

NEVADA

SELLERS OF TRAVEL

General Provisions

NRS 598.305 Definitions. As used in [NRS 598.305](#) to [598.395](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 598.307](#) to [598.356](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 2001, [2146](#); A 2003, [1825](#), [2888](#))

NRS 598.307 “Account” defined. “Account” means the account established pursuant to [NRS 598.371](#).

(Added to NRS by 2003, [1819](#))

NRS 598.315 “Commissioner” defined. “Commissioner” means the Commissioner of the Division.

(Added to NRS by 2001, [2146](#); A 2003, [1826](#), [2889](#))

NRS 598.317 “Consumer” defined. “Consumer” means a person who pays money to a seller of travel for the purchase of travel services or a vacation certificate.

(Added to NRS by 2003, [1819](#))

NRS 598.325 “Division” defined. “Division” means the Consumer Affairs Division of the Department of Business and Industry.

(Added to NRS by 2001, [2147](#))

NRS 598.335 “Seller of travel” defined. “Seller of travel” means a person who offers for sale, directly or indirectly, transportation by air, land, rail or water, travel services, vacation certificates or any combination thereof, to a person or group of persons for a fee, commission or other valuable consideration. The term:

1. Includes any person who offers membership in a travel club or any services related to travel for an advance fee, payment or deposit.

2. Does not include:

(a) A person who:

(1) Contracts with a seller of travel to sell travel services or vacation certificates on behalf of the seller of travel;

(2) Receives compensation for selling the travel services or vacation certificates only from the seller of travel; and

(3) Requires the consumer who purchases the travel services or vacation certificates to pay for the travel services or vacation certificates by transmitting payment directly to the provider of the travel services or vacation certificates or the seller of travel;

(b) A hotel that provides or arranges travel services for its patrons or guests;

(c) A person who, for compensation, transports persons or property by air, land, rail or water;

(d) A tour broker or tour operator who is subject to the provisions of [NRS 598.405](#) to [598.525](#), inclusive; or

(e) A motor club as defined in [NRS 696A.050](#).

(Added to NRS by 2001, [2147](#); A 2003, [1825](#))

NRS 598.345 “Travel services” defined. “Travel services” includes, without limitation:

1. Short-term leases of passenger cars;
2. Lodging;
3. Transfers;
4. Sightseeing tours other than sightseeing tours for which a tour broker or tour operator is regulated pursuant to [NRS 598.405](#) to [598.525](#), inclusive; and
5. Any other services that are related to travel by air, land, rail or water or any other method of transportation.

(Added to NRS by 2001, [2147](#); A 2003, [1825](#))

NRS 598.356 “Vacation certificate” defined. “Vacation certificate” means any document received by a person for consideration paid in advance which evidences that the holder of the document is entitled to:

1. Transportation by air, land, rail or water; or
2. The use of lodging or other facilities for a specified period, during the period for which the certificate is valid.

(Added to NRS by 2001, [2147](#))

NRS 598.361 Seller to maintain trust account; exception.

1. Except as otherwise provided in subsection 2:

(a) A seller of travel shall maintain a trust account in a bank, credit union or savings and loan association in this state for the purpose of depositing all money that a consumer pays to the seller of travel for the purchase of travel services or a vacation certificate.

(b) If a consumer pays money to a seller of travel for the purchase of travel services or a vacation certificate, the seller of travel shall deposit all such money in the trust account maintained by the seller of travel not later than 2 business days after the date on which the consumer pays the money to the seller of travel.

(c) The seller of travel shall pay out of the trust account the money paid to the seller of travel by the consumer as needed to complete the purchase of the travel services or vacation certificate purchased by the consumer.

2. The provisions of this section do not apply to a seller of travel who deposits security with the Division pursuant to [NRS 598.375](#).

(Added to NRS by 2003, [1820](#); A 2003, [2883](#))

NRS 598.365 Seller to register, deposit security and pay fees before advertising services or conducting business in this state; certificate of registration; renewal of certificate.

1. Before advertising its services or conducting business in this state, a seller of travel must register with the Division by:

(a) Submitting to the Division an application for registration on a form prescribed by the Division;

(b) Paying to the Division a fee of \$25;

(c) Depositing the security required pursuant to [NRS 598.375](#), if any, with the Division; and

(d) Paying to the Division a fee of \$100 for deposit to the account established pursuant to [NRS 598.371](#).

2. The Division shall issue a certificate of registration to the seller of travel upon receipt of:

(a) The security in the proper form if the seller of travel is required to deposit security pursuant to [NRS 598.375](#); and

(b) The payment of any fees required by this section.

3. A certificate of registration:

(a) Is not transferable or assignable; and

(b) Expires 1 year after it is issued.

4. A seller of travel must renew a certificate of registration issued pursuant to this section before the certificate expires by:

(a) Submitting to the Division an application for the renewal of the certificate on a form prescribed by the Division;

(b) Paying to the Division a fee of \$25; and

(c) Paying to the Division a fee of \$100 for deposit to the account established pursuant to [NRS 598.371](#).

5. The Division shall mail an application for the renewal of a certificate to the last known address of a seller of travel at least 30 days before the expiration of the certificate.

6. The provisions of this section do not require a person described in paragraph (a) of subsection 2 of [NRS 598.335](#) to register with the Division.

(Added to NRS by 2001, [2147](#); A 2003, [1826](#), [2888](#))

NRS 598.366 Seller to include registration number in advertising; form. A seller of travel shall include the registration number from his certificate of registration in any advertising conducted by, or on the behalf of, the seller of travel. The statement must be prominently displayed in the advertisement and be in substantially the following form in at least 10-point bold type in a font that is easy to read:

Nevada Seller of Travel
Registration No. _____.

(Added to NRS by 2003, [1820](#))

NRS 598.367 Seller to display notice of Recovery Fund; penalty.

1. A seller of travel shall display conspicuously, at each place of business of the seller of travel and on any website maintained by the seller of travel for business purposes, a legible and typewritten statement that notifies consumers that they may be eligible to recover certain financial damages from the Recovery Fund. The written statement must be in substantially the following form:

RECOVERY FUND FOR CONSUMERS
DAMAGED BY SELLERS OF TRAVEL

You may be eligible for payment from the Recovery Fund if you have paid money to a seller of travel registered in this state for the purchase of travel services or a vacation certificate and you have suffered certain financial damages as a result of the transaction. To obtain information relating to your rights under the Recovery Fund and the filing of a claim for recovery from the Recovery Fund, you may contact the Consumer Affairs Division of the Department of Business and Industry at the following locations:

SOUTHERN NEVADA: 1850 East Sahara Avenue
Suite 101
Las Vegas, Nevada 89104
Phone: 702.486.7355
Fax: 702.486.7371
ncad@fyiconsumer.org

NORTHERN NEVADA: 4600 Kietzke Lane
Building B, Suite 113
Reno, Nevada 89502
Phone: 775.688.1800
Fax: 775.688.1803

2. The Division may impose upon a seller of travel an administrative fine of not more than:

- (a) For the first violation of subsection 1, \$100; and
- (b) For a second or subsequent violation of subsection 1, \$250.

3. The Division shall deposit any money received pursuant to this section in the account established pursuant to [NRS 598.371](#).

4. The provisions of [NRS 598.305](#) to [598.395](#), inclusive, do not limit the authority of the Division to take disciplinary action against a seller of travel.

(Added to NRS by 2003, [1822](#); A 2003, [2885](#))

Recovery Fund

NRS 598.371 Administration of Fund: Separate accounting; limitations on use.

1. The Division shall administer and account separately for the money received from each seller of travel pursuant to the provisions of paragraph (c) of subsection 1 and paragraph (c) of subsection 4 of [NRS 598.365](#). The Division may refer to the money in the account as the "Recovery Fund."

2. Except as otherwise provided in [NRS 598.372](#), the money in the account must be used to pay claims made by consumers who are eligible for recovery from the account pursuant to [NRS 598.373](#) and [598.374](#).

(Added to NRS by 2003, [1820](#))

NRS 598.372 Administration of Fund: Report to Legislature; employment of persons; interest on money; limitations on balance; regulations.

1. The Division shall:

(a) On or before February 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for transmittal to the appropriate legislative committee if the Legislature is in session, or to the Interim Finance Committee if the Legislature is not in session, a statement of the condition of the account that is prepared in accordance with generally accepted accounting principles.

(b) Employ accountants as necessary for the performance of the duties set forth in this section and pay any related expenses from the money in the account. Except as otherwise provided in subsection 3, the expenditures made by the Division pursuant to this paragraph must not exceed \$10,000 in any fiscal year.

(c) Employ or contract with persons and procure necessary equipment, supplies and services to be paid from or purchased with the money in the account as may be necessary to monitor or process claims filed by consumers that may result in a recovery from the account.

2. Any interest earned on the money in the account must be credited to the account. The Division may expend the interest earned on the money in the account to increase public awareness of the account. Except as otherwise provided in subsection 3, the expenditures made by the Division for this purpose must not exceed \$50,000 in any fiscal year.

3. The total expenditures made by the Division pursuant to this section must not exceed 10 percent of the account in any fiscal year.

4. Once an initial balance of \$200,000 exists in the account, the Division shall maintain a minimum balance of \$200,000 in the account.

5. The Division shall adopt such regulations as are necessary to carry out the provisions of [NRS 598.305](#) to [598.395](#), inclusive, including, without limitation, regulations governing:

(a) The disbursement of money from the account; and

(b) The manner in which a complaint is filed with the Division or its designee pursuant to the provisions of [NRS 598.373](#).

(Added to NRS by 2003, [1823](#); A 2003, [2886](#))

NRS 598.373 Recovery from Fund: Deadline for complaint; hearing; judgment of court; action by Division.

1. Except as otherwise provided in subsection 5, a consumer who is eligible for recovery from the account must file a complaint with the Division or its designee not later than 1 year after the scheduled date of completion of the travel purchased by the consumer. The consumer must file the complaint on a form established for this purpose by the Division.

2. If the Division receives a complaint pursuant to subsection 1, the Division or its designee shall hold a hearing on the complaint. The Division shall:

(a) Affix the time and place for the hearing; and

(b) Notify the interested parties, in writing, at least 10 days before the date affixed for the hearing, of the time and place of the hearing.

3. Any testimony taken at the hearing must be considered a part of the record of the hearing before the Division or its designee.

4. The hearing must be public if a request is made for a public hearing.

5. If a consumer has obtained a judgment in any court of competent jurisdiction for recovery of damages against a seller of travel, the consumer may file with the Division or its designee a complaint for recovery of the judgment from the account. The consumer must file the complaint not later than 2 years after the entry of the judgment. The consumer is eligible for recovery of the judgment from the account if:

- (a) The judgment is for actual damages suffered by the consumer as a result of:
 - (1) Any act of fraud or misrepresentation by the seller of travel acting in his capacity as a seller of travel;
 - (2) The bankruptcy of the seller of travel;
 - (3) The breach of any contract entered into by the seller of travel in his capacity as a seller of travel; or
 - (4) The violation by the seller of travel of any provision of [NRS 598.305](#) to [598.395](#), inclusive;
- (b) The proceedings in connection with the judgment, including all appeals, have terminated;
- (c) The consumer files the complaint on a form established for this purpose by the Division;
- (d) The consumer submits proof satisfactory to the Division of the judgment; and
- (e) Upon obtaining payment from the account, the consumer assigns his rights to enforce the judgment to the Division.

6. If a consumer files a complaint pursuant to this section, the Division or its designee shall act upon the complaint not later than 60 days after the date on which the complaint is filed with the Division, unless the Division:

- (a) Determines that the complaint involves complex issues that may not reasonably be resolved within 60 days; and
 - (b) Notifies the interested parties, in writing, that the time for acting on the complaint will be extended. If the Division provides such notice to the interested parties, the Division shall act upon the complaint not later than 180 days after the date on which the complaint is filed with the Division.
- (Added to NRS by 2003, [1820](#); A 2003, [2883](#))

NRS 598.374 Recovery from Fund: Eligibility; limitations on payment; subrogation of claim.

1. Except as otherwise provided in subsection 2, a consumer is eligible for recovery from the account if:

- (a) The Division or its designee, after conducting a hearing on a complaint filed pursuant to the provisions of subsection 1 of [NRS 598.373](#), finds that the consumer suffered actual damages as a result of:
 - (1) Any act of fraud or misrepresentation by the seller of travel acting in his capacity as a seller of travel;
 - (2) The bankruptcy of the seller of travel;
 - (3) The breach of any contract entered into by the seller of travel in his capacity as a seller of travel; or
 - (4) The violation by the seller of travel of any provision of [NRS 598.305](#) to [598.395](#), inclusive; or
- (b) The consumer complies with the provisions of subsection 5 of [NRS 598.373](#) for the recovery of a judgment from the account.

2. A consumer is not eligible for recovery from the account if:

- (a) The consumer is the spouse of the seller of travel or is a personal representative of the spouse of the seller of travel;
- (b) The consumer was associated in a business relationship with the seller of travel other than with regard to the travel services or vacation certificate at issue;
- (c) At the time the consumer paid money to the seller of travel for the purchase of the travel services or vacation certificate at issue, the seller of travel was not registered with the Division as required by [NRS 598.365](#); or
- (d) The consumer is seeking recovery of losses which were incurred by the consumer as the result of a cancellation penalty that:
 - (1) Was fully disclosed and agreed to by the consumer at the time the consumer entered into the contract for the purchase of the travel services or vacation certificate at issue; and
 - (2) Was imposed against the consumer, in accordance with the terms of the contract, after the cancellation of the travel services or vacation certificate at issue.

3. If the Division or its designee finds that a consumer is eligible for recovery from the account pursuant to this section, the Division or its designee may pay out of the account:

(a) If the complaint was filed pursuant to subsection 1 of [NRS 598.373](#), the amount of actual damages suffered, but not to exceed \$10,000; or

(b) If the complaint was filed pursuant to subsection 5 of [NRS 598.373](#), the amount of actual damages included in the judgment and remaining unpaid, but not to exceed \$10,000.

4. If a consumer has recovered a portion of his losses from sources other than the account, the Division shall deduct the amount recovered from the other sources from the amount payable upon the claim and direct the difference to be paid from the account.

5. To the extent that payments are made from the account to a consumer, the Division is subrogated to the rights of the consumer. The Division and the Attorney General shall promptly enforce all subrogation claims.

6. The amount of recovery from the account based upon claims made against any single seller of travel:

(a) Must not exceed \$200,000; and

(b) For any single action of the seller of travel, must not exceed 20 percent of the balance of the account.

(Added to NRS by 2003, [1821](#); A 2003, [2884](#))

Security Deposited by Seller

NRS 598.375 Security required for registration: Form; term; amount; records; rejection for nonconformance; change in form; inadequate amount; exception.

1. Except as otherwise provided in subsection 8, each seller of travel shall deposit with the Division:

(a) A bond executed by a corporate surety approved by the Commissioner and licensed to do business in this state;

(b) An irrevocable letter of credit for which the seller of travel is the obligor, issued by a bank whose deposits are federally insured; or

(c) A certificate of deposit in a financial institution which is doing business in this state and which is federally insured or insured by a private insurer approved pursuant to [NRS 678.755](#). The certificate of deposit may be withdrawn only on the order of the Commissioner, except that the interest may accrue to the seller of travel.

2. The term of the bond, letter of credit or certificate of deposit, or any renewal thereof, must be not less than 1 year.

3. The amount of the bond, letter of credit or certificate of deposit, or any renewal thereof, must be \$50,000.

4. If the seller of travel deposits a bond, the seller of travel shall keep accurate records of the bond and the payments made on the premium. The records must be open to inspection by the Division during business hours. The seller of travel shall notify the Division not later than 30 days before the date of expiration of the bond and provide written proof of the renewal of the bond to the Division.

5. The Commissioner may reject any bond, letter of credit or certificate of deposit that fails to comply with the requirements of this chapter.

6. A seller of travel may change the form of security that he has deposited with the Division. If the seller of travel changes the form of the security, the Commissioner may retain for not more than 1 year any portion of the security previously deposited by the seller of travel as security for claims arising during the time the previous security was in effect.

7. If the amount of the deposited security falls below the amount required by this chapter for that security, the seller of travel shall be deemed not to be registered as required by [NRS 598.365](#) for the purposes of this chapter.

8. The provisions of this section do not apply to a seller of travel who:

(a) Is accredited by and appointed as an agent of the Airlines Reporting Corporation; or

(b) Maintains a trust account in accordance with the provisions of [NRS 598.361](#).

(Added to NRS by 2001, [2147](#); A 2003, [1826](#), [2876](#), [2889](#))

NRS 598.385 Rights and remedies of injured consumers; resolution by Division of claims against security; regulations.

1. The security required to be deposited by a seller of travel pursuant to [NRS 598.375](#) must be held in trust for consumers injured as a result of:

(a) Any act of fraud or misrepresentation by the seller of travel acting in his capacity as a seller of travel;

(b) The bankruptcy of the seller of travel; or

(c) The breach of any contract entered into by the seller of travel in his capacity as a seller of travel.

2. A consumer so injured may bring and maintain an action in any court of competent jurisdiction to recover against the security.

3. The Division may bring an action for interpleader against all claimants upon the security. If the Division brings such an action, the Division shall publish notice of the action at least once each week for 2 weeks in a newspaper of general circulation in the county in which the seller of travel has its principal place of business. The Division may deduct its costs of the action, including the costs of the publication of the notice, from the amount of the security. All claims against the security have equal priority. If the security is insufficient to pay all the claims in full, the claims must be paid pro rata. If the seller of travel has posted a bond with the Division, the surety is then relieved of all liability under the bond.

4. The Division may, in lieu of bringing an action for interpleader pursuant to subsection 3, conduct a hearing to determine the distribution of the security to claimants. The Division shall adopt regulations to provide for adequate notice and the conduct of the hearing. If the seller of travel has posted a bond with the Division, distribution pursuant to this subsection relieves the surety of all liability under the bond.

5. If the security is sufficient to pay all claims against the security in full, the Division may deduct from the amount of the security, the cost of any investigation or hearing it conducted to determine the distribution of the security.

(Added to NRS by 2001, [2148](#); A 2003, [1826](#), [2889](#))

NRS 598.395 Release of security if seller ceases to operate or registration expires.

1. If no claims have been filed against the security deposited with the Division pursuant to [NRS 598.375](#) within 6 months after the seller of travel ceases to operate or his registration expires, whichever occurs later, the Commissioner shall release the security to the seller of travel and shall not audit any claims filed against the security thereafter by consumers.

2. If one or more claims have been filed against the security within 6 months after the seller of travel ceases to operate or his registration expires, whichever occurs later, the proceeds must not be released to the seller of travel or distributed to any consumer earlier than 1 year after the seller of travel ceases to operate or his registration expires, whichever occurs later.

3. For the purposes of this section, the Commissioner shall determine the date on which a seller of travel ceases to operate.

(Added to NRS by 2001, [2149](#); A 2003, [1826](#), [2889](#))