

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 969 Resale of Tickets
SPONSOR(S): Fine
TIED BILLS: IDEN./SIM. BILLS: SB 1316

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform Subcommittee	15 Y, 2 N	Wright	Anstead
2) Civil Justice & Property Rights Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

Tickets to popular events sold on the primary market sometimes are priced below the market price, partly because some performers, venues, and events want to make tickets affordable for fans and consumers. Tickets are often resold on the secondary market at prices above face value. Professional resellers can use numerous staff and software, or “bots,” to rapidly buy lots of tickets. In some instances, this results in resellers buying up a substantial portion of tickets initially offered for sale with the sole purpose of offering them for resale. As a result, some consumers can only buy tickets on the resale market at a substantial markup.

In response to bots buying up tickets before consumers, some performers, venues, and events have made their tickets nontransferable or have restricted transfers to being permitted only on a designated application. Nontransferable tickets, or tickets whose terms do not allow resale, may allow more consumers to access tickets at face-value. However, they also limit a consumer’s ability to sell tickets they cannot use, can create inconvenience by requiring identification at the venue or the use of a specific application, and may prevent efficient allocation of tickets.

The bill requires any person or entity who offers nontransferable tickets for sale to also offer the ticket in a transferrable format.

The bill defines “nontransferable ticket” as a ticket that may not be given away or resold in a method of the ticketholder’s choosing, or that requires the ticketholder and the purchaser to facilitate the exchange exclusively through an application program by the original ticket seller.

The bill provides that the original ticket seller may not penalize, discriminate against, or deny access to an event to a person who purchases or resells a ticket in a manner authorized.

The bill provides an effective date of July 1, 2022.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Nontransferable Tickets

Ticket pricing, resale activity, and fees for events vary. Tickets to popular events sold on the primary market sometimes are priced below the market price, partly because performers want to make tickets affordable and maintain fans' goodwill, according to industry representatives. Tickets are often resold on the secondary market at prices above face value. Professional resellers can use numerous staff and software, or "bots," to rapidly buy many tickets. As a result, many consumers can buy tickets only on the resale market at a substantial markup.¹

The majority of states do not regulate or restrict the sale of nontransferable tickets. However, Connecticut, New York, and Virginia restrict nontransferable tickets, or tickets whose terms do not allow resale. In response to bots buying up tickets before consumers, some performers, venues, and events have made their tickets nontransferable or have restricted transfers to being permitted only on a designated application. Nontransferable tickets, or tickets whose terms do not allow resale, may allow more consumers to access tickets at face-value. However, they also limit a consumer's ability to sell tickets they cannot use, can create inconvenience by requiring identification at the venue or the use of a specific application, and may prevent efficient allocation of tickets.²

Resale of Tickets in Florida

The resale pricing of certain tickets is governed by Florida law. A person or entity that offers for resale or resells any ticket (with the exception of travel agencies under certain conditions³) may charge only **\$1.00 above the admission price** charged by the original ticket seller, for the following:⁴

- Passage or accommodations on any common carrier in this state;
- Multiday or multievent tickets to a park or entertainment complex, or to a concert, entertainment event, permanent exhibition, or recreational activity within such a park or complex, including an entertainment/resort complex;⁵ and
- **Event tickets** originally issued by a tax-exempt charitable organization, when no more than 3,000 tickets are issued per performance. The following must be conspicuously printed on the face or back of each such ticket: "*Pursuant to s. 817.36, Florida Statutes, this ticket may not be resold for more than \$1 over the original admission price.*" **This provision does not apply to tickets issued or sold by a third party ticketing service on behalf of a charitable organization, unless the statement is on the ticket.**

The limitation of only being able to charge an additional \$1.00 above the original price of a ticket also applies to any tickets that are resold or offered through an Internet website (except those described above), **unless** the website:

- Is authorized by the original ticket seller; or

¹ U.S. Government Accountability Office, GAO-18-357, *Event Ticket Sales: Market Characteristics and Consumer Protection Issues 2* (April 2018), available at <https://www.gao.gov/assets/gao-18-347.pdf>.

² *Id.*

³ To qualify for this exception, travel agencies must have an established place of business in Florida and pay state, county, and city occupational license taxes. See s. 817.36(1)(a), F.S.

⁴ S. 817.36, F.S.

⁵ An "Entertainment/resort complex" means a theme park comprised of at least 25 acres of land with permanent exhibitions and a variety of recreational activities, which has at least 1 million visitors annually who pay admission fees thereto, together with any lodging, dining, and recreational facilities located adjacent to, contiguous to, or in close proximity to the theme park, as long as the owner(s)/operator(s) of the theme park, or a parent or related company or subsidiary thereof, has an equity interest in the lodging, dining, or recreational facilities or is in privity therewith. Close proximity shall include an area within a 5-mile radius of the theme park complex. See s. 561.01(18), F.S.

- Makes and posts the following **guarantees and disclosures** through Internet web pages, or links to web pages, in text to which a prospective purchaser is directed before completion of the resale transaction:
 - The website operator guarantees a **full refund** of the ticket price including any servicing, handling, or processing fees, if such fees are not disclosed, when:
 - The ticketed event is canceled;
 - The purchaser is denied admission to the ticketed event, unless such denial is due to the action or omission of the purchaser;
 - The ticket is not delivered to the purchaser as requested and pursuant to delivery guarantees made by the reseller and such failure results in the purchaser's being unable to attend the event; and
 - The website operator discloses that it is not the issuer, original seller, or reseller of the ticket and does not control the pricing of the ticket, which **may be resold for more than its original value**.

Individual or entities are not authorized to sell or purchase tickets at any price on property where an event is being held (e.g., outside a stadium) without the prior express written consent of the owner of the property.⁶ Sales tax is due on resold tickets.⁷

A person who knowingly resells a ticket or tickets in violation of these requirements is liable to the state for a civil penalty equal to three times the amount of the price for which the ticket or tickets were resold.⁸

Also, a person who **intentionally uses or sells software to circumvent a security measure**, an access control system, or any other control or measure on a ticket seller's Internet website which is used to ensure an equitable ticket-buying process, is liable to the state for a civil penalty equal to three times the amount for which any ticket was sold.⁹

Purchasers and resellers of tickets may also be subject to civil penalties under the Florida Deceptive and Unfair Trade Practices Act (FDUTPA).¹⁰ In the absence of a contract with the original ticket seller to distribute or sell tickets, **a person who knowingly purchases from the original ticket seller a quantity of event tickets which exceeds the posted¹¹ maximum ticket limit per purchaser with the intent of resale, violates FDUTPA.**¹²

Effect of the Bill

The bill amends the provision of law outlining requirements for the resale of tickets.

The bill requires any person or entity who offers nontransferable tickets for sale to also offer the ticket in a transferrable format.¹³

⁶ See s. 817.36(2), F.S.

⁷ See s. 817.36(3), F.S.

⁸ See s. 817.36(4), F.S.

⁹ *Id.* Section 817.36(5), F.S. See also s. 817.36(6), F.S., which defines the term "software" as "computer programs that are primarily designed or produced for the purpose of interfering with the operation of any person or entity that sells, over the Internet, tickets of admission to a sporting event, theater, musical performance, or place of public entertainment or amusement of any kind." Similar federal legislation was enacted in 2016 to prohibit circumvention of ticket website security or control measures and the subsequent sale of the fraudulently obtained tickets by someone who knew or should have known about the violation. See The Better Online Ticket Sales Act, at 15 U.S.C. s. 45c.

¹⁰ See part II of ch. 501, F.S., relating to consumer protection (ss. 501.201-501.213, F.S.). FDUTPA addresses protection of the public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce. Violations may result in several actions, including civil penalties.

¹¹ Posting of a quantity limit occurs at the point of original sale or is printed on the tickets by or on behalf of the original ticket seller. See s. 817.357, F.S.

¹² See s. 817.357, F.S.

¹³ The bill provides an exception for passage or accommodations on any common carrier in Florida, multiday or multievent tickets to a park or entertainment complex or to a concert, entertainment event, permanent exhibition, or recreational

The bill defines “nontransferable ticket” as a ticket that may not be given away or resold in a method of the ticketholder’s choosing, or requires the ticketholder and the purchaser to facilitate the exchange exclusively through an application program by the original ticket seller.

The bill provides that the original ticket seller may not penalize, discriminate against, or deny access to an event to a person who purchases or resells a ticket in a manner authorized.

The bill provides an effective date of July 1, 2022.

B. SECTION DIRECTORY:

Section 1: Amends s. 817.36, F.S. providing requirements for nontransferable tickets.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may allow more ticket resellers to sell more tickets. The bill may require original ticket sellers to sell tickets in a transferable format.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not state who qualifies as the “original ticket seller.” For example, it does not state that it must be the ticket retailer, the artist or performer, a venue, or any other party responsible for determining ticket requirements.

The bill does not address whether a ticket seller can charge an additional fee, or higher price for a transferrable ticket versus a nontransferable ticket.

The bill also does not specify any penalties for an original ticket seller who violates the bill.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES