

By the Committee on Regulated Industries; and Senator Negron

580-02681C-16

2016832c1

1                   A bill to be entitled  
2           An act relating to fantasy contests; creating s.  
3           546.11, F.S.; providing a short title; creating s.  
4           546.12, F.S.; providing legislative findings and  
5           intent; creating s. 546.13, F.S.; defining terms;  
6           creating s. 545.14, F.S.; creating the Office of  
7           Amusement within the Department of Business and  
8           Professional Regulation; requiring that the office be  
9           under the supervision of a senior manager who is  
10          exempt from the Career Service System and is appointed  
11          by the secretary of the department; providing duties  
12          of the office; providing for rulemaking; creating s.  
13          546.15, F.S.; providing licensing requirements for  
14          contest operators offering fantasy contests; exempting  
15          applicants for a contest operator's license from  
16          certain licensing requirements for a specified period  
17          of time after receipt of a complete application by the  
18          Office of Amusements; requiring the office to grant or  
19          deny a license within a specified timeframe; providing  
20          that a completed application is deemed approved 120  
21          days after receipt by the office under certain  
22          circumstances; providing requirements for the license  
23          application; providing that persons or entities are  
24          not eligible for licensure under certain  
25          circumstances; providing a definition; requiring a  
26          contest operator to provide evidence of a surety bond;  
27          requiring the surety bond to be kept during the term  
28          of the license and any renewal term thereafter;  
29          authorizing the office to suspend, revoke, or deny a  
30          license under certain circumstances; creating s.  
31          546.16, F.S.; requiring a contest operator to  
32          implement specified consumer protection procedures;

580-02681C-16

2016832c1

33 requiring a contest operator to annually contract with  
34 a third party to perform an independent audit;  
35 requiring a contest operator to submit the audit  
36 results to the department; creating s. 546.17, F.S.;  
37 requiring contest operators to keep and maintain  
38 certain records for a specified period; providing  
39 requirements; requiring a contest operator to file a  
40 quarterly report with the office; providing for  
41 rulemaking; creating s. 546.18, F.S.; providing a  
42 civil penalty; creating s. 546.19, F.S.; exempting  
43 fantasy contests from certain provisions in ch. 849,  
44 F.S.; providing applicability of penalty provisions;  
45 providing an effective date.

46  
47 Be It Enacted by the Legislature of the State of Florida:

48  
49 Section 1. Section 546.11, Florida Statutes, is created to  
50 read:

51 546.11 SHORT TITLE.—Sections 546.11-546.19 may be cited as  
52 the "Fantasy Contest Amusement Act."

53 Section 2. Section 546.12, Florida Statutes, is created to  
54 read:

55 546.12. LEGISLATIVE INTENT.—It is the intent of the  
56 Legislature to ensure public confidence in the integrity of  
57 fantasy contests and fantasy contest operators. This act is  
58 designed to strictly regulate the operators of fantasy contests  
59 and individuals who participate in such contests and to adopt  
60 consumer protections related to fantasy contests. Furthermore,  
61 the Legislature finds that fantasy contests, as that term is

580-02681C-16

2016832c1

62 defined in s. 546.13, involve the skill of contest participants  
63 and do not constitute gambling, gaming, or games of chance.

64 Section 3. Section 546.13, Florida Statutes, is created to  
65 read:

66 546.13 DEFINITIONS.—As used in ss. 546.11-546.19, the term:

67 (1) "Confidential information" means information related to  
68 the playing of fantasy contests by contest participants which is  
69 obtained solely as a result of a person's employment with or  
70 work as an agent of a contest operator.

71 (2) "Contest operator" means a person or entity that offers  
72 fantasy contests for a cash prize to members of the public.

73 (3) "Contest participant" means a person who pays a fee for  
74 the ability to participate in a fantasy contest offered by a  
75 contest operator.

76 (4) "Entry fee" means the cash or cash equivalent amount  
77 that is required to be paid by a fantasy contest player to a  
78 fantasy contest operator to participate in a fantasy contest.

79 (5) "Fantasy contest" means a fantasy or simulation sports  
80 game or contest offered by a contest operator or a noncommercial  
81 contest operator in which a contest participant manages a  
82 fantasy or simulation sports team composed of athletes from an  
83 amateur or professional sports organization and which meets the  
84 following conditions:

85 (a) All prizes and awards offered to winning participants  
86 are established and made known to the participants in advance of  
87 the game or contest and their value is not determined by the  
88 number of participants or the amount of any fees paid by those  
89 participants.

90 (b) All winning outcomes reflect the relative knowledge and

580-02681C-16

2016832c1

91 skill of the participants and are determined predominantly by  
92 accumulated statistical results of the performance of the  
93 athletes participating in multiple real-world sporting or other  
94 events. However, a winning outcome may not be based:

95 1. On the score, point spread, or any performance or  
96 performances of a single real-world team or any combination of  
97 such teams;

98 2. Solely on any single performance of an individual  
99 athlete in a single real-world sporting or other event; or

100 3. On a live pari-mutuel event, as the term "pari-mutuel"  
101 is defined by s. 550.002.

102 (6) "Noncommercial contest operator" means a person who  
103 organizes and conducts a fantasy contest in which contest  
104 participants are charged entry fees for the right to  
105 participate; entry fees are collected, maintained, and  
106 distributed by the same person; and all entry fees are returned  
107 to the players in the form of prizes.

108 (7) "Office" means the Office of Amusements created in s.  
109 546.14.

110 Section 4. Section 546.14, Florida Statutes is created to  
111 read:

112 546.14 OFFICE OF AMUSEMENTS.—

113 (1) The Office of Amusements is created within the  
114 Department of Business and Professional Regulation. The office  
115 shall operate under the supervision of a senior manager exempt  
116 under s. 110.205 in the Senior Management Service appointed by  
117 the secretary.

118 (2) The duties of the office include, but are not limited  
119 to, administering and enforcing this act and any rules adopted

580-02681C-16

2016832c1

120 pursuant thereto and any other duties authorized by the  
121 Secretary of Business and Professional Regulation. The office  
122 may work with department personnel as needed to assist in  
123 fulfilling its duties.

124 (3) The office may:

125 (a) Conduct investigations and monitor the operation and  
126 play of fantasy contests.

127 (b) Review the books, accounts, and records of any current  
128 or former contest operator.

129 (c) Suspend or revoke any license, after hearing, for any  
130 violation of state law or rule.

131 (d) Take testimony, issue summons and subpoenas for any  
132 witness, and issue subpoenas duces tecum in connection with any  
133 matter within its jurisdiction.

134 (e) Monitor and ensure the proper collection and  
135 safeguarding of contest fees and the payment of contest prizes  
136 in accordance with consumer protection procedures adopted  
137 pursuant to s. 546.16.

138 (4) The office may adopt rules to implement this act.

139 Section 5. Section 546.15, Florida Statutes, is created to  
140 read:

141 546.15 LICENSING.—

142 (1) A contest operator that offers fantasy contests for  
143 play by persons in this state must be licensed by the office to  
144 conduct fantasy contests within this state. The initial license  
145 application fee is \$500,000 and the annual license renewal fee  
146 is \$100,000, however, the respective fees may not exceed 10  
147 percent of the amount of entry fees collected by a contest  
148 operator from the operation of fantasy contests in this state,

580-02681C-16

2016832c1

149 less the amount of cash or cash equivalents paid to contest  
150 participants. The office shall require the contest operator to  
151 provide written evidence of the proposed amount of entry fees  
152 and cash or cash equivalents to be paid to contest participants  
153 during the annual license period. Prior to renewing a license,  
154 the contest operator shall provide written evidence to the  
155 office of the actual entry fees collected and cash or cash  
156 equivalents paid to contest participants during the previous  
157 period of licensure. The contest operator shall remit to the  
158 office any difference in license fee that results from the  
159 difference between the proposed amount of entry fees and cash or  
160 cash equivalents paid to contest participants and the actual  
161 amounts collected and paid.

162 (2) The office shall grant or deny a complete application  
163 within 120 days after receipt, and a completed application that  
164 is not acted upon by the office within 120 days after receipt is  
165 deemed approved, and the office shall issue the license.

166 Applications for a contest operator's license are exempt from  
167 the 90-day licensure timeframe imposed in s. 120.60(1).

168 (3) The application must include:

169 (a) The full name of the applicant.

170 (b) If the applicant is a corporation, the name of the  
171 state in which the applicant is incorporated and the names and  
172 addresses of the officers, directors, and shareholders of the  
173 corporation who hold 5 percent or more equity.

174 (c) If the applicant is a business entity other than a  
175 corporation, the names and addresses of the principals,  
176 partners, or shareholders who hold 5 percent or more equity.

177 (d) The names and addresses of the ultimate equitable

580-02681C-16

2016832c1

178 owners of the corporation or other business entity, if different  
179 from those provided under paragraphs (b) and (c), unless the  
180 securities of the corporation or entity are registered pursuant  
181 to s. 12 of the Securities Exchange Act of 1934, 15 U.S.C. ss.  
182 78a-78kk, and:

183 1. The corporation or entity files with the United States  
184 Securities and Exchange Commission, the reports required by s.  
185 13 of that act; or

186 2. The securities of the corporation or entity are  
187 regularly traded on an established securities market in the  
188 United States.

189 (e) The estimated number of fantasy sports contests to be  
190 conducted by the applicant annually.

191 (f) A statement of the assets and liabilities of the  
192 applicant.

193 (g) If required by the office, the names and addresses of  
194 the officers and directors of any debtor of the applicant and of  
195 stockholders who hold more than 10 percent of the stock of the  
196 debtor.

197 (h) For each individual listed in the application as an  
198 officer or director, a complete set of fingerprints taken by an  
199 authorized law enforcement officer. The office shall submit such  
200 fingerprints to the Federal Bureau of Investigation for national  
201 processing. Foreign nationals shall submit such documents as  
202 necessary to allow the office to conduct criminal history  
203 records checks in the individual's home country. The applicant  
204 must pay the full cost of processing fingerprints and required  
205 documentation. The office also may charge a \$2 handling fee for  
206 each set of fingerprints submitted.

580-02681C-16

2016832c1

207       (4) A person or entity is not eligible for licensure as a  
208 contest operator or licensure renewal if he or she or an officer  
209 or director of the entity is determined by the office, after  
210 investigation, not to be of good moral character or if found to  
211 have been convicted of a felony in this state, any offense in  
212 another jurisdiction which would be considered a felony if  
213 committed in this state, or a felony under the laws of the  
214 United States. For purposes of this subsection, the term  
215 "convicted" means having been found guilty, with or without  
216 adjudication of guilt, as a result of a jury verdict, nonjury  
217 trial, or entry of a plea of guilty or nolo contendere.

218       (5) The contest operator shall provide evidence of a surety  
219 bond in the amount of \$1 million, payable to the state,  
220 furnished by a corporate surety authorized to do business. The  
221 surety bond shall be kept in full force and effect by the  
222 contest operator during the term of the license and any renewal  
223 thereof. The office shall adopt by rule the form required for  
224 such surety bond.

225       (6) The office may suspend, revoke, or deny the license of  
226 a contest operator who fails to comply with this act or rules  
227 adopted pursuant thereto.

228       Section 6. Section 546.16, Florida Statutes, is created to  
229 read:

230       546.16 Consumer protection.—

231       (1) A contest operator who charges an entry fee to contest  
232 participants shall implement procedures for fantasy sports  
233 contests which:

234       (a) Prevent employees of the fantasy contest operator, and  
235 relatives living in the same household as such employees, from



580-02681C-16

2016832c1

236 competing in a fantasy contest in which a cash prize is awarded.

237 (b) Prohibit the contest operator from being a contest  
238 participant in a fantasy contest that he or she offers.

239 (c) Prevent the employees or agents of the contest operator  
240 from sharing with third parties confidential information that  
241 could affect fantasy contest play until the information has been  
242 made publicly available.

243 (d) Verify that contest participants are 18 years of age or  
244 older.

245 (e) Restrict an individual who is a player, a game  
246 official, or another participant in a real-world game or  
247 competition from participating in a fantasy contest that is  
248 determined, in whole or in part, on the performance of that  
249 individual, the individual's real-world team, or the accumulated  
250 statistical results of the sport or competition in which he or  
251 she is a player, game official, or other participant.

252 (f) Allow individuals to restrict or prevent their own  
253 access to such a fantasy contest and take reasonable steps to  
254 prevent those individuals from entering a fantasy sports  
255 contest.

256 (g) Limit the number of entries a single contest  
257 participant may submit to each fantasy contest and take  
258 reasonable steps to prevent participants from submitting more  
259 than the allowable number of entries.

260 (h) Segregate contest participants' funds from operational  
261 funds and maintain a reserve in the form of cash, cash  
262 equivalents, an irrevocable letter of credit, a bond, or a  
263 combination thereof in the total amount of deposits in contest  
264 participants' accounts for the benefit and protection of

580-02681C-16

2016832c1

265 authorized contest participants' funds held in fantasy contest  
266 accounts.

267 (2) A contest operator that offers fantasy contests in this  
268 state which require contest participants to pay an entry fee  
269 shall annually contract with a third party to perform an  
270 independent audit, consistent with the standards established by  
271 the Public Company Accounting Oversight Board, to ensure  
272 compliance with this act. The contest operator shall submit the  
273 results of the independent audit to the office.

274 Section 7. Section 546.17, Florida Statutes is created to  
275 read:

276 546.17 RECORDS AND REPORTS.—

277 (1) Each contest operator shall keep and maintain daily  
278 records of its operations and shall maintain such records for a  
279 period of at least 3 years. The records must sufficiently detail  
280 all financial transactions to determine compliance with the  
281 requirements of this section and must be available for audit and  
282 inspection by the office or other law enforcement agencies  
283 during the contest operator's regular business hours. The office  
284 shall adopt rules to implement this subsection.

285 (2) Each contest operator shall file quarterly with the  
286 office a report that includes the required records and any  
287 additional information deemed necessary by the office. The  
288 report shall be submitted on forms prescribed by the office, and  
289 are deemed public records once filed.

290 Section 8. Section 546.18, Florida Statutes, is created to  
291 read:

292 546.18 PENALTIES.—A contest operator, or an employee or  
293 agent thereof, who violates this act is subject to a civil

580-02681C-16

2016832c1

294 penalty not to exceed \$5,000 for each violation, not to exceed  
295 \$100,000 in the aggregate, which shall accrue to the state. An  
296 action to recover such penalties may be brought by the office or  
297 the Department of Legal Affairs in the circuit courts in the  
298 name and on behalf of the state.

299 Section 9. Section 546.19, Florida Statutes, is created to  
300 read:

301 546.19 Exemption.—Fantasy contests conducted by a contest  
302 operator or noncommercial contest operator in accordance with  
303 this act are not subject to s. 849.01, s. 849.08, s. 849.09, s.  
304 849.11, s. 849.14, or s. 849.25.

305 Section 10. The penalty provisions established by s.  
306 546.18, Florida Statutes, do not apply to a contest operator who  
307 applies for a license within 90 days after the effective date of  
308 this act and receives a license within 240 days after the  
309 effective date of this act.

310 Section 11. This act shall take effect upon becoming a law.