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1 A bill to be entitled
2 An act relating to direct-support organizations;
3 creating s. 430.82, F.S.; authorizing the Department
4 of Elderly Affairs to create a direct-support
5 organization; providing definitions; providing for
6 appointment of members to the board of directors;
7 providing requirements for membership to the board of
8 directors; requiring the direct-support organization
9 to operate under a contract; providing contract
10 requirements; authorizing the department to use its
11 property, facilities, and personal services for the
12 direct-support organization; requiring the Secretary
13 of Elderly Affairs to approve of any transaction or
14 agreement between the department's direct-support
15 organization and any other direct-support
16 organization; requiring the direct-support
17 organization to submit certain forms from the Internal
18 Revenue Service to the department; requiring the
19 direct-support organization to provide an annual
20 financial audit; amending s. 272.135, F.S.; providing
21 that the Capitol Curator may assist in raising funds
22 and making expenditures for the Historic Capitol;
23 creating s. 272.136, F.S.; authorizing the Legislative
24 Research Center and Museum and the Capitol Curator to
25 establish a direct-support organization; providing for
26 the appointment of members of a board of directors;
27 providing for board use of capitol property; requiring
28 the organization to be not for profit; authorizing the
29 center and curator to prescribe all conditions for the

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30 organization; providing for the reversion of the
31 organization's funds; amending s. 817.36, F.S.;
32 limiting the amount above the original price for which
33 an event ticket issued by charitable organizations at
34 certain venues may be sold; providing for notice to be
35 included on the ticket; providing an exception;
36 providing for a civil penalty equal to treble the
37 amount for which tickets were sold in violation of the
38 law; prohibiting the use of computer software to
39 circumvent a ticket seller's website security
40 measures, access control systems, or other controls or
41 measures used to ensure an equitable ticket-buying
42 process; providing penalties; defining the term
43 "software"; providing an effective date.

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. Section 430.82, Florida Statutes, is created to
48 read:

49 430.82 Direct-support organization.-

50 (1) DIRECT-SUPPORT ORGANIZATION ESTABLISHED.-The Department
51 of Elderly Affairs may establish a direct-support organization
52 to provide assistance, funding, and support for the department
53 in carrying out its mission. This section governs the creation,
54 use, powers, and duties of the direct-support organization.

55 (2) DEFINITIONS.-As used in this section, the term:

56 (a) "Department" means the Department of Elderly Affairs.

57 (b) "Direct-support organization" means an organization
58 that is:

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59 1. A Florida corporation, not for profit, incorporated
60 under chapter 617, and approved by the Department of State;

61 2. Organized and operated exclusively to obtain funds; to
62 request and receive grants, gifts, and bequests of moneys; to
63 acquire, receive, hold, invest, and administer in its own name
64 securities, funds, or property; and to make expenditures to or
65 for the direct or indirect benefit of the department and persons
66 in this state who are 60 years of age or older; and

67 3. Determined by the department to be operating in a manner
68 consistent with the goals of the department and in the best
69 interest of the state.

70 (c) "Personal services" means full-time or part-time
71 personnel.

72 (d) "Secretary" means the Secretary of Elderly Affairs.

73 (3) BOARD OF DIRECTORS.—The direct-support organization
74 shall be governed by a board of directors.

75 (a) The board of directors shall consist of no fewer than
76 five members appointed by the secretary. Networks and
77 partnerships in this state involved in issues related to aging
78 may recommend nominees to the secretary.

79 (b) The term of office of the board members shall be 3
80 years, except that the terms of the initial appointees shall be
81 for 1 year, 2 years, or 3 years in order to achieve staggered
82 terms. A member may be reappointed when his or her term expires.
83 The secretary or his or her designee shall serve as an ex
84 officio member of the board of directors.

85 (c) Members must be current residents of this state. A
86 majority of the members must be 60 years of age or older and
87 highly knowledgeable about the department, its service delivery

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88 system, and its mission. The secretary may remove any member of
89 the board for cause and with the approval of a majority of the
90 members of the board of directors. The secretary shall appoint a
91 replacement for any vacancy that occurs.

92 (4) CONTRACT.—A direct-support organization shall operate
93 under a written contract with the department. The written
94 contract must provide for:

95 (a) Certification by the department that the direct-support
96 organization is complying with the terms of the contract and is
97 doing so consistent with the goals and purposes of the
98 department and in the best interests of the state. This
99 certification must be made annually and reported in the official
100 minutes of a meeting of the direct-support organization.

101 (b) The reversion of moneys and property held by the
102 direct-support organization:

103 1. To the department if the direct-support organization is
104 no longer approved to operate for the department;

105 2. To the department if the direct-support organization
106 ceases to exist; or

107 3. To the state if the department ceases to exist.

108 (c) The disclosure of the material provisions of the
109 contract and the distinction between the department and the
110 direct-support organization to donors of gifts, contributions,
111 or bequests, including such disclosure on all promotional and
112 fundraising publications.

113 (5) USE OF PROPERTY.—

114 (a) The department may permit the use of property,
115 facilities, and personal services of the department by the
116 direct-support organization, subject to this section.

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117 (b) The department may prescribe by contract any condition
118 with which the direct-support organization must comply in order
119 to use property, facilities, or personal services of the
120 department.

121 (c) The department may not permit the use of its property,
122 facilities, or personal services by any direct-support
123 organization organized under this section which does not provide
124 equal employment opportunities to all persons regardless of
125 race, color, national origin, gender, age, or religion.

126 (6) ACTIVITIES; RESTRICTIONS.—Any transaction or agreement
127 between the direct-support organization organized under this
128 section and another direct-support organization or other entity
129 must be approved by the secretary.

130 (7) ANNUAL BUDGETS AND REPORTS.—

131 (a) The fiscal year of the direct-support organization
132 shall begin on July 1 of each year and end on June 30 of the
133 following year.

134 (b) The direct-support organization shall submit to the
135 department its federal Internal Revenue Service Application for
136 Recognition of Exemption form and its federal Internal Revenue
137 Service Return of Organization Exempt from Income Tax form.

138 (8) ANNUAL AUDIT.—The direct-support organization shall
139 provide for an annual financial audit in accordance with s.
140 215.981.

141 Section 2. Subsection (3) is added to section 272.135,
142 Florida Statutes, to read:

143 272.135 Florida Historic Capitol Curator.—

144 (3) In conjunction with the Legislative Research Center and
145 Museum at the Historic Capitol, the Capitol Curator may assist

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146 the Florida Historic Capitol in the performance of its mission
147 by:

148 (a) Raising money;

149 (b) Submitting requests for and receiving grants;

150 (c) Receiving, holding, investing, and administering in the
151 name of the Historic Capitol and the Legislative Research Center
152 and Museum securities, funds, objects of value, or other real
153 and personal property;

154 (d) Receiving gifts and donations for the direct or
155 indirect benefit of the Historic Capitol; and

156 (e) Making expenditures to or for the direct or indirect
157 benefit of the Historic Capitol.

158 Section 3. Section 272.136, Florida Statutes, is created to
159 read:

160 272.136 Direct-support organization.—The Legislative
161 Research Center and Museum at the Historic Capitol and the
162 Capitol Curator may establish a direct-support organization to
163 provide assistance and promotional support through fundraising
164 for the Florida Historic Capitol and the Legislative Research
165 Center and Museum, including, but not limited to, their
166 educational programs and initiatives.

167 (1) The direct-support organization shall be governed by a
168 board of directors who have demonstrated a capacity for
169 supporting the mission of the Historic Capitol.

170 (a) Initial appointments to the board shall be made by the
171 President of the Senate and the Speaker of the House of
172 Representatives at the recommendation of the center and the
173 curator. Appointments to the board shall thereafter be made by
174 the board.

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175 (b) The initial board shall consist of nine members who
176 shall be appointed to 3-year terms, except that the terms of the
177 initial appointees shall be accomplished so that three members
178 are appointed for 1 year, three members are appointed for 2
179 years, and three members are appointed for 3 years, in order to
180 achieve staggered terms, as determined by the presiding
181 officers.

182 (c) The board may add up to two additional members.

183 (d) The board members shall serve without compensation,
184 except that they are entitled to receive reimbursement for per
185 diem and travel expenses in accordance with s. 112.061.

186 (e) The board may use the fixed property and facilities of
187 the Historic Capitol, subject to the provisions of this
188 subsection. Such use must be directly in keeping with the
189 approved purposes of the direct-support organization and may not
190 be made at times or places that would unreasonably interfere
191 with the normal operations of the Historic Capitol.

192 (2) The direct-support organization must be a Florida
193 corporation, not for profit, incorporated under chapter 617, and
194 approved by the Department of State.

195 (3) The curator and center may prescribe any condition with
196 which the direct-support organization must comply.

197 (4) The curator and the center may not permit the use of
198 any fixed property or facilities by the direct-support
199 organization if the organization does not provide equal
200 membership and employment opportunities to all persons
201 regardless of race, color, religion, gender, age, or national
202 origin.

203 (5) The direct-support organization shall provide for an

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204 annual financial audit in accordance with s. 215.981.

205 (6) If the direct-support organization is no longer
206 authorized by this section, fails to comply with the
207 requirements of this section, fails to maintain its tax-exempt
208 status pursuant to s. 501(c)(3) of the Internal Revenue Code, or
209 ceases to exist, all funds obtained through grants, gifts, and
210 donations in the direct-support organization account shall
211 revert to the state and be deposited into an account designated
212 by the Legislature for the support of the Historic Capitol,
213 provided that donations made for specific purposes in an
214 original donor agreement shall be applied only to those
215 purposes.

216 Section 4. Section 817.36, Florida Statutes, is amended to
217 read:

218 817.36 Resale of tickets.—

219 (1) A person or entity that offers ~~Whoever shall offer~~ for
220 resale or resells ~~resell~~ any ticket may ~~only~~ charge only \$1
221 above the admission price charged therefor by the original
222 ticket seller of the ~~said~~ ticket for the following transactions:

223 (a) (1) ~~Passage or accommodations on any common carrier in~~
224 this state. ~~However, the provisions of this paragraph does~~
225 ~~subsection shall~~ not apply to travel agencies that have an
226 established place of business in this state, ~~which place of~~
227 ~~business~~ is required to pay state, county, and city occupational
228 license taxes.

229 (b) (2) ~~Multiday or multievent tickets to a park or~~
230 ~~entertainment complex or to a concert, entertainment event,~~
231 ~~permanent exhibition, or recreational activity within such a~~
232 ~~park or complex, including an entertainment/resort complex as~~

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233 defined in s. 561.01(18).

234 (c) Event tickets originally issued by a charitable
235 organization exempt from taxation under s. 501(c)(3) of the
236 Internal Revenue Code for which no more than 3,000 tickets are
237 issued per performance. The charitable organization must issue
238 event tickets with the following statement conspicuously printed
239 on the face or back of the ticket: "Pursuant to s. 817.36,
240 Florida Statutes, this ticket may not be resold for more than \$1
241 over the original admission price." This paragraph does not
242 apply to tickets issued or sold by a third party contractor
243 ticketing services provider on behalf of a charitable
244 organization otherwise included in this paragraph unless the
245 required disclosure is printed on the ticket.

246 (d)~~(3)~~ Any tickets, other than the tickets in paragraph
247 (a), paragraph (b), or paragraph (c) subsections (1) and (2),
248 that are resold or offered through an Internet website, unless
249 such website is authorized by the original ticket seller or
250 makes and posts the following guarantees and disclosures through
251 Internet web pages on which are visibly posted, or links to web
252 pages on which are posted, text to which a prospective purchaser
253 is directed before completion of the resale transaction:

254 1.~~(a)~~ The website operator guarantees a full refund of the
255 amount paid for the ticket including any servicing, handling, or
256 processing fees, if such fees are not disclosed, when:

257 a.~~1.~~ The ticketed event is canceled;

258 b.~~2.~~ The purchaser is denied admission to the ticketed
259 event, unless such denial is due to the action or omission of
260 the purchaser;

261 c.~~3.~~ The ticket is not delivered to the purchaser in the

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262 manner requested and pursuant to any delivery guarantees made by
263 the reseller and such failure results in the purchaser's
264 inability to attend the ticketed event.

265 2.~~(b)~~ The website operator discloses that it is not the
266 issuer, original seller, or reseller of the ticket or items and
267 does not control the pricing of the ticket or items, which may
268 be resold for more than their original value.

269 (2)~~(4)~~ ~~Nothing in~~ This section does not authorize
270 ~~authorizes~~ any individual or entity to sell or purchase tickets
271 at any price on property where an event is being held without
272 the prior express written consent of the owner of the property.

273 (3)~~(5)~~ Any sales tax due for resales under this section
274 shall be remitted to the Department of Revenue in accordance
275 with s. 212.04.

276 (4) A person who knowingly resells a ticket or tickets in
277 violation of this section is liable to the state for a civil
278 penalty equal to treble the amount of the price for which the
279 ticket or tickets were resold.

280 (5) A person who intentionally uses or sells software to
281 circumvent on a ticket seller's Internet website a security
282 measure, an access control system, or any other control or
283 measure that is used to ensure an equitable ticket-buying
284 process is liable to the state for a civil penalty equal to
285 treble the amount for which the ticket or tickets were sold.

286 (6) As used in this section, the term "software" means
287 computer programs that are primarily designed or produced for
288 the purpose of interfering with the operation of any person or
289 entity that sells, over the Internet, tickets of admission to a
290 sporting event, theater, musical performance, or place of public

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291 entertainment or amusement of any kind.

292 Section 5. This act shall take effect July 1, 2009.