

9637

I N A S S E M B L Y

May 13, 2014

Introduced by M. of A. CUSICK -- read once and referred to the Committee on Tourism, Parks, Arts and Sports Development

AN ACT to amend the arts and cultural affairs law, in relation to limiting the re-sale price of tickets to charitable events and criminalizing violations of the limitation

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The arts and cultural affairs law is amended by adding a
2 new section 25.06 to read as follows:
3 S 25.06. TICKET SPECULATORS; CHARITABLE OR NOT-FOR-PROFIT EVENTS. 1.
4 EVERY OPERATOR OF A PLACE OF ENTERTAINMENT SHALL, IF A PRICE BE CHARGED
5 FOR ADMISSION THERETO FOR ENTERTAINMENT DEDICATED TO CHARITY OR
6 NOT-FOR-PROFIT CAUSE, PRINT OR ENDORSE ON THE FACE OF EACH SUCH TICKET
7 THE ESTABLISHED PRICE, OR THE FINAL AUCTION PRICE IF SUCH TICKET WAS
8 SOLD OR RESOLD BY AUCTION THROUGH THE OPERATOR OR ITS AGENT. EACH SUCH
9 OPERATOR SHALL ALSO BE REQUIRED TO PRINT OR ENDORSE ON EACH TICKET THAT
10 THE ESTABLISHED PRICE IS THE MAXIMUM PRICE AT WHICH SUCH TICKET OR OTHER
11 EVIDENCE OF THE RIGHT OF ENTRY MAY BE RESOLD OR OFFERED FOR RESALE IF AN
12 EVENT GENERATES TICKET SALES REVENUE DEDICATED TO A CHARITY OR NOT-FOR-
13 PROFIT CAUSE. IT SHALL BE UNLAWFUL FOR ANY PERSON, FIRM OR CORPORATION
14 TO RESELL OR OFFER TO RESELL ANY TICKET OR OTHER EVIDENCE OF RIGHT OF
15 ENTRY TO ANY PLACE OF ENTERTAINMENT IF AN EVENT GENERATES TICKET SALE
16 REVENUE DEDICATED TO A CHARITY OR NOT-FOR-PROFIT CAUSE FOR MORE THAN THE
17 ESTABLISHED PRICE.
18 2. A. ANY PERSON, FIRM OR CORPORATION WHICH, IN VIOLATION OF SUBDIVI-
19 SION ONE OF THIS SECTION, UNLAWFULLY RESELLS, OR OFFERS TO RESELL, A
20 TICKET TO AN EVENT THAT GENERATES TICKET SALE REVENUE DEDICATED TO A
21 CHARITY OR NOT-FOR-PROFIT CAUSE AT A PRICE THAT EXCEEDS THE MAXIMUM
22 PRICE AT WHICH SUCH TICKET MAY BE RESOLD OR OFFERED FOR RESALE SHALL BE
23 GUILTY OF A MISDEMEANOR PUNISHABLE BY A TERM OF IMPRISONMENT NOT TO
24 EXCEED ONE YEAR OR BY A FINE NOT TO EXCEED SEVEN HUNDRED FIFTY DOLLARS
25 ON THE FIRST CONVICTION; ONE THOUSAND FIVE HUNDRED DOLLARS ON THE SECOND
26 CONVICTION; AND TWO THOUSAND DOLLARS, ON EACH SUBSEQUENT CONVICTION OR
27 BY BOTH SUCH FINE AND IMPRISONMENT.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

LBD05357-03-3

1 B. NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, WHEN THE FINES
2 INCLUDED IN THIS SECTION ARE IMPOSED ON A FIRM, CORPORATION OR OTHER
3 ENTITY THAT IS NOT A SINGLE PERSON, SUCH FINES MAY BE IMPOSED AT UP TO
4 TWO TIMES THE AMOUNT OTHERWISE ALLOWED, OR, WHERE APPLICABLE, THREE
5 TIMES THE AMOUNT OF THE DEFENDANT'S GAIN.

6 3. AS USED IN THIS SECTION THE TERM: A. "ENTERTAINMENT DEDICATED TO A
7 CHARITY OR NOT-FOR-PROFIT CAUSE" MEANS ALL FORMS OF ENTERTAINMENT
8 INCLUDING, BUT NOT LIMITED TO, THEATRICAL OR OPERATIC PERFORMANCES,
9 CONCERTS, MOTION PICTURES, ALL FORMS OF ENTERTAINMENT AT FAIR GROUNDS,
10 AMUSEMENT PARKS AND ALL TYPES OF ATHLETIC COMPETITIONS INCLUDING FOOT-
11 BALL, BASKETBALL, BASEBALL, BOXING, TENNIS, HOCKEY, AND ANY OTHER SPORT,
12 AND ALL OTHER FORMS OF DIVERSION, RECREATION OR SHOW FROM WHICH SIGNIF-
13 ICANT REVENUE IS DESIGNATED FOR A NOT-FOR-PROFIT ORGANIZATION AS DEFINED
14 IN PARAGRAPH D OF THIS SUBDIVISION; AND

15 B. "ESTABLISHED PRICE" MEANS THE PRICE FIXED AT THE TIME OF SALE BY
16 THE OPERATOR OF ANY PLACE OF ENTERTAINMENT FOR ADMISSION THERETO, WHICH
17 MUST BE PRINTED OR ENDORSED ON EACH TICKET OF ADMISSION;

18 C. "FINAL AUCTION PRICE" SHALL MEAN THE PRICE PAID FOR A SINGLE TICKET
19 BY A WINNING BIDDER. IN THE CASE OF A SINGLE ACTION PRICE FOR A TICKET
20 PACKAGE, INCLUDING PACKAGES CONTAINING TICKETS TO MULTIPLE EVENTS, THE
21 FINAL AUCTION PRICE PER TICKET SHALL BE ESTABLISHED BY EVENLY DIVIDING A
22 PRORATED SHARE OF THE WINNING BID, WHICH SHALL BE DETERMINED BY THE
23 SELLER, BY THE NUMBER OF TICKETS TO SUCH EVENT;

24 D. "NOT-FOR-PROFIT ORGANIZATION" MEANS A DOMESTIC CORPORATION INCORPO-
25 RATED PURSUANT TO OR OTHERWISE SUBJECT TO THE NOT-FOR-PROFIT CORPORATION
26 LAW, A CHARITABLE ORGANIZATION REGISTERED WITH THE DEPARTMENT OF LAW, A
27 RELIGIOUS CORPORATION AS DEFINED IN SECTION SIXTY-SIX OF THE GENERAL
28 CONSTRUCTION LAW, A TRUSTEE AS DEFINED IN SECTION 8-1.4 OF THE ESTATES,
29 POWERS AND TRUSTS LAW, AN INSTITUTION OR CORPORATION FORMED PURSUANT TO
30 THE EDUCATION LAW, A SPECIAL ACT CORPORATION CREATED PURSUANT TO CHAPTER
31 FOUR HUNDRED SIXTY-EIGHT OF THE LAWS OF EIGHTEEN HUNDRED NINETY-NINE, AS
32 AMENDED, A SPECIAL ACT CORPORATION FORMED PURSUANT TO CHAPTER TWO
33 HUNDRED FIFTY-SIX OF THE LAWS OF NINETEEN HUNDRED SEVENTEEN, AS AMENDED,
34 A CORPORATION AUTHORIZED PURSUANT TO AN ACT OF CONGRESS APPROVED JANUARY
35 FIFTH, NINETEEN HUNDRED FIVE, (33 STAT. 599), AS AMENDED, A CORPORATION
36 ESTABLISHED BY MERGER OF CHARITABLE ORGANIZATIONS PURSUANT TO AN ORDER
37 OF THE SUPREME COURT, NEW YORK COUNTY DATED JULY TWENTY-FIRST, NINETEEN
38 HUNDRED EIGHTY-SIX AND FILED IN THE DEPARTMENT OF STATE ON JULY TWENTY-
39 NINTH, NINETEEN HUNDRED EIGHTY-SIX, OR A CORPORATION HAVING TAX EXEMPT
40 STATUS UNDER SECTION 501 (C) (3) OF THE UNITED STATES INTERNAL REVENUE
41 CODE, AND SHALL FURTHER BE DEEMED TO MEAN AND INCLUDE ANY FEDERATION OF
42 CHARITABLE ORGANIZATIONS.

43 E. "OPERATOR" MEANS ANY PERSON WHO OWNS, OPERATES, OR CONTROLS A PLACE
44 OF ENTERTAINMENT OR WHO PROMOTES OR PRODUCES AN ENTERTAINMENT;

45 F. "PLACE OF ENTERTAINMENT" MEANS ANY PRIVATELY OR PUBLICLY OWNED AND
46 OPERATED ENTERTAINMENT FACILITY SUCH AS A THEATRE, STADIUM, ARENA, RACE-
47 TRACK, MUSEUM, AMUSEMENT PARK, OR OTHER PLACE WHERE PERFORMANCES,
48 CONCERTS, EXHIBITS, ATHLETIC GAMES OR CONTESTS ARE HELD FOR WHICH AN
49 ENTRY FEE IS CHARGED;

50 G. "RESALE" MEANS ANY SALE OF A TICKET FOR ENTRANCE TO A PLACE OF
51 ENTERTAINMENT LOCATED WITHIN THE BOUNDARIES OF THE STATE OF NEW YORK
52 OTHER THAN A SALE BY THE OPERATOR OR THE OPERATOR'S AGENT WHO IS
53 EXPRESSLY AUTHORIZED TO MAKE FIRST SALES OF SUCH TICKETS. RESALE SHALL
54 INCLUDE SALES BY ANY MEANS, INCLUDING IN PERSON, OR BY MEANS OF TELE-
55 PHONE, MAIL, DELIVERY SERVICE, FACSIMILE, INTERNET, EMAIL OR OTHER ELEC-
56 TRONIC MEANS, WHERE THE VENUE FOR WHICH THE TICKET GRANTS ADMISSION IS

1 LOCATED IN NEW YORK STATE. EXCEPT AS PROVIDED IN SECTION 25.11 OF THIS
2 ARTICLE, THE TERM "RESALE" SHALL NOT APPLY TO ANY PERSON, FIRM OR CORPO-
3 RATION WHICH PURCHASES ANY TICKETS SOLELY FOR THEIR OWN USE OR THE USE
4 OF THEIR INVITEES, EMPLOYEES AND AGENTS OR WHICH PURCHASES TICKETS ON
5 BEHALF OF OTHERS AND RESELLS SUCH TICKETS TO SUCH INVITEES, EMPLOYEES
6 AND AGENTS OR OTHERS AT OR LESS THAN THE ESTABLISHED PRICE. SIMILARLY,
7 THE TERM "RESALE" SHALL NOT APPLY TO ANY NOT-FOR-PROFIT ORGANIZATION, OR
8 PERSON ACTING ON BEHALF OF SUCH NOT-FOR-PROFIT ORGANIZATION, AS LONG AS
9 ANY PROFIT REALIZED FROM TICKET RESELLING IS WHOLLY DEDICATED TO THE
10 PURPOSES OF SUCH NOT-FOR-PROFIT ORGANIZATION; AND

11 H. "TICKET" MEANS ANY EVIDENCE OF THE RIGHT OF ENTRY TO ANY PLACE OF
12 ENTERTAINMENT.

13 S 2. This act shall take effect on the forty-fifth day after it shall
14 have become a law.