

SB 296 by **Brandes**; (Identical to H 00669) Beverage Law

959746 D S RCS RI, Brandes Delete everything after 12/08 09:47 AM

SB 314 by **Baxley**; (Identical to H 00193) Mortgage Brokering

SB 374 by **Young**; (Similar to H 00223) Fantasy Contests

402748 D S RCS RI, Young Delete everything after 12/08 08:34 AM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Hutson, Chair
Senator Hukill, Vice Chair

MEETING DATE: Thursday, December 7, 2017
TIME: 12:30—3:30 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Office Building

MEMBERS: Senator Hutson, Chair; Senator Hukill, Vice Chair; Senators Benacquisto, Bracy, Brandes, Braynon, Gibson, Steube, Thurston, and Young

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 296 Brandes (Identical H 669)	Beverage Law; Repealing provisions relating to limitations on the size of individual wine containers; authorizing the packaging, filling, refilling, or sale of cider in growlers; revising provisions authorizing a restaurant to allow a patron to remove certain containers from a restaurant for off-premises consumption, etc. RI 12/07/2017 Fav/CS CM RC	Fav/CS Yeas 10 Nays 0
2	SB 314 Baxley (Similar S 282, Identical H 193)	Mortgage Brokering; Providing an exemption from regulation under parts I and II of ch. 494, F.S., for certain securities dealers, investment advisers, and associated persons, etc. RI 12/07/2017 Favorable BI RC	Favorable Yeas 8 Nays 0
3	SB 374 Young (Similar H 223, Compare S 840)	Fantasy Contests; Prohibiting certain fantasy contests; exempting fantasy contests from certain regulations, etc. RI 12/07/2017 Fav/CS RC	Fav/CS Yeas 8 Nays 1

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: CS/SB 296

INTRODUCER: Regulated Industries Committee and Senator Brandes

SUBJECT: Beverage Law

DATE: December 7, 2017 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	McSwain	RI	Fav/CS
2.			CM	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 296 repeals the limits on the size of a wine container, which in current law may not hold more than one gallon, unless the container is reusable and holds 5.16 gallons.

The bill also repeals the limits on the size of a cider container, which in current law may not hold more than 32 ounces of cider. However, current law permits cider to be packaged and sold in bulk, in kegs or barrels, or in any individual container of one gallon or more of cider, regardless of container type.

The bill amends the current provision that permits a restaurant patron to take home a partially consumed bottle of wine under certain conditions, to revise the requirement that a restaurant patron must purchase and consume a full course meal (consisting of an entrée, salad or vegetable, beverage, and bread) in order to be able to take home a partially consumed bottle of wine. The bill replaces that requirement with a requirement that a restaurant patron purchase only a meal with the bottle of wine.

The effective date of the bill is July 1, 2018.

II. Present Situation:

Division of Alcoholic Beverages and Tobacco

The Division of Alcoholic Beverages and Tobacco (division)¹ within the Department of Business and Professional Regulation administers and enforces the Beverage Law,² which regulates the manufacture, distribution, and sale of wine, beer, and liquor. The division is also responsible for the administration and enforcement of tobacco products under ch. 569, F.S.

Wine and Cider Containers

Section 564.05, F.S., prohibits the sale of wine in an individual container that holds more than one gallon of wine. However, wine may be sold in a reusable container of 5.16 gallons. Distributors and manufacturers may sell wine to other distributors and manufacturers in containers of any size. Any person who violates the prohibition in s. 564.05, F.S., commits a second degree misdemeanor.³

Section 564.055, F.S., prohibits the sale of cider⁴ at retail in any individual container of more than 32 ounces of cider. However, cider may be packaged and sold in bulk, in kegs or barrels, or in any individual container of one gallon or more of cider, regardless of container type.

Restaurants - Off-Premises Consumption of Wine

Restaurants licensed to sell wine on the premises may permit patrons to remove one bottle of wine for consumption off the licensed premises under the following conditions:

- The patron must have purchased a full-course meal consisting of a salad or vegetable, entrée, a beverage, and bread and consumed a portion of the bottle of wine with the meal;
- Before the partially-consumed bottle of wine is removed from the premises, the bottle must be securely resealed by the licensee, or the licensee's employee, and placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been opened or tampered with after having been sealed;
- A dated receipt for the wine and meal must be attached to the container; and
- The container must be placed in a locked glove compartment, trunk, or other area behind the last upright seat of a motor vehicle that does not have a trunk.⁵

¹ Section 561.02, F.S. Section 561.01(6), F.S., provides that the "Beverage Law" means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

² See s. 561.14, F.S.

³ Section 775.082, F.S., provides the penalty for a misdemeanor of the second degree is a term of imprisonment not exceeding 60 days. Section 775.083, F.S., provides the penalty for a misdemeanor of the second degree is a fine not to exceed \$500.

⁴ Section 564.06(4), F.S., provides that "cider" is "made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including but not limited to flavored, sparkling, or carbonated cider and cider made from condensed apple or pear must, that contain not less than one-half of 1 percent of alcohol by volume and not more than 7 percent of alcohol by volume." "Must" is the expressed juice of a fruit before and during fermentation. See <https://www.merriam-webster.com/dictionary/must> (last visited December 6, 2017).

⁵ Section 564.09, F.S.

III. Effect of Proposed Changes:**Wine Containers**

Section 1 repeals the wine container size limits in s. 564.05, F.S.

Cider Containers

Section 2 repeals the cider container size limits in s. 564.055, F.S.

Restaurants - Off-Premises Consumption of Wine and Beer

Section 3 amends s. 564.09, F.S., to revise the requirement that a restaurant patron must purchase and consume a full course meal in order to be able to take home a partially consumed bottle of wine. The bill retains the requirement that the restaurant patron purchase a meal with the bottle of wine.

Effective Date

Section 4 provides the bill takes effect July 1, 2018.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The provisions repealing the limits on the size of wine containers and revising the conditions under which a restaurant patron may be permitted to take home a partially consumer bottle of wine in CS/SB 296 are substantively identical to provisions in CS/CS/SB 388 (2017 Regular Session), by the Rules Committee, Regulated Industries Committee, and Senator Hutson, which were amended onto the bill by the Rules Committee and passed by the Senate.⁶ The provisions in SB 296 also were passed by the Regulated Industries Committee in CS/SB 400 during the 2017 Regular Session.⁷

VIII. Statutes Affected:

This bill repeals the following sections of the Florida Statutes: 564.05 and 564.055.

This bill substantially amends section 564.09 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries Committee on December 7, 2017:

The committee substitute:

- Removes from the bill the provision permitting the sale of cider in 32 ounce, 64 ounce, or one gallon growlers in the same manner and with the same restrictions applicable to malt beverages;
- Repeals s. 564.055, F.S., relating to the container size limitations for cider; and
- Removes from the bill the provision that would permit a restaurant patron to take home a partially consumed and resealed bottle of beer.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁶ See Amendment #379250 (2017 Regular Session) offered by Senator Brandes in the Rules Committee on April 12, 2017. The Senate passed CS/CS/SB 388 on April 19, 2017, by a vote of 36-1. (Subsequently, CS/CS/SB 388 was amended by the House of Representatives to remove provisions unrelated to provisions in SB 296 and died in Returning Messages.)

⁷ See Substitute Amendment #323682 and Amendment #193132 to Substitute Amendment #323682 (both offered by Senator Brandes) to SB 400 by Senator Perry, which were adopted by the Regulated Industries Committee on March 16, 2016. (Those provisions subsequently were removed from CS/CS/SB 400 by Amendment #887606 offered by Senator Perry, which was adopted by the Senate on April 27, 2017. CS/CS/CS/HB 689 (2017 Regular Session) was substituted for CS/CS/SB 400 and CS/CS/SB 400 then was laid on the table. CS/CS/CS/HB 689 was enacted into law as Ch. 2017-137, Laws of Fla.)

The Florida Senate COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 296
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Thursday, December 7, 2017
TIME: 12:30—3:30 p.m.
PLACE: 110 Senate Office Building

FINAL VOTE		SENATORS	Brandes					
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Benacquisto						
X		Bracy						
X		Brandes						
X		Braynon						
X		Gibson						
X		Steube						
X		Thurston						
X		Young						
X		Hukill, VICE CHAIR						
X		Hutson, CHAIR						
10	0	TOTALS	RCS	-				
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting



959746

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/08/2017	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 564.05, Florida Statutes, is repealed.

Section 2. Section 564.055, Florida Statutes, is repealed.

Section 3. Section 564.09, Florida Statutes, is amended to
read:

564.09 Restaurants; off-premises consumption of wine.—

Notwithstanding any other provision of law, a restaurant



959746

11 licensed to sell wine on the premises may permit a patron to
12 remove one unsealed bottle of wine for consumption off the
13 premises if the patron has purchased a ~~full-course~~ meal
14 ~~consisting of a salad or vegetable, entree, a beverage, and~~
15 ~~bread~~ and consumed a portion of the bottle of wine ~~with such~~
16 ~~meal~~ on the restaurant premises. A partially consumed bottle of
17 wine that is to be removed from the premises must be securely
18 resealed by the licensee or its employees before removal from
19 the premises. The partially consumed bottle of wine shall be
20 placed in a bag or other container that is secured in such a
21 manner that it is visibly apparent if the container has been
22 subsequently opened or tampered with, and a dated receipt for
23 the bottle of wine and ~~full-course~~ meal shall be provided by the
24 licensee and attached to the container. If transported in a
25 motor vehicle, the container with the resealed bottle of wine
26 must be placed in a locked glove compartment, a locked trunk, or
27 the area behind the last upright seat of a motor vehicle that is
28 not equipped with a trunk.

29 Section 4. This act shall take effect July 1, 2018.

30
31 ===== T I T L E A M E N D M E N T =====

32 And the title is amended as follows:

33 Delete everything before the enacting clause
34 and insert:

35 A bill to be entitled
36 An act relating to the Beverage Law; repealing s.
37 564.05, F.S., relating to limitations on the size of
38 individual wine containers; repealing s. 564.055,
39 F.S., relating to limitations on the size of



959746

40 individual cider containers; amending s. 564.09, F.S.;

41 revising provisions authorizing a restaurant to allow

42 a patron to remove bottles of wine from a restaurant

43 for off-premises consumption; providing an effective

44 date.

By the Committee on Regulated Industries; and Senator Brandes

580-01836-18

2018296c1

1 A bill to be entitled
2 An act relating to the Beverage Law; repealing s.
3 564.05, F.S., relating to limitations on the size of
4 individual wine containers; repealing s. 564.055,
5 F.S., relating to limitations on the size of
6 individual cider containers; amending s. 564.09, F.S.;
7 revising provisions authorizing a restaurant to allow
8 a patron to remove bottles of wine from a restaurant
9 for off-premises consumption; providing an effective
10 date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Section 564.05, Florida Statutes, is repealed.

15 Section 2. Section 564.055, Florida Statutes, is repealed.

16 Section 3. Section 564.09, Florida Statutes, is amended to
17 read:

18 564.09 Restaurants; off-premises consumption of wine.—
19 Notwithstanding any other provision of law, a restaurant
20 licensed to sell wine on the premises may permit a patron to
21 remove one unsealed bottle of wine for consumption off the
22 premises if the patron has purchased a ~~full-course~~ meal
23 ~~consisting of a salad or vegetable, entree, a beverage, and~~
24 ~~bread~~ and consumed a portion of the bottle of wine ~~with such~~
25 ~~meal~~ on the restaurant premises. A partially consumed bottle of
26 wine that is to be removed from the premises must be securely
27 resealed by the licensee or its employees before removal from
28 the premises. The partially consumed bottle of wine shall be
29 placed in a bag or other container that is secured in such a

580-01836-18

2018296c1

30 manner that it is visibly apparent if the container has been
31 subsequently opened or tampered with, and a dated receipt for
32 the bottle of wine and ~~full-course~~ meal shall be provided by the
33 licensee and attached to the container. If transported in a
34 motor vehicle, the container with the resealed bottle of wine
35 must be placed in a locked glove compartment, a locked trunk, or
36 the area behind the last upright seat of a motor vehicle that is
37 not equipped with a trunk.

38 Section 4. This act shall take effect July 1, 2018.



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: October 3, 2017

I respectfully request that **Senate Bill #296**, relating to **Beverage Law**, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12-7

Meeting Date

296

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Andrew Hosek

Job Title Analyst

Address 200 W College

Phone _____

Street

Tallahassee

City

FL

State

Zip

Email ahosek@afphq.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Americans for Prosperity

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

December 7, 2017

Meeting Date

296

Bill Number (if applicable)

Topic Beverage Law

Amendment Barcode (if applicable)

Name Josh Aubuchon

Job Title attorney

Address 315 South Calhoun Suite 600

Phone 224-7000

Street

Tallahassee

City

FL

State

32301

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Brewers Guild

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/07/2017

Meeting Date

SB 296

Bill Number (if applicable)

Topic Beverage Law

Amendment Barcode (if applicable)

Name Warren Husband

Job Title _____

Address PO Box 10909

Phone (850)205-9000

Street

Tallahassee

FL

32302

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Restaurant and Lodging Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Dec. 7, 2017

Meeting Date

296

Bill Number (if applicable)

Topic Beverage Law

Amendment Barcode (if applicable)

Name Jason Unger

Job Title GrayRobinson

Address 301 South Bronough Street #600

Phone 577-9090

Street

Tallahassee

FL

32301

Email junger@gray-robinson.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Seavin wineries (Lakeridge and San Sebastian wineries)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SB 314

INTRODUCER: Senator Baxley

SUBJECT: Mortgage Brokering

DATE: December 7, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>McSwain</u>	<u>RI</u>	<u>Favorable</u>
2.	_____	_____	<u>BI</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 314 exempts a securities dealer, investment advisor, or associated person registered under ch. 517, F.S., from regulation as a loan originator or mortgage broker under ch. 494, F.S., if the person in the normal course of conducting securities business with corporate or individual clients:

- Solicits or offers to solicit a mortgage loan from a securities client, or refers a securities client to an entity exempt from regulation under parts I or II of ch. 494, F.S., pursuant to s. 494.00115, F.S., a licensed mortgage broker, a licensed mortgage lender, or a registered loan originator; and
- Does not accept or offer to accept a mortgage loan application, negotiate or offer to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender, or negotiate or offer to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain.

Any referral or solicitation made under this exemption must comply with the provisions of ch. 517, F.S., the federal Real Estate Settlement Procedures Act, and any applicable federal law or general law of this state.

The bill may have an insignificant, negative fiscal impact to state government. *See* Section V, Fiscal Impact Statement.

The bill provides an effective date of July 1, 2018.

II. Present Situation:

State Regulation of Non-Depository Mortgage Business

The Office of Financial Regulation (OFR) regulates state-chartered banks, credit unions, other financial institutions, as well as finance companies, and the securities industry.¹ The OFR's Division of Consumer Finance licenses and regulates various aspects of the non-depository financial services industries, including individuals and businesses engaged in the mortgage business.

Under ch. 494, F.S., the OFR licenses and regulates the following individuals and businesses:

- **Loan originator**, who, directly or indirectly, solicits or offers to solicit a mortgage loan, accepts or offers to accept an application for a mortgage loan, negotiates or offers to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender, or negotiates or offers to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain. The term includes an individual who is required to be licensed as a loan originator under the S.A.F.E. Mortgage Licensing Act of 2008.² The term does not include an employee of a mortgage broker or mortgage lender whose duties are limited to physically handling a completed application form or transmitting a completed application form to a lender on behalf of a prospective borrower.³
- **Mortgage broker**, who conducts loan originator activities through one or more licensed loan originators employed by the mortgage broker or as independent contractors to the mortgage broker.⁴
- **Mortgage lender**, who makes a mortgage loan or services a mortgage loan for others, or, for compensation or gain, directly or indirectly, sells or offers to sell a mortgage loan to a noninstitutional investor.⁵ A mortgage lender may act as a mortgage broker.⁶

Under ch. 494, F.S., these licensees are subject to:

- Requirements for the maintenance of books and records relating to the licensee's compliance with the chapter, with regard to expenses paid by the licensee on behalf of the borrower, and relating to its advertisements.⁷
- The OFR's investigation and examination authority.⁸
- The OFR's enforcement authority, such as injunctions, cease and desist orders, suspension or revocation of licensure, and administrative fines.⁹

¹ Section 20.121(3)(a)2. and (d), F.S. The OFR is housed within the Financial Services Commission (commission). The commission is a separate budget entity under the Department of Financial Services (DFS), and is not subject to the control or supervision by the DFS. The commission, comprised of the Governor and Cabinet, appoints the OFR Commissioner.

² The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act) (12 U.S.C. s. 5101-5116), enacted on July 30, 2008, establishes minimum standards for the licensing and registration of state-licensed mortgage loan originators, and mandates a nationwide licensing and registration system for residential mortgage loan originators.

³ Section 494.001(17), F.S.

⁴ Section 494.001(22), F.S.

⁵ Section 494.001(23), F.S.

⁶ Section 494.0073, F.S.

⁷ Sections 494.0016 and 494.00165(2), F.S.

⁸ Section 494.0012, F.S.

⁹ Sections 494.0013, 494.0014, and 494.00255, F.S.

In order to obtain a license as a mortgage loan originator, an individual must:¹⁰

- Be at least 18 years of age and have a high school diploma or its equivalent;
- Complete a 20-hour prelicensing class;¹¹
- Pass a written test;¹²
- Submit an application form;
- Submit nonrefundable application fees totaling \$215;
- Submit fingerprints, the cost of which is borne by the applicant; and
- Authorize access to his or her credit report, the cost of which is borne by the applicant.

In order to obtain a license as a mortgage broker, a person must:¹³

- Submit an application form, which must designate a qualified principal loan originator;
- Submit nonrefundable application fees totaling \$525;
- Submit fingerprints for each of the applicant's control persons,¹⁴ the cost of which is borne by the person subject to the background check; and
- Authorize access to the credit reports on each of the applicant's control persons, the cost of which is borne by the applicant.

In order to obtain licensure as a mortgage lender, a person must:¹⁵

- Submit an application form, which must designate a qualified principal loan originator;
- Submit nonrefundable application fees totaling \$600;
- Submit fingerprints for each of the applicant's control persons, the cost of which is borne by the person subject to the background check;
- Submit a copy of the applicant's financial audit report for the most recent fiscal year, which must document that the applicant has a net worth of at least \$63,000 if the applicant is not seeking a servicing endorsement, or at least \$250,000 if the applicant is seeking a servicing endorsement; and
- Authorize access to the credit reports of each of the applicant's control persons, the cost of which is borne by the applicant.

A mortgage loan originator, broker, and lender license must be annually renewed by December 31.¹⁶ In order to renew:

- A mortgage loan originator license, an individual must submit a renewal form and nonrefundable renewal fees totaling \$170; provide documentation of completion of at least

¹⁰ Section 494.00312, F.S.

¹¹ The cost of prelicensing courses may vary by course provider, but one such course provider charges \$349 for the required 20-hour course. See MortgageEducation.com, Mortgage Loan Originator Courses, <https://www.mortgage-education.com/StatePage.aspx?StateCode=FL> (last visited November 1, 2017).

¹² The cost of written test is \$110. See Nationwide Multistate Licensing System & Registry, Uniform State Test (UST) Implementation Information, <http://mortgage.nationwidelicingsystem.org/profreq/testing/Pages/UniformStateTest.aspx> (last visited November 1, 2017).

¹³ Section 494.00321, F.S.

¹⁴ "Control persons" is defined in s. 494.001(6), F.S., to mean, in part, "an individual, partnership, corporation, trust, or other organization that possesses the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise."

¹⁵ Section 494.00611, F.S.

¹⁶ Sections 494.00312(7), 494.00321(7), and 494.00611, F.S.

eight hours of continuing education courses;¹⁷ and authorize access to his or her credit report, the cost of which is borne by the licensee.¹⁸

- A mortgage broker license, a person must submit a renewal form and nonrefundable renewal fees totaling \$475; submit fingerprints for any new control persons who have not been screened; and authorize access to the credit reports of each of the mortgage broker's control persons, the cost of which is borne by the licensee.¹⁹
- A mortgage lender license, a person must submit a renewal form and nonrefundable renewal fees totaling \$575; submit fingerprints for any new control persons who have not been screened; submit proof that the mortgage lender continues to meet the applicable net worth requirement; and authorize access to the credit reports of each of the mortgage lender's control persons, the cost of which is borne by the licensee.²⁰

The following persons are exempt from mortgage broker and mortgage lender regulation under ch. 494, F.S.:²¹

- Any person operating exclusively as a registered loan originator²² in accordance with the S.A.F.E. Act.
- A depository institution; certain regulated subsidiaries owned and controlled by a depository institution; or institutions regulated by the Farm Credit Administration.
- The Federal National Mortgage Association; the Federal Home Loan Mortgage Corporation; any agency of the Federal Government; any state, county, or municipal government; or any quasi-governmental agency that acts in such capacity under the specific authority of the laws of any state or the United States.
- An attorney licensed in this state who negotiates the terms of a mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client.
- A person involved solely in the extension of credit relating to the purchase of a timeshare plan.
- A person who performs only real estate brokerage activities and is licensed or registered in this state under part I of ch. 475, F.S., unless the person is compensated by a lender, a mortgage broker, or other loan originator or by an agent of such lender, mortgage broker, or other loan originator.

The following persons are exempt from the mortgage lender licensing requirements of ch. 494, F.S.:²³

- A person acting in a fiduciary capacity conferred by the authority of a court.
- A person who, as a seller of his or her own real property, receives one or more mortgages in a purchase money transaction.

¹⁷ See note 11.

¹⁸ Section 494.00313, F.S.

¹⁹ Section 494.00322, F.S.

²⁰ Section 494.00612, F.S.

²¹ Section 494.00115(1), F.S.

²² Section 494.001(31), F.S., defines a "registered loan originator" as "a loan originator who is employed by a depository institution, by a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or by an institution regulated by the Farm Credit Administration, and who is registered with and maintains a unique identifier through the [Nationwide Mortgage Licensing System and Registry]." A registered loan originator must comply with federal registration requirements rather than the loan originator licensing requirements under ch. 494, F.S.

²³ Section 494.00115(2), F.S.

- A person who acts solely under contract and as an agent for federal, state, or municipal agencies for the purpose of servicing mortgage loans.
- A person who makes only nonresidential mortgage loans and sells loans only to institutional investors.
- An individual making or acquiring a mortgage loan using his or her own funds for his or her own investment, and who does not hold himself or herself out to the public as being in the mortgage lending business.
- An individual selling a mortgage that was made or purchased with that individual's funds for his or her own investment, and who does not hold himself or herself out to the public as being in the mortgage lending business.

Federal Real Estate Settlement Procedures Act of 1974

The federal Real Estate Settlement Procedures Act²⁴ (the Act) became effective on June 20, 1975.²⁵ The Act requires lenders, mortgage brokers, or servicers of home loans to provide borrowers with pertinent and timely disclosures regarding the nature and costs of the real estate settlement process. In addition, the Act prohibits specific practices, such as kickbacks,²⁶ and places limitations upon compensation and fees.²⁷

Federal Securities Regulation

The federal Securities Exchange Act of 1934 ('34 Act) requires registration of securities market participants like broker-dealers and exchanges.²⁸ Generally, any person acting as “broker” or “dealer” as defined in the '34 Act must be registered with the Securities and Exchange Commission (SEC) and join a self-regulatory organization (SRO), like the Financial Industry Regulatory Authority (FINRA) or a national securities exchange.

The '34 Act broadly defines “broker” as “any person engaged in the business of effecting transactions in securities for the account of others,” which the SEC has interpreted to include involvement in any of the key aspects of a securities transaction, including solicitation, negotiation, and execution.²⁹ A “dealer” is “any person engaged in the business of buying and selling securities . . . for such person's own account through a broker or otherwise.”³⁰

State Securities Regulation

In addition to federal securities laws, “Blue Sky Laws” are state laws designed to protect investors against fraudulent sales practices and activities by requiring companies making

²⁴ 12 U.S.C. ss. 2601 et seq.

²⁵ 12 CFR Part 1024 (Regulation X) implements RESPA.

²⁶ 12 CFR s. 1024.14.

²⁷ *Id.*

²⁸ See 15 U.S.C. s. 78l, relating to registration requirements for securities.

²⁹ 15 U.S.C. ss. 78c(4) and 78o. U.S. Securities and Exchange Commission, Guide to Broker-Dealer Registration, <https://www.sec.gov/reportspubs/investor-publications/divisionsmarketregbdguidehtm.html> (last visited November 1, 2017).

³⁰ 15 U.S.C. s. 78c(5).

offerings of securities to register their offerings before they can be sold in that state and by requiring licensure for brokerage firms, their brokers, and investment adviser representatives.³¹

In Florida, the OFR's Division of Securities oversees the Securities and Investor Protection Act, ch. 517, F.S. (act), which regulates the offer and sale of securities in, to, or from Florida by firms, branch offices, and individuals affiliated with these firms. The act requires the following individuals or businesses to be registered with the OFR under s. 517.12, F.S., in order for such persons to sell or offer to sell any securities in or from offices in this state, or to sell securities to persons in this state from offices outside this state.³²

- **Dealers**, which include:³³
 - Any person, other than an associated person registered under ch. 517, F.S., who engages, either for all or part of her or his time, directly or indirectly, as broker or principal in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.
 - Any issuer who through persons directly compensated or controlled by the issuer engages, either for all or part of her or his time, directly or indirectly, in the business of offering or selling securities which are issued or are proposed to be issued by the issuer.
- **Investment advisors**, which include:³⁴
 - Any person who receives compensation, directly or indirectly, and engages for all or part of her or his time, directly or indirectly, or through publications or writings, in the business of advising others as to the value of securities or as to the advisability of investments in, purchasing of, or selling of securities, except a dealer whose performance of these services is solely incidental to the conduct of her or his business as a dealer and who receives no special compensation for such services.
 - But does not include a "federal covered advisor."³⁵
- **Associated persons**, with respect to a dealer or investment adviser, include:³⁶
 - Any partner, officer, director, or branch manager of a dealer or investment adviser or any person occupying a similar status or performing similar functions;
 - Any natural person directly or indirectly controlling or controlled by such dealer or investment adviser, other than an employee whose function is only clerical or ministerial; or
 - Any natural person, other than a dealer, employed, appointed, or authorized by a dealer, investment adviser, or issuer to sell securities in any manner or act as an investment adviser as defined in this section.
- **Associated persons**, with respect to a federal covered adviser, includes any person who is an investment adviser representative and who has a place of business in this state.

³¹ U.S. Securities and Exchange Commission, Blue Sky Laws, <http://www.sec.gov/answers/bluesky.htm> (last visited November 1, 2017).

³² Section 517.12(1), F.S.

³³ Section 517.021(6)(a), F.S.

³⁴ Section 517.021(14)(a), F.S.

³⁵ Section 517.021(9) and (14)(b)9., F.S. A federal covered advisor must be registered under federal law and must provide a notice-filing to the OFR pursuant to ss. 517.021 and 517.1201, F.S.

³⁶ Section 517.021(2)(a), F.S.

Wells Fargo Declaratory Statement

In May 2016, Wells Fargo Advisors, LLC (Wells Fargo), filed a petition for a declaratory statement³⁷ with the OFR to determine whether it would be in compliance with ch. 494, F.S., if it were to start compensating its financial advisors for certain mortgage loan originator activities that it argued were purely incidental to the otherwise authorized securities and investment activities for Wells Fargo and its financial advisors.³⁸

Wells Fargo is a full-service broker-dealer firm subject to supervision by the SEC and the OFR.³⁹ Wells Fargo is indirectly owned by Wells Fargo & Co., a bank holding company that also owns certain national banks.⁴⁰ Therefore, Wells Fargo is affiliated with such banks through common ownership.⁴¹

Despite the fact Wells Fargo holds a mortgage broker license and many of its financial advisors hold a license as a mortgage loan originator, Wells Fargo and its financial advisors do not:

- Solicit the general public for mortgage loans;
- Solicit lenders on behalf of borrowers;
- Take, complete, accept, or assist in preparing applications for any mortgage loans;
- Negotiate the interest rate, terms or conditions for new or existing mortgage loans; or
- Offer any mortgage loans to borrowers.⁴²

If Wells Fargo's securities clients raise issues about other financial matters, such as a business need for a residential mortgage, the financial advisors may inform securities clients that the affiliated banks make mortgage loans and may provide bank-approved material.⁴³ If a securities client contacts an affiliated bank regarding a mortgage loan and ultimately obtains mortgage financing, Wells Fargo provides "additional compensation" to the financial advisor who interacted with the particular client.⁴⁴ Neither Wells Fargo nor the financial advisor, however, receives a fee of any kind from either the securities client obtaining the mortgage loan, or the affiliated bank making the mortgage loan.⁴⁵ Wells Fargo and the financial advisor do not have any additional involvement with the affiliated banks' mortgage loan origination process.⁴⁶

The determinative issues in the Declaratory Statement and Final Order issued by the OFR (OFR Declaratory Statement) were: 1) the prohibition against a mortgage broker paying a commission to any person not licensed or exempt from licensure under ch. 494, F.S.;⁴⁷ 2) permitting

³⁷ Pursuant to s. 120.565(1), F.S., "any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances."

³⁸ *In Re Petition for Declaratory Statement, Wells Fargo Advisors, LLC*, Case No. 66425, pp. 1 and 4-6 (Fla. OFR Aug. 15, 2016).

³⁹ *Id.* at 2.

⁴⁰ *Id.* at 3.

⁴¹ *Id.*

⁴² *Id.* at pp. 3 and 5.

⁴³ *Id.* at pp. 3-4.

⁴⁴ *Id.* at p. 4.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Section 494.0038(2), F.S.

“additional compensation” related to the mortgage loans to be paid to the financial adviser; and 3) the referral aspect of the above set of facts.⁴⁸

The OFR Declaratory Statement concluded both the compensation and the referral require Wells Fargo be licensed as either a mortgage broker or mortgage lender and require its financial advisors be licensed as mortgage loan originators.⁴⁹

III. Effect of Proposed Changes:

SB 314 amends s. 494.00115, F.S., to exempt a securities dealer, investment advisor, or associated person registered under ch. 517, F.S., from regulation as a loan originator or mortgage broker under ch. 494, F.S., if the person in the normal course of conducting securities business with corporate or individual clients:

- Solicits or offers to solicit a mortgage loan from a securities client, or refers a securities client to an entity exempt from regulation under parts I or II of ch. 494, F.S., pursuant to s. 494.00115, F.S.,⁵⁰ a licensed mortgage broker, a licensed mortgage lender, or a registered loan originator; and
- Does not accept or offer to accept an application for a mortgage loan, negotiate or offer to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender, or negotiate or offer to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain.

Any referral or solicitation made pursuant to this exemption must comply with ch. 517, F.S., the federal Real Estate Settlement Procedures Act, and any other applicable federal law or general law of this state.

The bill provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁴⁸ Declaratory Statement and Final Order, *In Re: Petition for Declaratory Statement, Wells Fargo Advisors, LLC*, Case No. 66425 (Fla. OFR Aug. 15, 2016), at pp. 7-8.

⁴⁹ *Id.* at pp. 8 - 9.

⁵⁰ Section 494.00115(1)(b), F.S., provides an exemption from regulation as a mortgage broker or loan originator under parts I and II of ch. 494, F.S., for a “depository institution; subsidiaries that are owned and controlled by a depository institution and regulated by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, or the Federal Deposit Insurance Corporation; or institutions regulated by the Farm Credit Administration.” The Federal Deposit Insurance Act defines a “depository institution” as a bank or saving association. *See* 12 U.S.C. 1813(c).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may decrease licensing costs for securities dealers, investment advisors, or associated persons exempted from the license requirements under ch. 494, F.S.

C. Government Sector Impact:

The Office of Financial Regulation states the licensure exemption for securities dealers, investment advisors, or associated persons may result in an insignificant loss in revenues.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The provisions in SB 314 relating to the exemption from regulation as a loan originator or mortgage broker under ch. 494, F.S., for securities dealers, investment advisors, and associated persons in certain situations are substantively similar to provisions contained in CS/CS/HB 747 (2017 Regular Session), relating to Mortgage Regulation, by the Commerce Committee, Insurance and Banking Subcommittee, and Rep. Stark.⁵¹ CS/CS/HB 747 passed the Legislature but subsequently was vetoed by the Governor. The Governor's veto was based on the bill's revised definition of the term "mortgage loan" in s. 494.001(24), F.S.⁵² SB 314 does not include the provision that was the basis for the Governor's veto.

VIII. Statutes Affected:

This bill substantially amends section 494.00115 of the Florida Statutes.

⁵¹ The Senate companion was CS/CS/SB 830 (2017 Regular Session) by the Banking and Insurance Committee, the Regulated Industries Committee, and Senator Baxley.

⁵² The Governor's veto of CS/CS/HB 747 was based on his concern the bill's revised definition of the term "mortgage loan" in s. 494.001(24), F.S., would expand the regulatory environment for residential mortgages and add overly prescriptive regulations related to mortgage lending. Specifically, the Governor's veto message noted CS/CS/HB 747 seemed overly burdensome on Florida families because it might have required a parent or other relative who decides to make a residential loan to a child or other loved one to be licensed by Florida Office of Financial Regulation.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 314
FINAL ACTION: Favorable
MEETING DATE: Thursday, December 7, 2017
TIME: 12:30—3:30 p.m.
PLACE: 110 Senate Office Building

Table with 10 columns: FINAL VOTE, Yea, Nay, SENATORS, Yea, Nay, Yea, Nay, Yea, Nay. Includes rows for senators like Benacquisto, Bracy, Brandes, Braynon, Gibson, Steube, Thurston, Young, Hukill, and Hutson, ending with a TOTALS row showing 8 Yea and 0 Nay votes.

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

By Senator Baxley

12-00567-18

2018314__

1 A bill to be entitled
2 An act relating to mortgage brokering; amending s.
3 494.00115, F.S.; providing an exemption from
4 regulation under parts I and II of ch. 494, F.S., for
5 certain securities dealers, investment advisers, and
6 associated persons; providing requirements for certain
7 solicitations and referrals; providing an effective
8 date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Present subsections (2) and (3) of section
13 494.00115, Florida Statutes, are redesignated as subsections (3)
14 and (4), respectively, and a new subsection (2) is added to that
15 section, to read:

16 494.00115 Exemptions.—

17 (2) (a) A securities dealer, an investment adviser, or an
18 associated person registered under s. 517.12 is exempt from
19 regulation under this part and part II of this chapter if such
20 person, in the normal course of conducting securities business
21 with a corporate or an individual client:

22 1. Solicits or offers to solicit a mortgage loan from a
23 securities client or refers a securities client to an entity
24 exempt under paragraph (1) (b), a licensed mortgage broker, a
25 licensed mortgage lender, or a registered loan originator; and

26 2. Does not accept or offer to accept an application for a
27 mortgage loan, negotiate or offer to negotiate the terms or
28 conditions of a new or existing mortgage loan on behalf of a
29 borrower or lender, or negotiate or offer to negotiate the sale

12-00567-18

2018314__

30 of an existing mortgage loan to a noninstitutional investor for
31 compensation or gain.

32 (b) Any solicitation or referral made pursuant to this
33 subsection must comply with chapter 517; the federal Real Estate
34 Settlement Procedures Act, 12 U.S.C. ss. 2601 et seq.; and any
35 applicable federal law or general law of this state.

36 Section 2. This act shall take effect July 1, 2018.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/07/2017

Meeting Date

SB 314

Bill Number (if applicable)

Topic Mortgage Brokering

Amendment Barcode (if applicable)

Name Warren Husband

Job Title _____

Address PO Box 10909

Phone (850)205-9000

Street

Tallahassee

FL

32302

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Securities Industry and Financial Markets Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/7/2017
Meeting Date

SB 314
Bill Number (if applicable)

Topic Mortgage Brokering

Amendment Barcode (if applicable)

Name Katie Crofoot

Job Title Asst. VP of Gov't Affairs

Address 1001 Thomasville Rd.

Phone 350.701.3503

Street Tallahassee FL 32303
City State Zip

Email Kcrofoot@floridabankers.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Bankers Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12-7-2017

Meeting Date

314

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email justice2jesus@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Dec 7
Meeting Date

314
Bill Number (if applicable)

Topic Mortgage Brokers

Amendment Barcode (if applicable)

Name Sean Stafford

Job Title _____

Address 115 East Park Ave
Street
Tallahassee FL
City State Zip

Phone 8507275000

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Securities Dealers Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: CS/SB 374

INTRODUCER: Regulated Industries Committee and Senator Young

SUBJECT: Fantasy Contests

DATE: December 7, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>McSwain</u>	<u>RI</u>	<u>Fav/CS</u>
2.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/ SB 374 creates s. 546.13, F.S. to authorize certain fantasy contests in which participants must pay an entry fee. Fantasy contest operators and their employees and agents may not be participants in a fantasy contest. Prizes and awards must be established and disclosed before the contest. Winning outcomes must reflect knowledge and skill of participants and be determined predominantly by statistical results of performances of individuals, including athletes in sporting events. No winning outcome may be based on performances in collegiate, high school, or youth sporting events.

The bill also provides that the Department of Business and Professional Regulation may not regulate and certain gambling laws set forth in Ch. 849, F.S., do not apply to a fantasy contest conducted by a fantasy contest operator or a commissioner who participates in fewer than ten contests each calendar year and distributes all contest entry fees as prizes.

CS/SB 374 may have a significant negative fiscal impact on state government, if fantasy contests are gaming, constitute Class III gaming under federal law, and constitute, under the 2010 Gaming Compact between the Seminole Tribe of Florida and the State of Florida, *new* Class III gaming not in operation as of February 1, 2010, in Florida. See Section V, Fiscal Impact Statement.

The bill provides an effective date of October 1, 2018.

II. Present Situation:

Background

The operation of fantasy sports activities in Florida has recently received significant publicity, much like the operation of internet cafes in recent years. Many states are now evaluating the status of fantasy gaming activities in their jurisdictions,¹ as there are millions of participants.²

A fantasy game typically has multiple players who select and manage imaginary teams whose players are actual professional sports players. Fantasy game players compete against one another in various formats, including weekly leagues among friends and colleagues, season-long leagues, and on-line contests (daily and weekly) entered by using the Internet through personal computers or mobile telephones and other communications devices. There are various financial arrangements among players and game operators. The term “commissioner” has been used in the context of fantasy baseball leagues to denote a person who manages a fantasy baseball league, establishes league rules, resolves disputes over rule interpretations, publishes league standings, or selects the Internet service for publication of league standings.³

Florida law does not specifically address fantasy contests. Section 849.14, F.S.,⁴ provides that a person who wagers any “thing of value” upon the result of a contest of skill or endurance of human or beast, or who receives any money wagered, or who knowingly becomes the custodian of money or other thing of value that is wagered, is guilty of a second degree misdemeanor.⁵

In 2013, Spectrum Gaming Group, as part of a Gambling Impact Study prepared for the Florida Legislature, analyzed data related to participation by adults in selected activities.⁶ Based on 2012 U.S. Census data, participation in fantasy sports leagues in the prior 12 months (nearly nine million adults), and those who participate two or more times weekly (nearly three million adults), was greater than attendance at horse races in the prior 12 months (6,654,000 adults) with 159,000 attending two or more times weekly.⁷

¹ See Marc Edelman, *A Short Treatise on Fantasy Sports and the Law: How America Regulates its New National Pastime*, Journal of Sports & Entertainment Law, Harvard Law School Vol. 3 (Jan. 2012) (Edelman Treatise), at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1907272 (last visited Nov. 27, 2017), and Jonathan Griffin, *The Legality of Fantasy Sports*, National Conference of State Legislatures Legisbrief (Sep. 2015) (on file with the Committee on Regulated Industries).

² According to the Fantasy Sports Trade Association, which states it represents the interests of 57 million fantasy sports players, fantasy sports leagues were originally referred to as “roisserie leagues” with the development of Rotisserie League Baseball in 1980, by magazine writer/editor Daniel Okrent, who met and played it with friends at a New York City restaurant La Rotisserie Francaise. See <http://fsta.org/about/history-of-fsta/> (last visited Nov. 27, 2017).

³ See Bernhard & Eade, *Gambling in a Fantasy World: An Exploratory Study of Rotisserie Baseball Games*, 9 UNLV Gaming Research & Review Journal Issue 1, at 30, at <http://digitalscholarship.unlv.edu/grj/vol9/iss1/3/>, (last visited Nov. 27, 2017).

⁴ See Fla. AGO 91-03 (Jan. 8, 1991), at <http://myfloridalegal.com/. . . 91-03> (last visited Nov. 27, 2017).

⁵ A conviction for a second degree misdemeanor may subject the violator to a definite term of imprisonment not exceeding 60 days, and a fine not exceeding \$500. See ss. 775.082 and 775.083, F.S.

⁶ See Spectrum Gaming Group Gambling Impact Study (Gambling Impact Study), at http://www.leg.state.fl.us/gamingstudy/docs/FGIS_Spectrum_28Oct2013.pdf (Oct. 28, 2013) (last visited Nov. 27, 2017).

⁷ *Id.*, Figure 22 at page 67.

In general, gambling is illegal in Florida.⁸ Chapter 849, F.S., prohibits keeping a gambling house,⁹ running a lottery,¹⁰ or the manufacture, sale, lease, play, or possession of slot machines.¹¹ However, the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel¹² wagering at licensed greyhound and horse tracks and jai alai frontons;¹³
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;¹⁴ and
- Cardrooms¹⁵ at certain pari-mutuel facilities.¹⁶

A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.¹⁷

The 1968 State Constitution states that “[l]otteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution . . .” are prohibited.¹⁸ A constitutional amendment approved by the voters in 1986 authorized state-operated lotteries. Net proceeds are paid by the lottery to the Educational Enhancement Trust Fund (EETF) for uses pursuant to annual appropriations by the Legislature. Lottery operations are self-supporting and function as an entrepreneurial business enterprise.¹⁹

Chapter 849, F.S., also authorizes, under specific and limited conditions, the conduct of penny-ante games,²⁰ bingo,²¹ charitable drawings, game promotions (sweepstakes),²² and bowling

⁸ See s. 849.08, F.S.

⁹ See s. 849.01, F.S.

¹⁰ See s. 849.09, F.S.

¹¹ Section 849.16, F.S., defines slot machines for purposes of ch. 849, F.S. Section 849.15(2), F.S., provides an exemption to the transportation of slot machines for the facilities that are authorized to conduct slot machine gaming under ch. 551, F.S.

¹² Pari-mutuel” is defined in Florida law as “a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. See s. 550.002(22), F.S.

¹³ See ch. 550, F.S., relating to the regulation of pari-mutuel activities.

¹⁴ See ch. 551, F.S., relating to the regulation of slot machine gaming at pari-mutuel locations.

¹⁵ Section 849.086, F.S. Section 849.086(2)(c), F.S., defines “cardroom” to mean “a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility.”

¹⁶ The Department of Business and Professional Regulation (DBPR) has issued licenses to permitholders with 2017-2018 Operating Licenses to operate 26 cardrooms. See <http://www.myfloridalicense.com/dbpr/pmw/PMW-PermitholderOperatingLicenses--2017-2018.html> (last visited Nov. 27, 2017).

¹⁷ See s. 550.1625(1), F.S., “...legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state.” See also *Solimena v. State*, 402 So.2d 1240, 1247 (Fla. 3d DCA 1981), *review denied*, 412 So.2d 470, which states “Florida courts have consistently emphasized the special nature of legalized racing, describing it as a privilege rather than as a vested right,” citing *State ex rel. Mason v. Rose*, 122 Fla. 413, 165 So. 347 (1936).

¹⁸ The pari-mutuel pools that were authorized by law on the effective date of the Florida Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The revision was ratified by the electorate on November 5, 1968.

¹⁹ The Department of the Lottery is authorized by s. 15, Art. X, Florida Constitution. Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery. Section 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

²⁰ See s. 849.085, F.S.

²¹ See s. 849.0931, F.S.

²² See s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

tournaments.²³ The Family Amusement Games Act was enacted in 2015 and authorizes skill-based amusement games and machines at specified locations.²⁴

Florida Attorney General Opinions on Fantasy Sports Leagues and Contests Involving Skill

In 1991, Florida Attorney General Robert A. Butterworth issued a formal opinion²⁵ evaluating the legality of groups of football fans (contestants) paying for the right to manage a team under certain specified conditions. The Attorney General stated:

You ask whether the formation of a fantasy football league by a group of football fans in which contestants pay \$100 for the right to "manage" one of eight teams violates the state's gambling laws. You state that these teams are created by contestants by "drafting" players from all current eligible National Football League (NFL) members. Thus, these fantasy teams consist of members of various NFL teams.

According to your letter, each week the performance statistics of the players in actual NFL games are evaluated and combined with the statistics of the other players on the fantasy team to determine the winner of the fantasy game and their ranking or standing in the fantasy league. No games are actually played by the fantasy teams; however, all results depend upon performance in actual NFL games. Following completion of the season, the proceeds are distributed according to the performance of the fantasy team.

In the contest described in the opinion, each contestant paid \$100 to participate in the fantasy football league and manage one of eight teams. The resulting \$800 in proceeds were used for prizes. The prizes were based upon the performance of the individual professional football players in actual games. Attorney General Butterworth determined the proceeds qualified as a "stake, bet or wager" on the result of a contest of skill and, as a result, the operation of the fantasy sports leagues violated s. 849.14, F.S., relating to unlawful betting on the result of a trial or contest of skill.²⁶

The 1991 opinion cited *Creash v. State*, 179 So. 149, 152 (Fla. 1938). In *Creash*, the Florida Supreme Court held:

In gamblers' lingo, 'stake, bet or wager' are synonymous and refer to the money or other thing or value put up by the parties thereto with the understanding that one or the other gets the whole for nothing but on the turn of a card, the result of a race, or some trick of magic. A 'purse, prize, or premium' has a broader significance. *If offered by one (who in no way competes for it) to the successful contestant in a [feat] of mental or physical skill, it is not generally condemned as*

²³ See s. 849.141, F.S.

²⁴ See s. 546.10, F.S.

²⁵ See Fla. AGO 91-03 (Jan. 8, 1991), at <http://myfloridalegal.com/. . . 91-03> (last visited Nov. 27, 2017).

²⁶ *Id.*

gambling, while if contested for in a game of cards or other games of chance, it is so considered. [Citation omitted.] *It is also banned as gambling if created as in this case by paying admissions to the game, purchasing certificates, or otherwise contributing to a fund from which the 'purse, prize, or premium' contested for is paid, and wherein the winner gains, and the other contestants lose all.*²⁷ [Emphasis added.]

However, in a 1990 opinion, Attorney General Butterworth, again citing *Creash v. State*, determined that a contest of skill (such as a hole-in-one golf contest) “where the contestant pays an entry fee, which *does not make up* (i.e., create) *the prize*, for the opportunity to win a valuable prize by the exercise of skill, *did not violate the gambling laws of [Florida].*”²⁸ (Emphasis in original.) That 1990 opinion reasoned, “[t]hus, the payment of an entry fee to participate in a contest of skill when the sponsor of the contest does not participate in the contest of skill and where the prize money does not consist of entry fees would *not* appear to be a ‘stake, bet or wager’” in violation of s. 849.14, F.S., relating to gambling. (Emphasis added.)²⁹

Gaming Compact with Seminole Tribe of Florida

In 2010, a gaming compact (2010 Gaming Compact) between the Seminole Tribe of Florida (Seminole Tribe) and the State of Florida (State) was ratified by the Legislature.³⁰ Pursuant to Chapter 285, F.S., it is not a crime for a person to participate in raffles, drawings, slot machine gaming, or banked card games (e.g., blackjack or baccarat) at a tribal facility operating under the 2010 Gaming Compact.³¹

The 2010 Gaming Compact provides for revenue sharing in consideration for the exclusive authority granted to the Seminole Tribe to offer banked card games on tribal lands and to offer slot machine gaming outside Miami-Dade and Broward counties. The Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation (DBPR) carries out the State’s oversight responsibilities under the 2010 Gaming Compact.³²

²⁷ See *Creash v. State*, 179 So. 149, 152 (Fla. 1938). Because CS/SB 374 requires entry fees (rather than a bet or wager) be paid by fantasy contest participants, the *Creash* case suggests that such fantasy contests do not constitute gaming.

²⁸ See Fla. AGO 90-58 (Jul. 27 1990) (last visited Nov. 27, 2017).

²⁹ *Id.*

³⁰ The 2010 Gaming Compact was executed by the Governor and the Seminole Tribe on April 7, 2010, ratified by the Legislature, effective April 28, 2010, and approved by U.S. Secretary of the Interior, pursuant to the Indian Gaming Regulatory Act of 1988, on June 24, 2010. It took effect when published in the Federal Register on July 6, 2010. The 20-year term of the 2010 Gaming Compact expires July 31, 2030, unless renewed. Section 285.710(1)(f), F.S., designates the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation as the “state compliance agency” having authority to carry out the state’s oversight responsibilities under the 2010 Gaming Compact. See <http://www.flsenate.gov/. . . RI/Links/Gaming Compact between The Seminole Tribe of Florida and the State of Florida.pdf> (last visited Nov. 27, 2017).

³¹ See s. 285.710, F.S., especially subsections (3), (13), and (14). The seven tribal locations where gaming is authorized by the 2010 Gaming Compact are: (1) Seminole Hard Rock Hotel & Casino—Hollywood (Broward); (2) Seminole Indian Casino—Coconut Creek (Broward); (3) Seminole Indian Casino—Hollywood (Broward); (4) Seminole Hard Rock Hotel & Casino—Tampa (Hillsborough); (5) Seminole Indian Casino—Immokalee (Collier); (6) Seminole Indian Casino—Brighton (Glades); and (7) Seminole Indian Casino—Big Cypress (Hendry).

³² See s. 285.710(1)(f), F.S.

Except for gaming facilities operating in accordance with the 2010 Gaming Compact with the Seminole Tribe, free-standing, commercial casinos are not authorized, and gaming activity, other than what is expressly authorized, is illegal.

Litigation Concerning the 2010 Compact and Banked Card Games

The State and the Seminole Tribe were parties to litigation in federal court relating to the offering of table games by the Seminole Tribe after July 31, 2015. Separate lawsuits were filed by each party against the other, and the cases were consolidated. The Seminole Tribe alleged in its complaint that:

- It had authority to conduct banked card games for the 2010 Gaming Compact's full 20-year term; and
- The State breached its duty to negotiate with the Seminole Tribe in good faith.

The State alleged that the Seminole Tribe's:

- Conduct of banked card games violated the 2010 Gaming Compact; and
- Conducting the games violated the Indian Gaming Regulatory Act (IGRA) though this claim was later dropped by the State.

On November 9, 2016, U.S. District Court Judge Robert L. Hinkle issued an Opinion on the Merits,³³ which held:

- The Seminole Tribe may operate banked card games at all seven of its facilities (rather than the five facilities at which banked card games had been allowed since 2010) through the entire 20-year term of the 2010 Gaming Compact (i.e., until 2030) because the State permitted others to offer banked card games (i.e., pari-mutuel cardrooms);
- Sovereign immunity barred the court from considering whether the State had failed to negotiate in good faith as to: 1) authorizing roulette and craps; and 2) extending the 2010 Gaming Compact beyond its 20-year term; and
- A ruling on the issue of whether electronic forms of blackjack are also a banked card game is unnecessary, as the issue was too close to resolve when a ruling was not essential to the outcome of the case.

Settlement of the Litigation and Establishment of Forbearance Period

Subsequent to the DBPR's appeal of Judge Hinkle's decision,³⁴ on July 5, 2017, the Seminole Tribe and the DBPR entered into a Settlement Agreement and Stipulation (2017 Settlement).³⁵ The parties agreed to undertake certain actions.

The State agreed to dismiss the pending appeal, and upon issuance of the final order of dismissal of the appeal, the Seminole Tribe agreed to release the State from all claims by the Tribe for past

³³ See *Seminole Tribe of Florida v. State of Florida*, 219 F.Supp. 3d 1177 (N.D. Fla. Nov. 9, 2016), Case No.: 4:15-cv-516-RH/CAS, Document 103.

³⁴ See *Seminole Tribe of Florida v. State of Florida*, 219 F.Supp. 3d 1177 (N.D. Fla. Jan. 19, 2017), Case No.: 4:15-cv-516-RH/CAS, Document 120.

³⁵ See Settlement Agreement and Stipulation (2017 Settlement) (July 5, 2017) (on file with the Senate Committee on Regulated Industries).

Revenue Share Payments,³⁶ based on the operation of player-banked games which use a designated player (Designated Player Games) or electronic forms of blackjack (Electronic Table Games) in Florida.

The Seminole Tribe also agreed it would not seek the return of funds associated with tribal gaming paid to and segregated by the State during the pendency of the federal litigation, granting the State unencumbered use of the segregated funds.³⁷

As to the continued operation of banked card games (i.e., Designated Player Games operated as described in Judge Hinkle's decision), the Seminole Tribe agreed to delay taking certain actions until after the last day of the month that the Legislature adjourns³⁸ its 2018 legislative session (the Forbearance Period). The Seminole Tribe agreed not to:

- Suspend Revenue Share Payments; or
- Deposit Revenue Share Payments into an escrow account in accordance with Part XII of the 2010 Gaming Compact.

The Seminole Tribe also agreed not to initiate an action asserting that it is entitled, based on the continued operation of Designated Player Games or Electronic Table Games in the State, to deposit Revenue Share Payments into an escrow account in accordance with Part XII of the 2010 Gaming Compact, provided:

the State takes aggressive enforcement action [Aggressive Enforcement Requirement] against the continued operation of banked card games, including Designated Player Games that are operated in a banked game manner, as described in [Judge Hinkle's decision], and no other violations of the Tribe's exclusivity occur during the Forbearance Period.³⁹

The Aggressive Enforcement Requirement is also imposed upon the State respecting Revenue Share Payments made by the Seminole Tribe during the Forbearance Period. The deposit of such payments into the General Revenue Fund, allowing unencumbered use by the State without the Seminole Tribe seeking the return of such payments, is contingent upon meeting the Aggressive Enforcement Requirement.⁴⁰

The 2017 Settlement does not define the term "aggressive enforcement action." The DBPR has filed five administrative complaints against cardroom operators alleging the violation of s. 849.086(12)(a), F.S., due to the operation of a banking game or a game not specifically

³⁶ Revenue Share Payments are the periodic payments to the State by the Seminole Tribe, based on the Tribe's Net Win. Net Win is defined as total receipts from the play of authorized tribal gaming in Florida, less all prizes, free play, or promotional credits. See paragraphs U and X of Part III of the 2010 Gaming Compact at page 11 at http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf (last visited Nov. 27, 2017).

³⁷ See the 2017 Settlement at page 6.

³⁸ Should the 2018 legislative session be adjourned as anticipated on March 9, 2018, the Forbearance Period will end on March 31, 2018.

³⁹ The Seminole Tribe agreed to follow the process set forth in paragraph A of Part XII of the 2010 Gaming Compact, to address any new violation of the Tribe's exclusivity occurring during the Forbearance Period, due to a court decision or administrative agency ruling or decision. See the 2017 Settlement at page 7.

⁴⁰ See the 2017 Settlement at page 7.

authorized by Florida law.⁴¹ In each case, the parties have temporarily delayed pursuit of administrative hearings in favor of informal conferences to resolve the pending enforcement actions.⁴²

Internet Gaming under the 2010 Gaming Compact and the Proposed 2015 Gaming Compact

The 2010 Gaming Compact provides that any change in state law to allow internet/on-line gaming (or any functionally remote gaming system that permits gaming from a home or any other location other than a casino or other commercial gaming facility) could impact the payment of certain guaranteed revenue sharing payments.⁴³ However, the guaranteed revenue sharing payments of \$1 billion due under the 2010 Gaming Compact have been paid in full by the Seminole Tribe. Therefore, a change in state law to allow internet/on-line gaming results in no financial impact to the State under the 2010 Gaming Compact.

A proposed gaming compact transmitted by the Governor in 2015 for consideration by the Legislature (the Proposed 2015 Gaming Compact) has not been ratified.⁴⁴ However, if fantasy contests are classified as internet/on-line gaming, authorizing fantasy contests in Florida would trigger an impact to the payment of guaranteed revenue sharing amounts in accordance with the 2015 Proposed Gaming Compact.⁴⁵

The term “internet” is not defined in either the 2010 Gaming Compact or the Proposed 2015 Gaming Compact; however, the term “Internet” is defined in the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA) (discussed below).⁴⁶

⁴¹ The respondent, filing date, and DBPR Case No. for each complaint are: 1) Pensacola Greyhound Park, LLP (8.17.2017; Case No. 2017-040490); 2) Sarasota Kennel Club, Inc. (8.24.2017; Case No. 2017-041784); 3) Tampa Bay Downs, Inc. (9.15.2017; Case No. 2017-044518); 4) Dania Entertainment Center, LLC (9.25.2017; Case No. 2017-045538); and 5) Investment Corporation of Palm Beach (10.25.2017; Case No. 2017-050956) (on file with the Committee on Regulated Industries).

⁴² E-mail from J. Morris, Legislative Affairs Director, DBPR, to R. McSwain, Staff Director, Committee on Regulated Industries (Nov. 2, 2017) (on file with the Committee on Regulated Industries).

⁴³ Enactment of state law to allow internet or on-line gaming could have impacted the \$1 billion guaranteed revenue sharing payable through Year 5 of the 2010 Gaming Compact, if the Seminole Tribe's Net Win at all of its casinos dropped more than five percent (5%) below its Net Win from the previous twelve-month period, unless the decline in Net Win was due to acts of God, war, terrorism, fires, floods, or accidents causing damage to or destruction of one or more of the tribal casinos, or the Seminole Tribe was authorized by law to offer internet/on-line gaming. *See* paragraph B.3. of Part XI of the 2010 Gaming Compact at <http://www.flsenate.gov/. . . RI/Links/Gaming Compact between The Seminole Tribe of Florida and the State of Florida.pdf> (last visited Nov. 27, 2017).

⁴⁴ *See* s. 285.712, F.S. The Governor is the designated state officer responsible for negotiating and executing tribal-state gaming compacts with federally recognized Indian tribes. To be effective, a proposed gaming compact must be ratified by the Senate and by the House, by a majority vote of the members present. *See* s. 285.712(3), F.S. The Proposed 2015 Gaming Compact, comparison chart, and transmittal letter from Governor Scott, are available for review on the Florida Senate Regulated Industries Committee website. *See* <http://www.flsenate.gov/. . . Proposed 2015 Gaming Compact, Comparison Chart, and Letter from Governor Scott.pdf> (last visited Nov. 27, 2017).

⁴⁵ Paragraph C.10. of Part XII of the proposed 2015 Gaming Compact states that the Seminole Tribe would instead would make payments based on the percentages set forth in paragraph B.1.(c) of Part XI. Such financial consequences to the State would not apply if the Tribe offers internet gaming to players in Florida that permits a person to game from home or any other location that is remote from any of the Tribe's facilities, as an authorized Class III gaming activity or as authorized by Florida law.

⁴⁶ UIGEA defines the term “Internet” as the international computer network of interoperable packet switched data networks. *See* 31 U.S.C. s. 5362(5).

The Gaming Compacts and Class III Gaming under the Indian Gaming Regulatory Act

Fantasy contests, if classified as Class III gaming, also could impact the revenue sharing provisions of both the 2010 Gaming Compact⁴⁷ and the Proposed 2015 Gaming Compact.⁴⁸ Under both compacts if fantasy contests are a form of new Class III gaming in Florida, payments due to the State under the compacts would cease.⁴⁹

Gambling on Indian lands is regulated by the Indian Gaming Regulatory Act of 1988 (IGRA).⁵⁰ The 2010 Gaming Compact authorizes the Seminole Tribe to conduct specified Class III gaming activities at its seven tribal facilities in Florida.⁵¹

Under IGRA, gaming is categorized in three classes:

- **Class I** gaming means social games for minimal value or traditional forms of Indian gaming engaged in by individuals for tribal ceremonies or celebrations;
- **Class II** gaming includes bingo and pull-tabs, lotto, punch boards, tip jars, instant bingo, other games similar to bingo, and certain non-banked card games if not explicitly prohibited by the laws of the state and if played in conformity with state law; and
- **Class III** gaming includes all forms of gaming that are not Class I or Class II gaming, such as banked card games (such as baccarat, chemin de fer, and blackjack(21), casino games such as craps and roulette, electronic or electromechanical facsimiles of games of chance, slot machines, and pari-mutuel wagering.⁵²

If fantasy contests are gaming, constitute Class III gaming under federal law, and constitute, under the 2010 Gaming Compact and the Proposed 2015 Gaming Compact, *new* Class III gaming not in operation as of February 1, 2010, or July 1, 2015, respectively, in Florida, authorizing fantasy contests in Florida (i.e., additional Class III gaming) would violate the exclusivity provisions in the 2010 Gaming Compact and the Proposed 2015 Gaming Compact. As a result, certain revenue sharing requirements would not apply and the Tribe would be authorized to offer similar internet/on-line gaming.

⁴⁷ See paragraph A of Part XII of the 2010 Gaming Compact at <http://www.flsenate.gov/. . .RI/Links/Gaming Compact between The Seminole Tribe of Florida and the State of Florida.pdf> (last visited Nov. 27, 2017).

⁴⁸ See paragraph A of Part XII of the 2015 Gaming Compact at <http://www.flsenate.gov/. . .Proposed 2015 Gaming Compact, Comparison Chart, and Letter from Governor Scott.pdf> (last visited Nov. 27, 2017).

⁴⁹ See paragraph A of Part XII of the 2010 Gaming Compact at pages 39-40 at http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf (last visited Nov. 27, 2017).

⁵⁰ See Pub. L. 100-497, 102 Stat. 2467, codified at 18 U.S.C. ss. 1166-1168 and 25 U.S.C. s. 2701 *et seq.*

⁵¹ See paragraph F of Part III of the 2010 Gaming Compact at <http://www.flsenate.gov/. . .RI/Links/Gaming Compact between The Seminole Tribe of Florida and the State of Florida.pdf> (last visited Nov. 27, 2017). The Tribe has three gaming facilities in Broward County (The Seminole Indian Casinos at Coconut Creek and Hollywood, and the Seminole Hard Rock Hotel & Casino-Hollywood), and gaming facilities in Collier County (Seminole Indian Casino-Immokalee), Glades County (Seminole Indian Casino-Brighton), Hendry County (Seminole Indian Casino-Big Cypress), and Hillsborough County (Seminole Hard Rock Hotel & Casino-Tampa). The 2010 Gaming Compact was approved by the U.S. Department of the Interior effective July 6, 2010. See 75 Fed. Reg. 38833-38834 at <https://www.gpo.gov/fdsys/pkg/FR-2010-07-06/pdf/2010-16213.pdf> (last visited Nov. 27, 2017). See <http://www.flsenate.gov/. . .RI/Links/Gaming Compact between The Seminole Tribe of Florida and the State of Florida.pdf> (last visited Nov. 27, 2017).

⁵² See Pub. L. 100-497, 102 Stat. 2467, codified at 18 U.S.C. ss. 1166-1168 and 25 U.S.C. s. 2701 *et seq.*

In a letter to Senator Travis Hutson and Representative Mike La Rosa dated December 5, 2017,⁵³ Jim Shore, General Counsel for the Seminole Tribe, indicated:

The Tribe believes the games permitted by these bills [HB 223 and SB 374 (Fantasy Contests), and SB 840 (Gaming)] would violate the Tribe's exclusivity, as set forth in Part XII of the 2010 Gaming Compact between the State and Tribe. By providing this notice, the Tribe hopes to avoid a situation where the State enacts legislation that inadvertently violates the Tribe's exclusivity. That said, the Tribe and the State have discussed the issue of fantasy sports contests in previous compact negotiations and the Tribe remains willing to do so now. However, federal law requires that any reduction in the Tribe's exclusivity must be balanced by some additional consideration from the State. Without such an agreement, the 2010 Gaming Compact would allow the Tribe to cease all revenue sharing payments to the State based on the expanded gaming contemplated by these bills.

The National Indian Gaming Commission (commission) issued an opinion dated March 13, 2001,⁵⁴ relating to a sports betting game proposed for future play in Arizona and California via the Internet. In that sports betting game, players could wager upon various sporting *events*, including NFL football, baseball, golf, and the Olympics. The commission determined that game to be Class III gaming because it was not included within the definitions of Class I or Class II gaming under IGRA.

The Professional and Amateur Sports Protection Act of 1992 (PASPA)

In 1992, the U.S. Congress enacted the Professional and Amateur Sports Protection Act (PASPA),⁵⁵ which provides that it is unlawful for a governmental entity or any person to sponsor, operate, advertise, or promote:

a lottery, sweepstakes, or other betting, gambling, or wagering scheme based . . . on one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games.⁵⁶

The prohibited activity is generally known as "sports betting." Governmental entities are also prohibited from licensing such activities or authorizing them by law or compact.⁵⁷ However,

⁵³ See Letter from Jim Shore, General Counsel for the Seminole Tribe, to Senator Travis Hutson and Representative La Rosa (Dec. 5, 2017) (on file with the Senate Committee on Regulated Industries).

⁵⁴ See <https://www.nigc.gov/images/uploads/game-opinions/WIN%20Sports%20Betting%20Game-Class%20III.pdf> (last visited Nov. 27, 2017).

⁵⁵ See 28 U.S.C. ss. 3701-3704 (2015), at <https://www.govinfo.gov/content/pkg/USCODE-2015-title28/html/USCODE-2015-title28.htm> (last visited Nov. 27, 2017).

⁵⁶ See 28 U.S.C. s. 3702 (2015), at <https://www.govinfo.gov/content/pkg/USCODE-2015-title28/html/USCODE-2015-title28.htm> (last visited Nov. 27, 2017).

⁵⁷ *Id.*

PASPA does not apply to pari-mutuel animal racing or jai alai games.⁵⁸ It does not apply to a lottery, sweepstakes, or other betting, gambling, or wagering conducted by a governmental entity between January 1, 1976, and August 31, 1990.⁵⁹

The prohibition against sports betting also does not apply to a lottery, sweepstakes, or other betting, gambling, or wagering lawfully conducted, where such activity was authorized by law on October 2, 1991, and was conducted in a state or other governmental entity at any time between September 1, 1989, and October 2, 1991.⁶⁰

In a case pending before the United States Supreme Court, the State of New Jersey has challenged the constitutionality of PASPA, on the basis that PASPA “commandeers” or impermissibly controls the regulatory power of states relating to the legalization of sports betting, thereby violating the Tenth Amendment to the U.S. Constitution.⁶¹ The respondents (the National Collegiate Athletic Association, the National Basketball Association, the National Football League, the National Hockey League, and the Office of the Commissioner of Baseball) defend PASPA’s pre-emption of state laws that authorize sports gambling as a valid exercise of congressional power to regulate commerce.⁶² The Court’s decision in the case is anticipated no later than June 29, 2018.

The Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA)

The Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA)⁶³ was signed into law by President George W. Bush on October 13, 2006.⁶⁴ Internet gambling is not determined to be legal in a state, nor illegal. Instead, UIGEA targets financial institutions in an attempt to prevent the flow of money from an individual to an internet gaming company. Congress found that enforcement of gambling laws through new mechanisms “are necessary because traditional law enforcement mechanisms are often inadequate for enforcing gambling prohibitions or regulations on the Internet, especially where such gambling crosses State or national borders.”⁶⁵ UIGEA expressly states that none of its provisions “shall be construed as altering, limiting, or extending any Federal or State law or Tribal-State compact prohibiting, permitting, or regulating gambling within the United States.”⁶⁶

⁵⁸ See 28 U.S.C. s. 3704(a)(4) (2015), at <https://www.govinfo.gov/content/pkg/USCODE-2015-title28/html/USCODE-2015-title28.htm> (last visited Nov. 27, 2017).

⁵⁹ See 28 U.S.C. s. 3704(a)(1) (2015), at <https://www.govinfo.gov/content/pkg/USCODE-2015-title28/html/USCODE-2015-title28.htm> (last visited Nov. 27, 2017).

⁶⁰ See 28 U.S.C. s. 3704(a)(2) (2015), at <https://www.govinfo.gov/content/pkg/USCODE-2015-title28/html/USCODE-2015-title28.htm> (last visited Nov. 27, 2017).

⁶¹ See *Christie v. National Collegiate Athletic Association*, Docket No. 16-476, (*Christie*) at <http://www.scotusblog.com/case-files/cases/christie-v-national-collegiate-athletic-association-2/> (last visited Nov. 27, 2017). Oral argument in the case was held on December 4, 2017.

⁶² See the respondents’ Brief in Opposition at <http://www.scotusblog.com/wp-content/uploads/2016/12/16-476-16-477-BIO.pdf> at page 17 (last visited Nov. 27, 2017).

⁶³ See <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title31/pdf/USCODE-2011-title31-subtitleIV-chap53.pdf>, (*UIGEA online*) at page 46 (last visited Nov. 27, 2017).

⁶⁴ The provisions of UIGEA were adopted in Conference Committee as an amendment to H.R. 4954 by Representative Daniel E. Lungren (CA-3), “The SAFE Ports Act of 2006.”

⁶⁵ See 31 U.S.C. s. 5361(a)(4), *UIGEA online*, at page 46.

⁶⁶ See 31 U.S.C. s. 5361(b).

“Unlawful internet gambling” prohibited by UIGEA includes the placement, receipt, or transmission of certain bets or wagers.⁶⁷ However, the definition of the term “bet or wager” specifically excludes any fantasy game or contest in which a fantasy team is not based on the current membership of a professional or amateur sports team, and:

- All prizes and awards are established and made known to the participants in advance of the game or contest;
- Prize amounts are not based on the number of participants or the amount of entry fees;
- Winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals or athletes in multiple “real-world sporting or other events;” and
- No winning outcome is based:
 - On the score, point-spread, or any performance or performances of any single “real-world” team or combination of teams; or
 - Solely on any single performance of an individual athlete in any single “real-world sporting or other event.”⁶⁸

While UIGEA excludes bets or wagers of participants in certain fantasy sports games and contests,⁶⁹ it does not, however, authorize fantasy contests and activities in Florida.

III. Effect of Proposed Changes:

CS/SB 374 creates s. 546.13, F.S. to authorize certain fantasy contests in which participants must pay an entry fee. Section 546.13(1), F.S., provides requirements for fantasy contests and associated definitions.

“Entry fee” means cash or a cash equivalent required to be paid by a person for the ability to participate in a fantasy contest offered by a fantasy contest operator.

“Fantasy contest operator” means a person or entity, including any employee or agent, that offers fantasy contests with an entry fee for a cash prize, but is not a participant in the fantasy contest. The term does not include an individual who serves as the commissioner of no more than 10 fantasy contests in a calendar year. The term “commissioner” is not defined in the bill, but has been used in the context of fantasy baseball leagues to denote a person who manages a fantasy baseball league, establishes league rules, resolves disputes over rule interpretations, and publishes league standings or selects the Internet service for publication of league standings.⁷⁰

A “fantasy contest” is a fantasy or simulated game in which:

- The value of all prizes and awards offered to winning participants must be established and disclosed to the participants in advance of the contest;

⁶⁷ See 31 U.S.C. s. 5362(10), [UIGEA online](#), at page 48.

⁶⁸ See 31 U.S.C. s. 5362(E)(ix), [UIGEA online](#), at page 47.

⁶⁹ *Id.*

⁷⁰ See Bernhard & Eade, *Gambling in a Fantasy World: An Exploratory Study of Rotisserie Baseball Games*, 9 UNLV Gaming Research & Review Journal Issue 1, at 30, at <http://digitalscholarship.unlv.edu/grrj/vol9/iss1/3/>, (last visited Nov. 27, 2017).

- All winning outcomes reflect the relative knowledge and skill of contest participants and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events; and
- No winning outcome is based:
 - On the score, point spread, or any performance or performances of any single actual team or combination of teams;
 - Solely on any single performance of an individual athlete or player in any single actual event; or
 - On the performances of participants in collegiate, high schools, or youth sporting events.

The bill provides that the Department of Business and Professional Regulation may not regulate and the offenses in ss. 849.01, 849.08, 849.09, 849.11, 849.14, or 849.25, F.S., relating to gambling, lotteries, games of chance, contests of skill, or bookmaking do not apply to a fantasy contest operated or conducted by:

- A fantasy contest operator; or
- A natural person who is a participant in the fantasy contest, serves as the commissioner of not more than ten contests in a calendar year, and distributes all contest entry fees as prizes or awards to the participants in that fantasy contest.

The bill provides an effective date of October 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 374 authorizes certain fantasy contests to be offered by fantasy contest operators, who will retain amounts participants pay as entry fees to participate in fantasy contests. Persons who pay entry fees to participate in fantasy contests have the opportunity to win prizes and awards.

C. Government Sector Impact:

CS/SB 374 could impact the Revenue Share Payments⁷¹ required to be paid by the Seminole Tribe of Florida under the 2010 Gaming Compact. If fantasy contests permitted under the bill constitute gaming, are considered Class III gaming under federal law, and constitute, under the 2010 Gaming Compact, *new* Class III gaming in Florida, the payments due to the State under the 2010 Gaming Compact could end when fantasy contests begin to be offered for public or private use.⁷²

In a letter to Senator Travis Hutson and Representative Mike La Rosa dated December 5, 2017,⁷³ Jim Shore, General Counsel for the Seminole Tribe, indicated:

The Tribe believes the games permitted by these bills [HB 223 and SB 374 (Fantasy Contests), and SB 840 (Gaming)] would violate the Tribe's exclusivity, as set forth in Part XII of the 2010 Gaming Compact between the State and Tribe. By providing this notice, the Tribe hopes to avoid a situation where the State enacts legislation that inadvertently violates the Tribe's exclusivity. That said, the Tribe and the State have discussed the issue of fantasy sports contests in previous compact negotiations and the Tribe remains willing to do so now. However, federal law requires that any reduction in the Tribe's exclusivity must be balanced by some additional consideration from the State. Without such an agreement, the 2010 Gaming Compact would allow the Tribe to cease all revenue sharing payments to the State based on the expanded gaming contemplated by these bills.

The Revenue Estimating Conference (REC) estimates that the revenue that will be received from the Seminole Tribe associated with the 2010 Gaming Compact during Fiscal Year 2017-2018 will be \$276 million, of which \$272 million will accrue to the General Revenue Fund and \$3.5 million will be distributed to local governments as required by s. 285.710(10), F.S. During Fiscal Year 2018-2019, the REC estimates revenue associated with the 2010 Gaming Compact will be \$288.6 million, of which \$280.1 million will accrue to the General Revenue Fund and \$8.6 million will be distributed to local governments. The REC estimates the revenue associated with the 2010 Gaming Compact will increase to \$307 million for Fiscal Year 2025-2026.⁷⁴

⁷¹ Revenue Share Payments are the periodic payments to the State by the Seminole Tribe, based on the Tribe's Net Win. Net Win is defined as total receipts from the play of authorized tribal gaming in Florida, less all prizes, free play, or promotional credits. See paragraphs U and X of Part III of the 2010 Gaming Compact at page 11 at http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf (last visited Nov. 27, 2017).

⁷² See paragraph A of Part XII of the 2010 Gaming Compact at pages 39-40 at http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf (last visited Nov. 27, 2017); the Revenue Share Payments and the required annual donation of \$750,000 to the Florida Council on Compulsive Gaming must resume when the new Class III gaming is no longer operated.

⁷³ See Letter from Jim Shore, General Counsel for the Seminole Tribe, to Senator Travis Hutson and Representative La Rosa (Dec. 5, 2017) (on file with the Senate Committee on Regulated Industries).

⁷⁴ See the estimates for multiple fiscal years in the *Conference Results, Indian Gaming Revenues* at <http://www.edr.state.fl.us/Content/conferences/Indian-gaming/IndianGamingResults.pdf> (last visited Nov. 27, 2017).

The REC currently classifies all future Revenue Share Payments to be paid by the Seminole Tribe to the State as nonrecurring revenue because the terms of the Settlement Agreement and Stipulation entered on July 5, 2017, by the Seminole Tribe and the Department of Business and Professional Regulation on behalf of the State,⁷⁵ required the parties to take certain actions “that cannot be anticipated with sufficient certainty.”⁷⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 546.13 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries on December 7, 2017:

The committee substitute:

- Revises the definition of “fantasy contest” to provide that a winning outcome may not be based on the performances of participants in collegiate, high school, or youth sporting events.
- Revises the definition of “fantasy contest operator” to:
 - Include the employees or agents of the individuals or entities that offer or conduct fantasy contests; and
 - Require that a fantasy contest operator not participate in the fantasy contest.
- Clarifies that the Department of Business and Professional Regulation may not regulate and the gambling laws do not apply to a fantasy contest conducted by:
 - A fantasy contest operator; or
 - A natural person who participates in the fantasy contest, serves as a commissioner of 10 or fewer contests in a calendar year, and distributes to the contest participants all of the entry fees as prizes.

⁷⁵ See Settlement Agreement and Stipulation (2017 Settlement) (July 5, 2017) (on file with the Senate Committee on Regulated Industries).

⁷⁶ See *Revenue Estimating Conference, Indian Gaming Revenues, Executive Summary* at <http://www.edr.state.fl.us/Content/conferences/Indian-gaming/IndianGamingSummary.pdf> (last visited Nov. 27, 2017).

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 374
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Thursday, December 7, 2017
TIME: 12:30—3:30 p.m.
PLACE: 110 Senate Office Building

FINAL VOTE		SENATORS	12/07/2017 Amendment 402748					
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Benacquisto						
X		Bracy						
		Brandes						
X		Braynon						
X		Gibson						
X		Steube						
X		Thurston						
X		Young						
	X	Hukill, VICE CHAIR						
X		Hutson, CHAIR						
8	1	TOTALS	RCS	-				
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting



402748

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/08/2017	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Young) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 546.13, Florida Statutes, is created to
read:

546.13 Fantasy contests and fantasy contest operators.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Entry fee" means cash or a cash equivalent that is
required to be paid by a participant in order to participate in



402748

11 a fantasy contest.

12 (b) "Fantasy contest" means a fantasy or simulated game or
13 contest in which:

14 1. The value of all prizes and awards offered to winning
15 participants is established and made known to the participants
16 in advance of the contest;

17 2. All winning outcomes reflect the relative knowledge and
18 skill of the participants and are determined predominantly by
19 accumulated statistical results of the performance of
20 individuals, including athletes in the case of sporting events;

21 3. No winning outcome is based on the score, point spread,
22 or any performance or performances of any single actual team or
23 combination of such teams, solely on any single performance of
24 an individual athlete or player in any single actual event, or
25 on the performances of participants in collegiate, high school,
26 or youth sporting events.

27 (c) "Fantasy contest operator" means a person or an entity,
28 including any employee or agent, that offers or conducts a
29 fantasy contest with an entry fee for a cash prize or award and
30 that is not a participant in the fantasy contest.

31 (2) EXEMPTIONS.—The Department of Business and Professional
32 Regulation may not regulate and the offenses established in s.
33 849.01, s. 849.08, s. 849.09, s. 849.11, s. 849.14, and s.
34 849.25 do not include or apply to a fantasy contest operated or
35 conducted by a:

36 (a) Fantasy contest operator.

37 (b) Natural person who is a participant in the fantasy
38 contest, serves as the commissioner of not more than 10 fantasy
39 contests in a calendar year, and distributes all entry fees for



402748

40 the fantasy contest as prizes or awards to the participants in
41 that fantasy contest.

42 Section 2. This act shall take effect October 1, 2018.

43

44 ===== T I T L E A M E N D M E N T =====

45 And the title is amended as follows:

46 Delete everything before the enacting clause
47 and insert:

48 A bill to be entitled

49 An act relating to fantasy contests; creating s.
50 546.13, F.S.; defining terms; exempting a fantasy
51 contest from certain regulations; providing an
52 effective date.

By the Committee on Regulated Industries; and Senator Young

580-01832-18

2018374c1

1 A bill to be entitled
2 An act relating to fantasy contests; creating s.
3 546.13, F.S.; defining terms; exempting a fantasy
4 contest from certain regulations; providing an
5 effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Section 546.13, Florida Statutes, is created to
10 read:

11 546.13 Fantasy contests and fantasy contest operators.—

12 (1) DEFINITIONS.—As used in this section, the term:

13 (a) "Entry fee" means cash or a cash equivalent that is
14 required to be paid by a participant in order to participate in
15 a fantasy contest.

16 (b) "Fantasy contest" means a fantasy or simulated game or
17 contest in which:

18 1. The value of all prizes and awards offered to winning
19 participants is established and made known to the participants
20 in advance of the contest;

21 2. All winning outcomes reflect the relative knowledge and
22 skill of the participants and are determined predominantly by
23 accumulated statistical results of the performance of
24 individuals, including athletes in the case of sporting events;

25 3. No winning outcome is based on the score, point spread,
26 or any performance or performances of any single actual team or
27 combination of such teams, solely on any single performance of
28 an individual athlete or player in any single actual event, or
29 on the performances of participants in collegiate, high school,

580-01832-18

2018374c1

30 or youth sporting events.

31 (c) "Fantasy contest operator" means a person or an entity,
32 including any employee or agent, that offers or conducts a
33 fantasy contest with an entry fee for a cash prize or award and
34 that is not a participant in the fantasy contest.

35 (2) EXEMPTIONS.—The Department of Business and Professional
36 Regulation may not regulate and the offenses established in s.
37 849.01, s. 849.08, s. 849.09, s. 849.11, s. 849.14, and s.
38 849.25 do not include or apply to a fantasy contest operated or
39 conducted by a:

40 (a) Fantasy contest operator.

41 (b) Natural person who is a participant in the fantasy
42 contest, serves as the commissioner of not more than 10 fantasy
43 contests in a calendar year, and distributes all entry fees for
44 the fantasy contest as prizes or awards to the participants in
45 that fantasy contest.

46 Section 2. This act shall take effect October 1, 2018.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy, *Chair*
Appropriations Subcommittee on Pre-K - 12
Education, *Vice Chair*
Commerce and Tourism
Communications, Energy, and Public Utilities
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DANA YOUNG

18th District

October 16, 2017

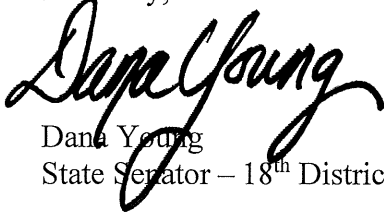
Senator Travis Hutson, Chair
Regulated Industries Committee
330 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Hutson,

My Senate Bill 374 relating to Fantasy Contests has been referred to the committee for a hearing. I respectfully request that this bill be placed on the next available agenda.

Should you have any questions, please do not hesitate to reach out to me.

Sincerely,



Dana Young
State Senator – 18th District

cc: Ross McSwain, Staff Director – Regulated Industries Committee

REPLY TO:

- 1211 N. Westshore Blvd, Suite 409, Tampa, Florida 33607 (813) 281-5507
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/7/17

Meeting Date

374

Bill Number (if applicable)

Topic Fantasy Contests

Amendment Barcode (if applicable)

Name Daniel Russell

Job Title Attorney

Address 215 S. Monroe St

Phone 475 7800

Street

TLH

City

FL

State

32301

Zip

Email drussall@joneswalker.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing The Stronach Group

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/7/17
Meeting Date

374
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Amber Kelly

Job Title Director of Policy & Communications

Address 4853 S. Orange Avenue
Street

Phone (407) 251-5130

Orlando FL 32806
City State Zip

Email amberk@flfamily.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL Family Policy Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Dec 7 2017
Meeting Date

SB 374
Bill Number (if applicable)

Topic FANTASY CONTESTS

402748
Amendment Barcode (if applicable)

Name PAUL SEAGO

Job Title EXECUTIVE DIRECTOR, NO CASINOS

Address 201 S. ORANGE AVE #880
Street

Phone 407-608-5931

ORLANDO FL 32703
City State Zip

Email PAUL@NOCASINOS.ORG

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

BILL AS AMENDED

Representing NO CASINOS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12-7-2017
Meeting Date

374
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave. S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email justice2jesus@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

CourtSmart Tag Report

Room: EL 110
Caption: Senate Regulated Industries

Case No.:
Judge:

Type:

Started: 12/7/2017 12:31:35 PM

Ends: 12/7/2017 12:54:23 PM **Length:** 00:22:49

12:32:14 PM Quorum present
12:33:01 PM SB 314 by Senator Baxley-Mortgage Brokering
12:33:27 PM Senator Hukill with questions
12:34:19 PM Warren Husband-Securities Industry and Financial Markets Assoc.
12:34:47 PM Katie Crofoot-Florida Bankers Assoc.
12:34:55 PM Brian Pitts-Justice 2 Jesus
12:36:46 PM No debate on the bill.
12:37:13 PM Waive close-SB 314 is reported favorably
12:37:34 PM SB 296 by Senator Brandes-Beverage Law
12:38:32 PM Delete-all amendment explained
12:38:41 PM Senator Hukill with a question on the amendment
12:39:04 PM Amendment adopted
12:39:16 PM Back to the bill as amended-no questions
12:39:21 PM Jason Unger-Seavin Wineries
12:39:31 PM Warren Husband-Florida Restaurant Assoc.
12:39:38 PM Jash Aubuchon-Florida Brewers Guild
12:39:48 PM Andrew Hosek-Americans for Prosperity
12:39:57 PM Debate on the bill as amended-none
12:40:14 PM Senator Brandes closes on bill
12:40:36 PM SB 296 reported favorably
12:40:54 PM SB 374 by Senator Young-Fantasy Contests
12:41:02 PM Senator Young explains the bill
12:42:10 PM Senator Young explains the strike-all amendment
12:43:26 PM Questions on the amendment-none
12:43:47 PM Amendment adopted
12:43:53 PM Back on the bill as amended
12:43:59 PM Paul Seago-No Casinos
12:45:16 PM Amber Kelly-FL Family Policy Council
12:45:27 PM Daniel Russell
12:46:00 PM Brian Pitts
12:49:52 PM Senator Hukill with a question to the Sponsor
12:50:06 PM Senator Young responds
12:52:44 PM Senator Thurston with a question
12:53:22 PM Back to debate-no debate
12:53:30 PM Senator Young to close
12:54:05 PM CS/SB 374 is reported favorably
12:54:15 PM Meeting adjourned