

By the Committee on Commerce; and Senator Diaz de la Portilla

577-1900-07

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A bill to be entitled
An act relating to professional sports franchises; amending s. 288.1162, F.S.; defining the term "force majeure event"; providing an exception to a provision prohibiting certain persons who have previously received funding from receiving additional funds; increasing the number of facilities that may be certified as facilities for certain new or retained professional sports franchises; authorizing an additional certification of a facility for a specified Major League Baseball franchise; providing prerequisites for certification; providing that a franchise that continues to occupy a facility that was concurrently occupied by two professional sports franchises shall be deemed the franchise that formed the basis of the previous certification; providing an effective date.

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

Section 1. Paragraph (h) of subsection (4) and subsections (7) and (9) of section 288.1162, Florida Statutes, are amended, paragraph (c) is added to subsection (3) of that section, and subsections (10) and (11) are added to that section, to read:

288.1162 Professional sports franchises; spring training franchises; duties.--

(3) As used in this section, the term:

1 (c) "Force majeure event" means a flood, fire or other
2 casualty, war, revolution, civil commotion, an act of a public
3 enemy, embargo, act of government in its sovereign capacity,
4 or labor difficulty, including, without limitation, a strike,
5 lockout, or any circumstance beyond the reasonable control of
6 the professional sports franchise affected.

7 (4) Prior to certifying an applicant as a "facility
8 for a new professional sports franchise" or a "facility for a
9 retained professional sports franchise," the Office of
10 Tourism, Trade, and Economic Development must determine that:

11 (h) An ~~no~~ applicant previously certified under any
12 provision of this section who has received funding under such
13 certification is not shall be eligible for an additional
14 certification, except as provided in subsections (9), (10),
15 and (11).

16 (7)(a) The Office of Tourism, Trade, and Economic
17 Development shall notify the Department of Revenue of any
18 facility certified as a facility for a new professional sports
19 franchise or a facility for a retained professional sports
20 franchise or as a facility for a retained spring training
21 franchise. The Office of Tourism, Trade, and Economic
22 Development shall certify no more than nine ~~eight~~ facilities
23 as facilities for a new professional sports franchise or as
24 facilities for a retained professional sports franchise,
25 including in such total any facilities certified by the
26 Department of Commerce before July 1, 1996. The number of
27 facilities certified as a retained spring training franchise
28 shall be as provided in subsection (5). ~~The office may make no~~
29 ~~more than one certification for any facility.~~ The office may
30 not certify funding for less than the requested amount to any
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1 applicant certified as a facility for a retained spring
2 training franchise.

3 (b) The eighth certification of an applicant under
4 this section as a facility for a new professional sports
5 franchise or a facility for a retained professional sports
6 franchise shall be for a franchise that is a member of the
7 National Basketball Association, has been located within the
8 state since 1987, and has not been previously certified. This
9 paragraph is repealed July 1, 2010.

10 (c) The ninth certification of an applicant under this
11 section as a facility for a new professional sports franchise
12 or a facility for a retained professional sports franchise
13 shall be for a franchise that is a member of Major League
14 Baseball and has been located within the state since 1993.

15 (9) An applicant is not qualified for certification
16 under this section if the franchise formed the basis for a
17 previous certification, ~~unless:~~

18 (a) The previous certification was withdrawn by the
19 facility or invalidated by the Office of Tourism, Trade, and
20 Economic Development or the Department of Commerce before any
21 funds were distributed pursuant to s. 212.20; ~~or-~~

22 (b) The applicant will be the home facility for a
23 professional sports franchise that served as the basis for
24 certifying a facility that was occupied by two franchises.
25 ~~This subsection does not disqualify an applicant if the~~
26 ~~previous certification occurred between May 23, 1993, and May~~
27 ~~25, 1993; however, any funds to be distributed pursuant to s.~~
28 ~~212.20 for the second certification shall be offset by the~~
29 ~~amount distributed to the previous certified facility.~~
30 ~~Distribution of funds for the second certification shall not~~

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1 ~~be made until all amounts payable for the first certification~~
2 ~~have been distributed.~~

3 (10) To qualify for the ninth certification, the
4 following conditions must be met:

5 (a) The Office of Tourism, Trade, and Economic
6 Development has received a signed agreement for the benefit of
7 and enforceable by the Department of Revenue from the
8 applicant or current owner of the professional sports
9 franchise that formed the basis for the applicant's
10 certification pursuant to this section which guarantees that,
11 if the professional sports franchise ceases playing at least
12 90 percent of its home games in this state, including
13 preseason, regular season, and postseason games, unless the
14 cessation is a result of a force majeure event, within 60 days
15 thereafter the guarantor will provide to the Department of
16 Revenue an annuity contract issued by a person authorized to
17 issue such contracts in this state which will pay the
18 Department of Revenue each year thereafter, 150 percent of the
19 amount distributed pursuant to s. 212.20(6)(d)7.b. to the
20 applicant under this section during such year. The guarantee
21 of the current owner of the professional sports franchise
22 shall be returned upon substitution of the guarantee of any
23 successor owner of the professional sports franchise whose
24 ownership has been approved by the governing authority of the
25 league in which the professional sports franchise exists.

26 (b) The Office of Tourism, Trade, and Economic
27 Development has received evidence that one or more of the
28 municipalities in or near which the facility for a
29 professional sports franchise is located, the county in which
30 the facility for a professional sports franchise is located,
31 the applicant, and the owner of the professional sports

1 franchise that has served as an applicant's basis for
2 certification under this section or its affiliates have
3 previously contributed funds, or are contractually committed
4 to contribute funds during the next 30 years, for the
5 construction or improvement of the facility for a professional
6 sports franchise which, in the aggregate, equals or exceeds
7 \$60 million.

8 (c) The Office of Tourism, Trade, and Economic
9 Development has received a verified copy of a binding
10 agreement between the applicant and the new professional
11 sports franchise which requires the franchise to pay any cost
12 overruns when the franchise was used as the basis for the
13 original certification of the applicant described in paragraph
14 (9)(b) and is the basis for the current certification request.

15 (11) Notwithstanding any other provision of this
16 section, a franchise continuing to use a facility that was
17 concurrently occupied by two professional sports franchises
18 shall be deemed the franchise forming the basis of the
19 previous certification and the previous certification shall
20 continue to apply for the period permitted from the original
21 date of certification.

22 Section 2. This act shall take effect July 1, 2007.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 528

Committee Substitute for Senate bill 528 differs from the bill as filed in the following ways:

- Authorizes a distribution of state sales and use tax revenue to a ninth professional sports franchise facility in Florida for capital improvements and related bond debt service.
- Directs the Office of Tourism, Trade, and Economic Development (OTTED) to screen applicants and certify a ninth facility eligible for \$2 million annually over 30 years if it meets a number of criteria, and if the franchise that will be using the facility is a Major League Baseball club that has been located in Florida since 1993.
- Modifies the existing prohibition against facilities that were previously certified to be eligible for a subsequent certification.
- Deletes the existing provision offsetting any new state funding from a subsequent certification of a facility originally certified between May 23-May 25, 1993, with the funds the facility already has received through the original certification.
- Requires the franchise serving as the basis for the ninth certification to pay the state an amount equal to 150 percent of the state funding received if the franchise does not play 90 percent of its home games in the new facility. The only exception is if the franchise cannot play because of a "force majeure event," as defined.
- Requires a minimum match of \$60 million in the aggregate from the local governments and the franchise owner over the next 30 years.
- Requires the franchise to pay any cost overruns associated with the facility.