

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 617 Private Property for Motor Vehicle Parking

SPONSOR(S): Local Administration, Federal Affairs & Special Districts Subcommittee, Lopez, V. and others

TIED BILLS: IDEN./SIM. **BILLS:** SB 694

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	17 Y, 0 N, As CS	Mwakyanjala	Darden
2) State Affairs Committee			

SUMMARY ANALYSIS

Current law authorizes the owner or operator of private property used for motor vehicle parking facility to establish rules and rates that govern private persons parking at the facility. These rates may include parking charges for violating the property owner or operator’s rules. Any rules or rates must be posted and clearly visible to those parking at the facility. Invoices for parking charges must contain specified information to show the charges are not being levied by a governmental entity. Counties and municipalities are prohibited from enacting an ordinance or regulation restricting or prohibiting the right of a private property owner or operator to establish such rules and rates. Any ordinance or regulation that violates the prohibition is null and void.

The bill:

- Requires invoices for parking charges to be sent to the registered owner of the vehicle by certified mail;
- Prohibits owners or operators of privately-owned parking facilities from assessing a late fee for at least 30 days after the postmarked date of mailing;
- Prohibits counties and municipalities from enacting ordinances or regulations restricting in any manner the parking rates charged by property owners and operators of privately-owned parking facilities, including parking charges for violating the property owner’s or operator’s rules;
- Prohibits counties and municipalities from enacting ordinances or regulations restricting parking charges for violating the rules established by the owner or operator of privately-owned parking facilities.
- Establishes a ten-minute grace period in which owners and operators of privately-owned parking facilities may not charge vehicle operators that enter the parking property, if the vehicle does not park.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Regulation of Vehicles Parked on Private Property

Current law expressly authorizes the owner or operator of private property used as a motor vehicle parking facility to establish rules and rates that govern private persons parking at the facility.¹ As part of establishing rules and rates, property owners or operators may also set parking charges for violating the parking facility's rules. Any rules and rates must be posted and clearly visible to persons parking motor vehicles on the property. If the owner or operator of the property issues an invoice for any parking charges, that invoice must include the following statement in uppercase type:

THIS INVOICE IS PRIVATELY ISSUED, IS NOT ISSUED BY A GOVERNMENTAL AUTHORITY, AND IS NOT SUBJECT TO CRIMINAL PENALTIES.

Counties and municipalities are prohibited from enacting an ordinance or regulation restricting or prohibiting the right of a private property owner or operator to establish rules and rates.² Any ordinance or regulation that violates this prohibition is null and void.

In 2019, before the passage of the current law, the City of Miami passed an emergency ordinance banning the operators of privately-owned parking facilities in the city from issuing citations for violations of facility rules, claiming that such citations caused confusion for the recipients who sometimes thought the citations were city-issued and could lead to civil or criminal penalties.³ In 2021, the City of Miami amended the ordinance to authorize the issuance of private parking citations if they are not called a "violation, citation, or ticket" and include a notice informing the recipient that "[t]his invoice is privately issued, is not issued by a governmental authority, and is not subject to civil or criminal penalties."⁴ That same year, Broward County enacted an ordinance making it "unlawful for any person, including a parking facility operator or agent, to issue a private ticket to a motor vehicle or to the owner of any such vehicle."⁵

Effect of Proposed Changes

The bill requires invoices for parking charges to be sent to the registered owner of the vehicle by certified mail and prohibits the owner or operator of a privately-owned parking facility from assessing a late fee for at least 30 days after the postmarked date of the mailing.

The bill revises the preemption concerning of a county or municipality's ability to enact an ordinance or regulation restricting or prohibiting the rights of a private property owner or operator to apply to the local government's ability to restrict in any manner the parking rates charged by the property owner or operator, including parking charges for violating the property owner or operator's rules.

The bill establishes a ten-minute grace period in which owners and operators of privately-owned parking facilities may not charge vehicle operators that enter the private property, if the vehicle does not park.

B. SECTION DIRECTORY:

¹ S. 715.075(1), F.S.

² S. 715.075(2), F.S.

³ City of Miami, Fla. Ord. No. 13840 (enacted May 23, 2019); S. 25-292, City of Miami, Fla. Code of Ordinances.

⁴ City of Miami, Fla. Ord. No. 13990 (enacted April 22, 2021); S. 25-292, City of Miami, Fla. Code of Ordinances.

⁵ Broward County, Fla. Ord. No. 2021-43 (enacted Sept. 21, 2021); S. 20-164.2, Broward County, Fla. Code of Ordinances.

Section 1: Amends s. 715.075, F.S., relating to the use of private property for motor vehicle parking.

Section 2: Provides an effective date of July 1, 2023.

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 requirement to send invoices by certified mail, a 30-day waiting period before assessing late fees, and the ten-minute grace period may reduce the revenue of the owners and operators of privately-owned parking facilities.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 15, 2023, the Local Administration, Federal Affairs & Special Districts Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Requires invoices for parking charges issued to be sent to the registered owner of the vehicle by certified mail and prohibits owners or operators of privately-owned parking facilities from assessing a late fee for at least 30 days after the postmarked date of mailing;
- Prohibits counties and municipalities from enacting ordinances or regulations restricting in any manner the parking rates charged by owners and operators of privately-owned parking facilities, including parking charges for violation of facility rules.
- Establishes a ten-minute grace period in which owners and operators of privately-owned parking facilities may not charge vehicle operators that enter the property so long as the vehicle does not park.

This analysis is drafted to the committee substitute as passed by the Local Administration, Federal Affairs & Special Districts Subcommittee.