

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 271 Motor Vehicle Parking on Private Property

SPONSOR(S): State Affairs Committee, Local Administration, Federal Affairs & Special Districts Subcommittee, Lopez, V., and Busatta Cabrera

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 388

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	16 Y, 0 N, As CS	Mwakyanjala	Darden
2) State Affairs Committee	20 Y, 0 N, As CS	Mwakyanjala	Williamson

SUMMARY ANALYSIS

Current law authorizes the owner or operator of private property used for motor vehicle parking to establish rules and rates that govern private persons parking on such property. These rates may include parking charges for violating the rules of the property owner or operator. Any rules or rates must be posted and clearly visible to those parking on such property. 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 signage containing the rules and rates for parking facilities to be posted in a manner that is legible and clearly visible when entering the area used for parking, requires certain information be contained on the signage, and permits the signage to be regulated by the county or municipality in which the property is located.
- Requires any invoice for parking charges to be placed on the vehicle in a prominent location or be mailed within five business days of the violation.
- Requires all invoices issued by the owner or operator to include an appeal process adjudicated by a neutral third-party to be available to any party believing to have received the invoice in error.
- Prohibits the owner or operator of a privately-owned parking facility from assessing a late fee until the latter of 15 days after the date an appeal is denied or 30 days after the invoice was placed on the motor vehicle or postmarked date of mailing.
- Provides an exemption from the appeals process for parking facilities owned or operated by a theme park or entertainment complex.
- Establishes a 15-minute grace period in which the owner or operator of a privately-owned parking facility may not charge vehicle operators that enter the parking facility, provided the vehicle does not park.
- Prohibits the owners or operators of parking facilities from selling, offering to sell, or transferring to another person for sale the personal information of any party using the private property for parking.
- Provides that the provisions of the bill do not apply to owners or operators of a lodging park, mobile home park, or recreational vehicle park provided certain requirements are met.

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:

Present Situation

In 2019, the City of Miami passed an emergency ordinance banning the operators of a privately-owned parking facility 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.¹ 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.”² 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.”³

In 2022, the Legislature enacted s. 715.071, F.S., which expressly authorizes the owner or operator of private property used for motor vehicle parking to establish rules and rates that govern private persons parking on such property.⁴ As part of establishing rules and rates, property owners or operators may 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.⁵ Any ordinance or regulation that violates this prohibition is null and void.

Effect of Proposed Changes

The bill requires the owner or operator of a privately-owned parking facility to place signage legible to persons entering the area used for parking. The bill provides that such signage may be regulated by the county or municipality in which the property is located. The signage must:

- State the property is not operated by a governmental entity;
- Provide the rates for charges for violating the rules of the property owner or operator;
- Provide notice of a 10-minute grace period in which the owner or operator of a privately-owned parking facility may not charge vehicle operators that enter the private property, if the vehicle does not park during that period; and
- Provide notice of the appeal process for invoices believed to have been received in error.

The bill requires any invoice for parking charges be placed on the vehicle in a prominent location or be mailed to the violator within five business days of the violation. The owner or operator may not assess a late fee until the latter of 15 days after the date an appeal is denied or 30 days after the invoice is either placed on the vehicle or the postmarked date of the mailing.

The bill requires the invoice to include a method to appeal the invoice if a party believes it has received the invoice in error. The party must file a dispute of the invoice with the parking lot owner or operator

¹ City of Miami, Fla. Ord. No. 13840 (enacted May 23, 2019); S. 25-292, City of Miami, Fla. Code of Ordinances.

² City of Miami, Fla. Ord. No. 13990 (enacted April 22, 2021); S. 25-292, City of Miami, Fla. Code of Ordinances.

³ Broward County, Fla. Ord. No. 2021-43 (enacted Sept. 21, 2021); S. 20-164.2, Broward County, Fla. Code of Ordinances.

⁴ S. 715.075(1), F.S.

⁵ S. 715.075(2), F.S.

within 15 days after the invoice is either placed on the vehicle or the postmarked date of mailing. The bill provides that the owner or operator of the parking lot has five business days to render a decision. The bill allows the party to appeal the decision of such owner or operator within 10 days after receipt of the decision. The appeal must be determined by a neutral third-party adjudicator with the authority to review and make a determination on the appeal. The bill provides that if an appeal is approved, the invoice must be dismissed, and if an appeal is denied, the party must pay the original invoice within 15 days after the decision of the adjudicator.

The bill provides an exemption from the appeals process for parking facilities owned or operated by a theme park or an entertainment complex.⁶

The bill establishes a 15-minute grace period in which the owner or operator of a privately-owned parking facility may not charge vehicle operators that enter the private property, if the vehicle does not park during the grace period.

The bill prohibits owners or operators of private property used for motor vehicle parking from selling, offering to sell, or transferring to another person for sale the personal information of any party using the private property for parking.

The provisions of the bill do not apply to an owner or operator of a lodging park,⁷ mobile home park,⁸ or recreational vehicle park⁹ provided that the terms of tenancy and parking within such park are established by rules and regulations of the park or within a rental agreement between the owner or operator of the park and the operator of the motor vehicle.

B. SECTION DIRECTORY:

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, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

⁶ See s. 509.013(9), F.S. (defining a “theme park” or “entertainment complex” as “a complex comprised of at least 25 contiguous acres owned and controlled by the same business entity and which contains permanent exhibitions and a variety of recreational activities and has a minimum of 1 million visitors annually.”)

⁷ Section 513.01(2), F.S., defines “lodging park” to mean a place set aside and offered by a person, for either direct or indirect remuneration of the operator of the place, in which 75 percent of the mobile homes or recreational vehicles or combination thereof are owned by the operator and offered for rent to the public and which is not licensed under ch. 509, F.S.

⁸ Section 513.01(4), F.S., defines “mobile home park” to mean a place set aside and offered by a person, for either direct or indirect remuneration of the owner, lessor, or operator of such place, for the parking, accommodation, or rental of five or more mobile homes.

⁹ Section 513.01(11), F.S., defines “recreational vehicle park” to mean a place set aside and offered by a person, for either direct or indirect remuneration of the owner, lessor, or operator of such place, for the parking, accommodation, or rental of five or more recreational vehicles or tents; and the term also includes buildings and sites set aside for group camping and similar recreational facilities. The terms “campground,” “camping resort,” “RV resort,” “travel resort,” and “travel park,” or any variations of these terms, are synonymous with the term “recreational vehicle park.”

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The requirement to have invoices mailed within five days, a waiting period before assessing late fees, and the 15-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 January 10, 2024, the Local Administration, Federal Affairs, & Special Districts Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Required the owner or operator of a privately-owned parking facility to place signage containing certain information and that is legible and clearly visible to a person entering the area used for motor vehicle parking;
- Allowed the owner or operator to place an invoice for violation of property rules on the motor vehicle in a prominent location or mail the invoice within five days;
- Prohibited a late fee from being applied to any invoice until the latter of the denial of any appeal of the invoice or 30 days after the invoice is either placed on the vehicle or the postmarked date of mailing;
- Required an appeal of an invoice to be filed within 30 days after the invoice is either placed on the vehicle or the postmarked day of mailing; and
- Removed requirements concerning the use of a mobile payment application by the owner or operator of a privately-owned parking facility.

On February 7, 2024, the State Affairs Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Revised the appeals process available for parties who believe they have received an invoice in error.
- Required invoices for parking charges to be mailed within five business days of the parking violation.
- Removed the requirement that parking rates be listed on required signage.
- Provided an exemption from the appeals process for parking facilities owned or operated by a theme park or entertainment complex.
- Revised the grace period from 10 minutes to 15 minutes.
- Prohibited owners or operators of parking facilities from selling, offering to sell, or transferring to another person for sale the personal information of any party using the private property for parking.
- Provided that the requirements of the bill do not apply to owners or operators of a lodging park, mobile home park, or recreational vehicle park provided certain requirements are met.

This analysis is drafted to the committee substitute as passed by the State Affairs Committee.