

## Committee Substitute for Senate Bill No. 746

An act relating to direct-support organizations; creating s. 430.82, F.S.; authorizing the Department of Elderly Affairs to create a direct-support organization; providing definitions; providing for appointment of members to the board of directors; providing requirements for membership to the board of directors; requiring the direct-support organization to operate under a contract; providing contract requirements; authorizing the department to use its property, facilities, and personal services for the direct-support organization; requiring the Secretary of Elderly Affairs to approve of any transaction or agreement between the department's direct-support organization and any other direct-support organization; requiring the direct-support organization to submit certain forms from the Internal Revenue Service to the department; requiring the direct-support organization to provide an annual financial audit; amending s. 272.135, F.S.; providing that the Capitol Curator may assist in raising funds and making expenditures for the Historic Capitol; creating s. 272.136, F.S.; authorizing the Legislative Research Center and Museum and the Capitol Curator to establish a direct-support organization; providing for the appointment of members of a board of directors; providing for board use of capitol property; requiring the organization to be not for profit; authorizing the center and curator to prescribe all conditions for the organization; providing for the reversion of the organization's funds; amending s. 817.36, F.S.; limiting the amount above the original price for which an event ticket issued by charitable organizations at certain venues may be sold; providing for notice to be included on the ticket; providing an exception; providing for a civil penalty equal to treble the amount for which tickets were sold in violation of the law; prohibiting the use of computer software to circumvent a ticket seller's website security measures, access control systems, or other controls or measures used to ensure an equitable ticket-buying process; providing penalties; defining the term "software"; providing an effective date.

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

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

430.82 Direct-support organization.—

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

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

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

(b) “Direct-support organization” means an organization that is:

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

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

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

(c) “Personal services” means full-time or part-time personnel.

(d) “Secretary” means the Secretary of Elderly Affairs.

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

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

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

(c) Members must be current residents of this state. A majority of the members must be 60 years of age or older and highly knowledgeable about the department, its service delivery system, and its mission. The secretary may remove any member of the board for cause and with the approval of a majority of the members of the board of directors. The secretary shall appoint a replacement for any vacancy that occurs.

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

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

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

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

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

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

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

(5) USE OF PROPERTY.—

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

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

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

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

(7) ANNUAL BUDGETS AND REPORTS.—

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

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

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

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

272.135 Florida Historic Capitol Curator.—

(3) In conjunction with the Legislative Research Center and Museum at the Historic Capitol, the Capitol Curator may assist the Florida Historic Capitol in the performance of its mission by:

(a) Raising money;

(b) Submitting requests for and receiving grants;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) The direct-support organization shall provide for an annual financial audit in accordance with s. 215.981.

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

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

817.36 Resale of tickets.—

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

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

(b)(2) 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 as defined in s. 561.01(18).

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

(d)(3) Any tickets, other than the tickets in paragraph (a), paragraph (b), or paragraph (c) subsections (1) and (2), that are resold or offered through

an Internet website, unless such website is authorized by the original ticket seller or makes and posts the following guarantees and disclosures through Internet web pages on which are visibly posted, or links to web pages on which are posted, text to which a prospective purchaser is directed before completion of the resale transaction:

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

a.1. The ticketed event is canceled;

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

c.3. The ticket is not delivered to the purchaser in the manner requested and pursuant to any delivery guarantees made by the reseller and such failure results in the purchaser's inability to attend the ticketed event.

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

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

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

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

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

(6) As used in this section, the term "software" means 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.

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

Approved by the Governor June 16, 2009.

Filed in Office Secretary of State June 16, 2009.