

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Regulated Industries Committee

BILL: SB 540

INTRODUCER: Senator Fasano

SUBJECT: Drawings by Chance

DATE: January 24, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tomkiewicz	Imhof	RI	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Section 849.09, F.S., prohibits the conduct and promotion of lotteries. Section 849.0935(2), F.S., exempts qualified organizations from that prohibition. This bill extends the exemption to permit local non-profit chambers of commerce to conduct drawings by chance.

This bill amends section 849.0935, Florida Statutes.

II. Present Situation:

Drawings by Chance

Section 849.09, F.S., prohibits the conduct and promotion of lotteries. Section 849.0935(2), F.S., exempts qualified organizations from the prohibition in s. 849.09, F.S. It permits certain organizations to conduct drawings by chance, provided the organization has complied with all applicable provisions of ch. 496, F.S.¹

Section 849.0935(2)(a), F.S., defines the term “drawing by chance” and “drawing” to mean:

an enterprise in which, from the entries submitted by the public to the organization conducting the drawing, one or more entries are selected by chance to win a prize. The term “drawing” does not include those enterprises, commonly known as “matching,” “instant winner,” or “preselected sweepstakes,” which involve the distribution of winning numbers, previously designated as such, to the public.

¹ Chapter 496, F.S., provides registration and disclosure requirements for the solicitation of contributions by charitable organizations.

Subsection (3) of s. 849.0935, F.S. provides that an organization as defined by this section is not prohibited from conducting drawings by chance if it has complied with the provision of ch. 496, F.S (Solicitation of Funds).

Section 849.0935(2)(b), F.S., defines the term “organization” to mean:

an organization which is exempt from federal income taxation pursuant to 26 U.S.C. s. 501(c)(3), (4), (7), (8), (10), or (19), and which has a current determination letter from the Internal Revenue Service, and its bona fide members or officers.

December 2004 Attorney General Opinion

According to the Florida Chamber of Commerce, local chambers have, in the past, commonly conducted raffles or drawings by chance; however in 2004 the Attorney General of Florida issued an opinion stating that the chambers were not authorized to do so. It stated that:

section 849.0935, Florida Statutes, constitutes a limited exception from the general prohibition against gambling in this state by authorizing some, but not all, 501(c) organizations to conduct drawings by chance subject to the conditions and limitations prescribed therein. A chamber of commerce qualified under 26 U.S.C. 501(c)(6), however, is not among those organizations listed in section 849.0935, Florida Statutes, as authorized to conduct drawings by chance.²

The Attorney General opined that since s. 849.0935, F. S., does not include chambers of commerce qualified under 26 U.S.C. 501(c)(6), among those authorized to conduct drawings by chance, a local chamber of commerce would not be qualified to conduct a raffle or drawing by chance pursuant to that statute.

Non-profit Status

26 U.S.C. 501(c)(6) lists the following organizations as tax-exempt:

Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Pursuant to this provision only non-profit chambers of commerce are tax-exempt.

² Op. Att’y Gen. Fla. 2004-62 (2004).

III. Effect of Proposed Changes:

The bill permits local non-profit chambers of commerce to conduct drawings by chance by amending the definition of "organization" in s. 849.0935(1)(b), F.S. According to the Florida Chamber of Commerce less than 10% of the over 350 local chambers are for-profit and will not be permitted to conduct drawings by chance under the provisions of this bill.

This bill would take effect on July 1, 2006.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

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