

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: CS/SB 364

INTRODUCER: Regulated Industries Committee and Senator Fasano

SUBJECT: Instant Bingo Tickets/Electronic Devices

DATE: March 3, 2010                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brink	Imhof	RI	Fav/CS
2.			JU	
3.			GA	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The committee substitute (CS) authorizes the dispensing of instant bingo tickets by electronic or mechanical devices. The bingo devices must be capable of recording each ticket dispensed, the number of coins or amount of money received for each ticket, the total number of tickets dispensed and the total amount of money received for all tickets dispensed.

The CS clarifies that electronic or mechanical instant bingo devices are not slot machines under ss. 849.15 and 849.16, F.S., coin-operated amusement machines as defined in s. 212.02(24), F.S., or amusement games or machines under s. 849.161, F.S.

The CS clarifies that electronic and mechanical instant bingo machines are exempt from taxation as coin-operated amusement machines under s. 212.05(1)(h), F.S., and as vending machines under s. 212.0515, F.S.

The CS substantially amends section 849.0931, Florida Statutes.

The CS provides a July 1, 2010 effective date.

## II. Present Situation:

Chapter 849, F.S., contains specific exceptions to the general gambling prohibition and authorizes certain gambling activities such as card rooms, bingo, penny-ante poker, arcade amusement games, and amusement games and machines. Specifically, s. 849.0931, F.S., authorizes the playing of charitable bingo.

Bingo was authorized in 1967 by the Florida Legislature to provide charitable, nonprofit, and veterans' organizations a way to raise money for their charitable projects and activities. No statutory provision exists for statewide enforcement or interpretation of the bingo law. Enforcement of the law is the responsibility of local law enforcement agencies. Several counties have passed their own bingo ordinances to address problems associated with the game.

Section 849.0931, F.S., authorizes bingo games to be conducted for money by certain organizations under narrowly prescribed parameters. Pursuant to ss. 849.0931(1)(c) and (4), F.S., organizations which are authorized to conduct bingo games include:

1. Charitable, nonprofit, and veterans' organizations, which are defined as tax-exempt under 501 (c) of the Internal Revenue Code of 1954, or s. 528 of the Internal Revenue Code of 1986, which are engaged in charitable, civic, community, benevolent, religious, or scholastic works or similar activities and which have been in existence and active for at least three years; and
2. Condominium associations, cooperative associations, homeowners' associations, mobile home owners' associations, and a group of residents of a mobile home park or recreational vehicle park.

These organizations must be directly involved in the operations of the bingo game and may not act merely as sponsors. Members of the organization must conduct the game and cannot be compensated in any way for this role. In addition, the organization which conducts the game must be "located in the county, or within a 15 mile radius of, where the bingo game is located," as provided in s. 894.0931(9), F.S. The property where bingo or instant bingo games are held must be owned or leased by the authorized organization or owned by the charitable organization that will benefit from the proceeds of the game.<sup>1</sup>

Section 849.0931, F.S., defines how bingo proceeds, which remain after prizes have been awarded, can be used. Charitable, nonprofit, and veterans' organizations must donate the proceeds to the organizations' listed endeavors. Net proceeds generated from bingo games conducted by condominium associations, cooperative associations, homeowners' associations, mobile home owners' associations, and a group of residents of a mobile home park or recreational vehicle park, however, must be donated to a charitable tax-exempt organization or returned to the players in the form of prizes. In addition, these associations have the option of carrying over the proceeds for use as prize money in subsequent games, with the proviso that players cannot be charged to participate in the subsequent games until these excess proceeds are exhausted.

The statute also establishes restrictions on bingo jackpots. No jackpot may exceed the value of \$250 in actual money or its equivalent. There cannot be more than three jackpots on any one day

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<sup>1</sup> Section 849.0931(11), F.S.

of play and all other game prizes may not exceed \$50. An organization cannot conduct bingo more than two days per week.

Participants in bingo games must be at least 18 years old. The organization which is conducting the game “may refuse entry to any person...but such refusal of entry shall not be on the basis of race, creed, color, religion, sex, national origin, marital status, or physical handicap.”<sup>2</sup>

### **Instant Bingo**

Instant bingo was authorized in 2007 by the Florida Legislature. Instant bingo is a form of bingo that is played at the same location as bingo, using tickets by which a player wins a prize by opening and removing a cover from the ticket to reveal a set of numbers, letters, objects, or patterns, some of which are predetermined to be winners.<sup>3</sup> Instant bingo tickets are also known informally as “pull tabs.”

Section 849.0931(13), F.S. provides the following regulations for instant bingo tickets:

- The tickets must be sold at the price printed on the ticket by the manufacturer, which may not exceed \$1.<sup>4</sup>
- The sets of numbers, letters, objects, or patterns that have been pre-designated by the manufacturer as winning combinations for a deal of instant bingo tickets must be posted before the sale of any tickets from that deal.<sup>5</sup>
- Each instant bingo ticket in a deal must bear the same serial number and there may not be more than one serial number in each deal. Serial numbers printed on a deal may not be repeated by the manufacturer on the same form for three years.<sup>6</sup>
- The serial number for each deal must be clearly and legibly placed on the outside of each deal’s package, box, or other container.<sup>7</sup>
- Instant bingo tickets, rules of play, recordkeeping, and reporting for instant bingo games manufactured, sold, or distributed in Florida must comply with the standards on pull-tabs of the North American Gaming Regulators Association.<sup>8</sup>

An instant bingo ticket manufactured, sold or distributed in Florida must meet the following criteria<sup>9</sup>:

- Be manufactured so that it is not possible to identify whether it is a winning or losing ticket until it has been opened by the player.
- Be manufactured using at least a two-ply paper stock construction so that the ticket is opaque.
- Have the form number, the deal’s serial number and the name or logo of the manufacturer conspicuously printed on the face or cover of the ticket.
- Have a form of winner protection that allows the organization to verify, after a ticket has been played, that the winning ticket presented for payment is an authentic winning ticket for

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<sup>2</sup> Section 849.0931(10)(b), F.S.

<sup>3</sup> Section 849.0931(1)(f), F.S.

<sup>4</sup> Section 849.0931(13)(a), F.S.

<sup>5</sup> Section 849.0931(13)(b), F.S.

<sup>6</sup> Section 849.0931(13)(c), F.S.

<sup>7</sup> Section 849.0931(13)(d), F.S.

<sup>8</sup> Section 849.0931(13)(e), F.S.

<sup>9</sup> Section 849.0931(13)(f), F.S.

the deal in play. The manufacturer is required to provide a written description of the winner protection verification with each deal of tickets.

Each manufacturer and distributor that sells or distributes instant bingo tickets in Florida to charitable, nonprofit, or veterans' organizations must prepare an invoice that contains the following<sup>10</sup>:

- Date of sale;
- Form number and the serial number of each deal sold;
- Number of instant bingo tickets in each deal sold;
- Name of distributor or organization to whom each deal is sold; and
- Price of each deal sold.

The distributor or manufacturer is required to maintain the information contained in the invoice for three years. The invoice or a true and accurate copy must be kept on the premises where any deal is stored or played. Although bingo halls are required to keep records of instant bingo sales, no regulatory agency is assigned to check them.<sup>11</sup>

Florida Attorney General McCollum has opined<sup>12</sup> that dispensing instant bingo tickets through an electronic machine would violate s. 849.15, F.S., as an unlawful slot machine because the machine would dispense an object that would result in the user becoming eligible for a thing of value by chance.<sup>13</sup> Dispensing an instant bingo ticket by an electronic device, however, may be distinguished from a slot machine. A machine or device is a slot machine if it is adapted for use in such a way that, as a result of insertion of any piece of money, coin, or other object, such machine causes the user, by reason of chance or other unpredictable measure, to receive or become entitled to a thing of value or to secure additional chances to use the machine.<sup>14</sup> The machine would dispense a ticket after insertion of a piece of money, coin, or other object. The machine itself would contain no element of chance or randomness. The machine itself would not *cause* the user, by result of chance, to become eligible for a thing of value. The machine would merely dispense the ticket.

### III. Effect of Proposed Changes:

The CS creates paragraph (i) in s. 849.0931(13) to authorize the dispensing of instant bingo tickets by electronic or mechanical devices. The CS specifies that the act of dispensing instant bingo tickets through such a device is subject to the other provisions of ch. 849, F.S., which regulates bingo and instant bingo. The CS also requires that the electronic device be capable of recording each ticket dispensed, the number of coins or amount of money received for each ticket, and totals of each for all tickets dispensed.

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<sup>10</sup> Section 849.0931(13)(g), F.S.

<sup>11</sup> Section 849.0931(14), F.S., provides that any organization or person who willfully or knowingly violates any provision of this section commits a misdemeanor of the first degree. For a second or subsequent offense, the organization or other person commits a felony of the third degree.

<sup>12</sup> Opinions of the Attorney General are not law and are not binding in a court of law. Instead, the opinions are advisory in nature. *Abreau v. Cobb*, 670 So. 2d 1010, 1012 (Fla. 3rd DCA 1996).

<sup>13</sup> Fla. AGO 2008-35 (July 8, 2008).

<sup>14</sup> Section 849.16, F.S.

Pursuant to s. 849.0931(1)(f), F.S., instant bingo, is played only at the same locations where bingo is played. Accordingly, the electronic or mechanical devices that dispense instant bingo tickets would be placed only in the locations where bingo is played.

The CS specifies that electronic and mechanical instant bingo machines are not considered slot machines under ss. 849.15 and 849.16, F.S., coin-operated amusement machines as defined in s. 212.02(24), F.S., or amusement games or machines under s. 849.161, F.S.

It also provides that these machines are not subject to taxation as coin-operated amusement machines under s. 212.05(1)(h), F.S., or as vending machines under s. 212.0515, F.S.

The CS provides a July 1, 2010 effective date.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

#### **VI. Technical Deficiencies:**

None.

#### **VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Regulated Industries on March 3, 2010:**  
The CS amends SB 364.

The CS differs from SB 364 as follows:

- It further amends s. 893.0931(13), F.S., to clarify that electronic and mechanical instant bingo machines are exempt from taxation as coin-operated amusement machines under s. 212.05(1)(h), F.S., and as vending machines under s. 212.0515, F.S. and
- It further amends s. 893.0931(13), F.S. to clarify that electronic and mechanical instant bingo machines are not considered slot machines under ss. 849.15 and 849.16, F.S., coin-operated amusement machines as defined in s. 212.02(24), F.S., or amusement games or machines under s. 849.161, F.S.

- B. **Amendments:**

None.