

The Florida Senate
PROFESSIONAL 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 2290

INTRODUCER: Senator Constantine

SUBJECT: Drawings of Chance/Entry Fee

DATE: April 11, 2007

REVISED: _____

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

I. Summary:

The bill deletes the provision that provides that the “design” of any drawing by chance by a charitable or nonprofit organization where the winner is predetermined by matching, instant win, or preselected sweepstakes or otherwise or where the selection of the winner is in any way rigged is unlawful.

The bill exempts drawings by chance where the prize exceeds \$100,000 from a provision that prohibits charitable and nonprofit organizations from requiring an entry fee, donation, substantial consideration, payment, proof of purchase, or contribution as a condition to enter drawings.

This bill substantially amends section 849.0935 of the Florida Statutes.

II. Present Situation:

Under s. 849.0935(1), F.S., “Drawings by chance” or “drawing” means 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.

“Organization” means 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.

Organizations qualified under 26 U.S.C. s. 501(c)(3), (4), (7), (8), (10), or (19) (2) provisions of s. 849.09, F.S., should not be construed to prohibit them from conducting drawings by chance.

Section 849.0935(4), F.S., makes it unlawful for any “organization” that promotes, operates, or conducts a drawing by chance to:

- Design, engage in, promote, or conduct any drawing in which the winner is predetermined by means of matching, instant win, or preselected sweepstakes or otherwise or in which the selection of the winners is in any way rigged;
- Require an entry fee, donation, substantial consideration, payment, proof of purchase, or contribution as a condition of entering the drawing or of being selected to win a prize. However, this provision shall not prohibit an organization from suggesting a minimum donation or from including a statement of such suggested minimum donation on any printed material utilized in connection with the fundraising event or drawing;
- Condition the drawing on a minimum number of tickets having been disbursed to contributors or on a minimum amount of contributions having been received;
- Arbitrarily remove, disqualify, disallow, or reject any entry or to discriminate in any manner between entrants who gave contributions to the organization and those who did not give such contributions;
- Fail to promptly notify, at the address set forth on the entry blank, any person, whose entry is selected to win, of the fact that he or she won;
- Fail to award all prizes offered;
- Print, publish, or circulate literature or advertising material used in connection with the drawing which is false, deceptive, or misleading;
- Cancel a drawing; or
- Condition the acquisition or giveaway of any prize upon the receipt of voluntary donations or contributions.

Violations under s. 849.0935, F.S., are considered a deceptive and unfair trade practice and a second degree misdemeanor.

III. Effect of Proposed Changes:

The bill amends s. 849.0935(4)(a), F.S., by deleting the provision that provides that the “design” of any drawing by chance by a charitable or nonprofit organization where the winner is predetermined by matching, instant win, or preselected sweepstakes or otherwise or where the selection of the winner is in any way rigged is unlawful.

The bill creates s. 849.0935(9), F.S., to exempts drawings by chance where the prize exceeds \$100,000 from a provision that prohibits charitable and nonprofit organizations from requiring an entry fee, donation, substantial consideration, payment, proof of purchase, or contribution as a condition to enter drawings.

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:

The bill may positively affect charitable and nonprofit organizations fund raising capabilities.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

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