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LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
02/19/2016	.	
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The Committee on Regulated Industries (Negron) recommended the following:

**Senate Amendment (with title amendment)**

Before line 208

insert:

Section 1. Section 546.11, Florida Statutes, is created to read:

546.11 Short title.—Sections 546.11-546.20 may be cited as the "Fantasy Contest Amusement Act."

Section 2. Section 546.12, Florida Statutes, is created to read:

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11           546.12 Legislative intent.—It is the intent of the  
12 Legislature to ensure public confidence in the integrity of  
13 fantasy contests and fantasy contest operators. This act is  
14 designed to strictly regulate the operators of fantasy contests  
15 and individuals who participate in such contests and to adopt  
16 consumer protections related to fantasy contests. Furthermore,  
17 the Legislature finds that fantasy contests, as that term is  
18 defined in s. 546.13, involve the skill of contest participants  
19 and do not constitute gambling, gaming, or games of chance.

20           Section 3. Section 546.13, Florida Statutes, is created to  
21 read:

22           546.13 Definitions.—As used in ss. 546.11-546.19, the term:

23           (1) "Confidential information" means information related to  
24 the playing of fantasy contests by contest participants which is  
25 obtained solely as a result of a person's employment with or  
26 work as an agent of a contest operator.

27           (2) "Contest operator" means a person or an entity other  
28 than a noncommercial contest operator which offers fantasy  
29 contests that require an entry fee for a cash prize to members  
30 of the public.

31           (3) "Contest participant" means a person who pays an entry  
32 fee for the ability to participate in a fantasy contest offered  
33 by a contest operator.

34           (4) "Entry fee" means the cash or cash equivalent amount  
35 that is required to be paid by a fantasy contest player to a  
36 fantasy contest operator to participate in a fantasy contest.

37           (5) "Fantasy contest" means a fantasy or simulation sports  
38 game or contest offered by a contest operator or a noncommercial  
39 contest operator in which a contest participant manages a



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40 fantasy or simulation sports team composed of athletes from an  
41 amateur or professional sports organization and which meets the  
42 following conditions:

43 (a) All prizes and awards offered to winning participants  
44 are established and made known to the participants in advance of  
45 the game or contest and their value is not determined by the  
46 number of participants or the amount of any fees paid by those  
47 participants.

48 (b) All winning outcomes reflect the relative knowledge and  
49 skill of the participants and are determined predominantly by  
50 accumulated statistical results of the performance of the  
51 athletes participating in multiple real-world sporting or other  
52 events. However, a winning outcome may not be based:

53 1. On the score, point spread, or any performance or  
54 performances of a single real-world team or any combination of  
55 such teams; or

56 2. Solely on any single performance of an individual  
57 athlete in a single real-world sporting or other event.

58 (6) "Noncommercial contest operator" means a person who  
59 organizes and conducts a fantasy contest, or who makes available  
60 a fantasy contest software platform, in which participants may  
61 be charged fees for the right to participate; fees are  
62 collected, maintained, and distributed by the same person; and  
63 all fees are returned to the players in the form of prizes.

64 (7) "Office" means the Office of Amusements created in s.  
65 546.14.

66 Section 4. Section 546.14, Florida Statutes is created to  
67 read:

68 546.14 Office of Amusements.—



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69           (1) The Office of Amusements is created within the  
70 Department of Business and Professional Regulation. The office  
71 shall operate under the supervision of a senior manager exempt  
72 under s. 110.205 in the Senior Management Service and appointed  
73 by the secretary.

74           (2) The duties of the office include, but are not limited  
75 to, administering and enforcing this act and any rules adopted  
76 pursuant thereto and any other duties authorized by the  
77 Secretary of Business and Professional Regulation. The office  
78 may work with department personnel as needed to assist in  
79 fulfilling its duties.

80           (3) The office may:

81           (a) Conduct investigations and monitor the operation and  
82 play of fantasy contests.

83           (b) Review the books, accounts, and records of any current  
84 or former contest operator.

85           (c) Suspend or revoke any license, after hearing, for any  
86 violation of state law or rule.

87           (d) Take testimony, issue summons and subpoenas for any  
88 witness, and issue subpoenas duces tecum in connection with any  
89 matter within its jurisdiction.

90           (e) Monitor and ensure the proper collection and  
91 safeguarding of contest fees and the payment of contest prizes  
92 in accordance with consumer protection procedures adopted  
93 pursuant to s. 546.16.

94           (4) The office may adopt rules to implement this act.

95           Section 5. Section 546.15, Florida Statutes, is created to  
96 read:

97           546.15 Licensing.-



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98           (1) A contest operator that offers fantasy contests for  
99 play by persons in this state must be licensed by the office to  
100 conduct fantasy contests within this state. The initial license  
101 application fee is \$500,000 and the annual license renewal fee  
102 is \$100,000, however, the respective fees may not exceed 10  
103 percent of the amount of entry fees collected by a contest  
104 operator from the operation of fantasy contests in this state,  
105 less the amount of cash or cash equivalents paid to contest  
106 participants. The office shall require the contest operator to  
107 provide written evidence of the proposed amount of entry fees  
108 and cash or cash equivalents to be paid to contest participants  
109 during the annual license period. Prior to renewing a license,  
110 the contest operator shall provide written evidence to the  
111 office of the actual entry fees collected and cash or cash  
112 equivalents paid to contest participants during the previous  
113 period of licensure. The contest operator shall remit to the  
114 office any difference in license fee that results from the  
115 difference between the proposed amount of entry fees and cash or  
116 cash equivalents paid to contest participants and the actual  
117 amounts collected and paid.

118           (2) The office shall grant or deny a complete application  
119 within 120 days after receipt, and a completed application that  
120 is not acted upon by the office within 120 days after receipt is  
121 deemed approved, and the office shall issue the license.  
122 Applications for a contest operator's license are exempt from  
123 the 90-day licensure timeframe imposed in s. 120.60(1).

124           (3) The application must include:  
125           (a) The full name of the applicant.  
126           (b) If the applicant is a corporation, the name of the



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127 state in which the applicant is incorporated and the names and  
128 addresses of the officers, directors, and shareholders of the  
129 corporation who hold 5 percent or more equity.

130 (c) If the applicant is a business entity other than a  
131 corporation, the names and addresses of the principals,  
132 partners, or shareholders who hold 5 percent or more equity.

133 (d) The names and addresses of the ultimate equitable  
134 owners of the corporation or other business entity, if different  
135 from those provided under paragraphs (b) and (c), unless the  
136 securities of the corporation or entity are registered pursuant  
137 to s. 12 of the Securities Exchange Act of 1934, 15 U.S.C. ss.  
138 78a-78kk, and:

139 1. The corporation or entity files with the United States  
140 Securities and Exchange Commission, the reports required by s.  
141 13 of that act; or

142 2. The securities of the corporation or entity are  
143 regularly traded on an established securities market in the  
144 United States.

145 (e) The estimated number of fantasy sports contests to be  
146 conducted by the applicant annually.

147 (f) A statement of the assets and liabilities of the  
148 applicant.

149 (g) If required by the office, the names and addresses of  
150 the officers and directors of any debtor of the applicant and of  
151 stockholders who hold more than 10 percent of the stock of the  
152 debtor.

153 (h) For each individual listed in the application as an  
154 officer or director, a complete set of fingerprints taken by an  
155 authorized law enforcement officer. The office shall submit such



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156 fingerprints to the Federal Bureau of Investigation for national  
157 processing. Foreign nationals shall submit such documents as  
158 necessary to allow the office to conduct criminal history  
159 records checks in the individual's home country. The applicant  
160 must pay the full cost of processing fingerprints and required  
161 documentation. The office also may charge a \$2 handling fee for  
162 each set of fingerprints submitted.

163 (4) A person or entity is not eligible for licensure as a  
164 contest operator or licensure renewal if he or she or an officer  
165 or director of the entity is determined by the office, after  
166 investigation, not to be of good moral character or if found to  
167 have been convicted of a felony in this state, any offense in  
168 another jurisdiction which would be considered a felony if  
169 committed in this state, or a felony under the laws of the  
170 United States. For purposes of this subsection, the term  
171 "convicted" means having been found guilty, with or without  
172 adjudication of guilt, as a result of a jury verdict, nonjury  
173 trial, or entry of a plea of guilty or nolo contendere.

174 (5) The contest operator shall provide evidence of a surety  
175 bond in the amount of \$1 million, payable to the state,  
176 furnished by a corporate surety authorized to do business. The  
177 surety bond shall be kept in full force and effect by the  
178 contest operator during the term of the license and any renewal  
179 thereof. The office shall adopt by rule the form required for  
180 such surety bond.

181 (6) The office may not issue a license pursuant to this  
182 section unless the Gaming Compact between the Seminole Tribe of  
183 Florida and the State of Florida, authorized pursuant to s.  
184 285.710(3)(b), indicates that fantasy contests operated by such



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185 fantasy contest operator do not violate any of the compact's  
186 provisions.

187 (7) The office may suspend, revoke, or deny the license of  
188 a contest operator who fails to comply with this act or rules  
189 adopted pursuant thereto.

190 Section 6. Section 546.16, Florida Statutes, is created to  
191 read:

192 546.16 Consumer protection.—

193 (1) A contest operator who charges an entry fee to contest  
194 participants shall implement procedures for fantasy sports  
195 contests which:

196 (a) Prevent employees of the fantasy contest operator, and  
197 relatives living in the same household as such employees, from  
198 competing in a fantasy contest in which a cash prize is awarded.

199 (b) Prohibit the contest operator from being a contest  
200 participant in a fantasy contest that he or she offers.

201 (c) Prevent the employees or agents of the contest operator  
202 from sharing with third parties confidential information that  
203 could affect fantasy contest play until the information has been  
204 made publicly available.

205 (d) Verify that contest participants are 18 years of age or  
206 older.

207 (e) Restrict an individual who is a player, a game  
208 official, or another participant in a real-world game or  
209 competition from participating in a fantasy contest that is  
210 determined, in whole or in part, on the performance of that  
211 individual, the individual's real-world team, or the accumulated  
212 statistical results of the sport or competition in which he or  
213 she is a player, game official, or other participant.





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214 (f) Allow individuals to restrict or prevent their own  
215 access to a fantasy contest and take reasonable steps to prevent  
216 those individuals from entering a fantasy sports contest.

217 (g) Limit the number of entries a single contest  
218 participant may submit to each fantasy contest and take  
219 reasonable steps to prevent participants from submitting more  
220 than the allowable number of entries.

221 (h) Segregate contest participants' funds from operational  
222 funds and maintain a reserve in the form of cash, cash  
223 equivalents, an irrevocable letter of credit, a bond, or a  
224 combination thereof in the total amount of deposits in contest  
225 participants' accounts for the benefit and protection of  
226 authorized contest participants' funds held in fantasy contest  
227 accounts.

228 (2) A contest operator that offers fantasy contests in this  
229 state which require contest participants to pay an entry fee  
230 shall annually contract with a third party to perform an  
231 independent audit, consistent with the standards established by  
232 the Public Company Accounting Oversight Board, to ensure  
233 compliance with this act. The contest operator shall submit the  
234 results of the independent audit to the office.

235 Section 7. Section 546.17, Florida Statutes is created to  
236 read:

237 546.17 Records and reports.-

238 (1) Each contest operator shall keep and maintain daily  
239 records of its operations relevant to compliance with ss. 546.15  
240 and 546.16 and shall maintain such records for a period of at  
241 least 3 years. The records must sufficiently detail all  
242 financial transactions to determine compliance with the



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243 requirements of this section and must be available for audit and  
244 inspection by the office or other law enforcement agencies  
245 during the contest operator's regular business hours. The office  
246 shall adopt rules to implement this subsection.

247 (2) Each contest operator shall file quarterly with the  
248 office a report that includes the required records and any  
249 additional information deemed necessary by the office. The  
250 report shall be submitted on forms prescribed by the office, and  
251 are deemed public records once filed.

252 Section 8. Section 546.18, Florida Statutes, is created to  
253 read:

254 549.18 Consent required.—A contest operator who charges an  
255 entry fee to contest participants shall ensure that any fantasy  
256 contests involving horseracing have received the consent  
257 specified in the Interstate Horseracing Act of 1978, 92 Stat.  
258 1811, 15 U.S.C. ss. 3001 et seq.

259 Section 9. Section 546.19, Florida Statutes, is created to  
260 read:

261 546.19 Penalties.—In addition to other applicable  
262 administrative, civil, and criminal sanctions, a contest  
263 operator, or an employee or agent thereof, who violates this act  
264 is subject to a civil penalty not to exceed \$5,000 for each  
265 violation, not to exceed \$100,000 in the aggregate, which shall  
266 accrue to the state. An action to recover such penalties may be  
267 brought by the office or the Department of Legal Affairs in the  
268 circuit courts in the name and on behalf of the state.

269 Section 10. Section 546.20, Florida Statutes, is created to  
270 read:

271 546.20 Exemption.—Fantasy contests conducted by a contest



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272 operator or noncommercial contest operator in accordance with  
273 this act are not subject to s. 849.01, s. 849.08, s. 849.09, s.  
274 849.11, s. 849.14, or s. 849.25.

275 Section 11. The penalty provisions established by s.  
276 546.18, Florida Statutes, do not apply to a contest operator who  
277 applies for a license within 90 days after the effective date of  
278 this act and receives a license within 240 days after the  
279 effective date of this act.

280  
281 ===== T I T L E A M E N D M E N T =====

282 And the title is amended as follows:

283 Delete line 2  
284 and insert:

285 An act relating to gaming; creating s. 546.11, F.S.;  
286 providing a short title; creating s. 546.12, F.S.;  
287 providing legislative findings and intent; creating s.  
288 546.13, F.S.; defining terms; creating s. 545.14,  
289 F.S.; creating the Office of Amusements within the  
290 Department of Business and Professional Regulation;  
291 requiring that the office be under the supervision of  
292 a senior manager who is exempt from the Career Service  
293 System and is appointed by the secretary of the  
294 department; providing duties of the office; providing  
295 for rulemaking; creating s. 546.15, F.S.; providing  
296 licensing requirements for contest operators offering  
297 fantasy contests; requiring the office to grant or  
298 deny a license within a specified timeframe; providing  
299 that a completed application is deemed approved 120  
300 days after receipt by the office under certain



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301 circumstances; providing requirements for the license  
302 application; providing that persons or entities are  
303 not eligible for licensure under certain  
304 circumstances; providing a definition; requiring a  
305 contest operator to provide evidence of a surety bond;  
306 requiring the surety bond to be kept during the term  
307 of the license and any renewal term thereafter;  
308 providing that a license may not be issued if it  
309 violates the Gaming Compact; authorizing the office to  
310 suspend, revoke, or deny a license under certain  
311 circumstances; creating s. 546.16, F.S.; requiring a  
312 contest operator to implement specified consumer  
313 protection procedures; requiring a contest operator to  
314 annually contract with a third party to perform an  
315 independent audit; requiring a contest operator to  
316 submit the audit results to the department; creating  
317 s. 546.17, F.S.; requiring contest operators to keep  
318 and maintain certain records for a specified period;  
319 providing requirements; providing for rulemaking;  
320 requiring a contest operator to file a quarterly  
321 report with the office; creating s. 546.18, F.S.;  
322 requiring a contest operator to obtain certain consent  
323 for certain fantasy contests; creating s. 546.19,  
324 F.S.; providing a civil penalty; creating s. 546.20,  
325 F.S.; exempting fantasy contests from certain  
326 provisions in ch. 849, F.S.; providing applicability  
327 of penalty provisions; amending s. 550.002, F.S.;