27 agreement for a travel club membership at the time of the

1 agreement's execution.

2 (b) The copy of the agreement provided under Subsection (a)
3 must:

4 (1) be in the same language as that principally used in
5 the oral sales presentation;

6 (2) contain the date of the agreement;

7 (3) contain the name and address of the seller; and

8 (4) contain a statement:

9 (A) in immediate proximity to the space reserved
10 in the agreement for the signature of the purchaser; and

11 (B) in at least 10-point boldfaced font in
12 substantially the following form:

13 "YOU, THE PURCHASER, MAY CANCEL THIS AGREEMENT FOR TRAVEL
14 CLUB MEMBERSHIP AT ANY TIME BEFORE MIDNIGHT OF THE FIFTH BUSINESS
15 DAY AFTER THE DATE YOU SIGN THIS AGREEMENT. SEE THE ATTACHED NOTICE
16 OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT."

17 Sec. 601A.053. COMPLETED CANCELLATION FORM REQUIRED. (a)
18 A seller must attach to the copy of a travel club membership
19 agreement a completed notice of cancellation form in duplicate.
20 The form must:

21 (1) be easily detachable;

22 (2) be in the same language as the agreement; and

23 (3) contain the following information and statements
24 in at least 10-point boldfaced font:

25 "NOTICE OF CANCELLATION

26 _____

27 (enter date of agreement)

1 seller's place of business;

2 (3) the date of the agreement; and

3 (4) a date not earlier than the fifth business day
4 after the date of the agreement by which the purchaser must give
5 notice of cancellation.

6 [Sections 601A.054-601A.100 reserved for expansion]

7 SUBCHAPTER C. PROHIBITED ACTS BY SELLER

8 Sec. 601A.101. WAIVER OF RIGHTS. A seller may not include
9 in an agreement for a travel club membership a waiver of any of the
10 rights to which a purchaser is entitled under this chapter.

11 Sec. 601A.102. FAILURE TO INFORM OR MISREPRESENTATION OF
12 RIGHT TO CANCEL. A seller may not:

13 (1) at the time the purchaser signs the agreement for a
14 travel club membership fail to inform the purchaser orally of the
15 right to cancel the agreement; or

16 (2) misrepresent in any manner the purchaser's right
17 to cancel.

18 Sec. 601A.103. FAILURE TO TAKE CERTAIN ACTIONS FOLLOWING
19 RECEIPT OF NOTICE OF CANCELLATION. A seller may not:

20 (1) fail or refuse to honor a valid cancellation under
21 this chapter by a purchaser; or

22 (2) fail before the end of the 10th business day after
23 the date the seller receives a valid notice of cancellation to:

24 (A) refund all payments made under the agreement
25 that were not for specific travel services used before the
26 cancellation period; or

27 (B) cancel and return any negotiable instrument

1 executed by the purchaser in connection with the agreement for a
2 travel club membership.

3 [Sections 601A.104-601A.150 reserved for expansion]

4 SUBCHAPTER D. ENFORCEMENT

5 Sec. 601A.151. CERTAIN AGREEMENTS VOID. An agreement
6 entered into in violation of this chapter is void.

7 Sec. 601A.152. LIABILITY FOR DAMAGES. A seller who
8 violates this chapter is liable to the purchaser for:

9 (1) actual damages suffered by the purchaser as a
10 result of the violation;

11 (2) reasonable attorney's fees; and

12 (3) court costs.

13 Sec. 601A.153. DECEPTIVE TRADE PRACTICE. A violation of
14 this chapter is a false, misleading, or deceptive act or practice as
15 defined by Section 17.46(b). In addition to any remedy under this
16 chapter, a remedy under Subchapter E, Chapter 17, is also available
17 for a violation of this chapter.

18 Sec. 601A.154. INJUNCTION. If the attorney general
19 believes that a person is violating or about to violate this
20 chapter, the attorney general may bring an action in the name of the
21 state to restrain or enjoin the person from violating this chapter.

22 SECTION 2. The change in law made by this Act applies only
23 to an agreement for a travel club membership entered into on or
24 after the effective date of this Act. An agreement for a travel
25 club membership that is entered into before the effective date of
26 this Act is governed by the law in effect on the date the agreement
27 was entered into, and the former law is continued in effect for that

1 purpose.

2 SECTION 3. This Act takes effect September 1, 2011.