1988

Session Law 88-282

Florida Senate & House of Representatives

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A bill to be entitled
An act relating to the regulation of yacht
brokers and salesmen by the Department of
Professional Regulation; providing definitions;
providing for the administration of brokers'
and salesmen's licenses; prescribing
qualifications for issuance of a license;
prohibiting unlicensed persons from acting as
brokers or salesmen; providing exceptions;
providing for license fees; providing for the
denial, revocation, or suspension of licenses;
requiring surety bonds; providing for the
handling and disposition of funds received by
licensees; providing for the adoption of rules;
providing an effective date.

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

Section 1. Short title.--This act may be cited as the
"Yacht and Shipbrokers' Act."

Section 2. Definitions.--As used in this act, the
term:

(1) "Broker" means a person who, for or in expectation
of compensation, sells or offers or negotiates to sell, buys
or offers or negotiates to buy, solicits or obtains listings
of, or negotiates the purchase, sale, or exchange of yachts
for other persons.

(2) "Department" means the Department of Professional
Regulation.
"Salesman" means a person who, for or in expectation of compensation, is employed by a broker to perform any acts of a broker.

"Yacht" means any vessel which is propelled by sail or machinery in the water which exceeds 25 feet in length, and which weighs less than 300 gross tons.

Section 3. Administration.--The department shall:

(1) Administer this act and collect fees sufficient to administer this act.

(2) Adopt rules to administer this act and to classify brokers and salesmen and regulate their activities.

Section 4. Licensing.--

(1) A person may not act as a broker or salesman unless licensed pursuant to this act. Licenses shall expire 2 years after the date of issuance.

(2) A broker may not engage in business as a broker under a fictitious name unless his license is issued in such name.

(3) A license is not required for:

(a) A person who sells his own yacht.

(b) An attorney-at-law for services rendered in his professional capacity.

(c) A receiver, trustee, or other person acting under a court order.

(d) A transaction involving the sale of a new yacht.

(e) A transaction involving the foreclosure of a security interest in a yacht.

(5) Any person who purchases a used yacht for resale must transfer title to such yacht into his name and maintain the title or bill of sale in his possession to be exempt from licensure.

CODING: Words struck out are deletions; words underlined are additions.
The department shall establish biennial fees for initial licensing, renewal, and reinstatement of licenses in an amount not to exceed $500. The fees shall be adequate to proportionately fund the expenses of the department in this act.

The department may deny a license to any applicant who does not:

(a) Furnish proof satisfactory to the department that he is of good moral character and obtain recommendations from reputable state residents.

(b) Certify that he has never been convicted of a felony.

(c) Post the bond required by this act.

(d) Demonstrate that he is a resident of this state or that he conducts business in this state.

An applicant for a broker's license or its renewal must deposit with the department:

(a) A bond issued by a surety authorized to do business in this state in the amount of $25,000, in such form and on such conditions as the department requires, or

(b) United States Government securities with a cash value in the same amount.

Such security shall remain on deposit for a period of 1 year after he ceases to be a broker. A person may not be licensed as a broker unless he has been a salesman for at least 2 consecutive years, and may not be licensed as a broker after October 1, 1990, unless he has been licensed as a salesman for at least 2 consecutive years.

An applicant for a salesman's license or its renewal must deposit with the department a bond or equivalent...
(10) Any person injured by the fraud, deceit, or willful negligence of any broker or salesman or by the failure of any broker or salesman to comply with this act or other law may file an action for damages upon the respective bonds against the principals and the surety.

(11) If a surety notifies the department that it is no longer the surety for a licensee, the department shall notify the licensee of such withdrawal, by certified mail, return receipt requested, addressed to the licensee's principal office. Upon the termination of such surety the licensee's license is automatically suspended until he files a new bond with the department.

(12) Each broker must maintain a principal place of business in this state, which shall be operated year-round and may establish branch offices in the state. A separate license shall be maintained for each branch office.

(13)(a) Each license must be prominently displayed in the office of the broker.

(b) Each salesman's license shall remain in the possession of the employing broker until canceled or until the salesman leaves such employment. Immediately upon a salesman's withdrawal from the employment of a broker, the broker shall return the salesman's license to the department for cancellation.

Section 5. Escrow depository, closing transactions.--

(1) A broker shall place any funds received pursuant to a transaction into a trust account in a bank or recognized depository until he disburses such funds. A separate record

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shall be maintained of all such moneys received and the disposition thereof.

(2) Within 1 week after the closing of a transaction in which title to a yacht is transferred, a broker shall provide the seller and purchaser with an itemized closing statement, including the selling price and all charges and credits, a description of any yachts exchanged, and the amount of any consideration. If the transaction is closed through escrow and the escrow holder renders a closing statement which reveals such information, that shall be deemed compliance with this subsection on the part of the licensed broker.

Section 6. Disciplinary proceedings.--

(1) The department may upon its own motion and shall upon the verified written complaint of any person, investigate any person acting as a broker or salesman, whether or not licensed.

(2) Proceedings under this act shall be conducted pursuant to chapter 120.

(3) The department may suspend or revoke the license of a broker or salesman who:

(a) Makes a substantial and intentional misrepresentation, with respect to a transaction involving a yacht, upon which any person has relied.

(b) Makes a false warranty, with respect to a transaction involving a yacht, of a character likely to influence, persuade, or induce any person with whom business is transacted.

(c) Engages in continued misrepresentation or makes false warranties with respect to transactions involving a yacht, whether or not relied upon by another person.
(d) Acts for both the buyer and seller in a transaction involving a yacht without the knowledge and consent of both parties.

(e) Commingles the money or other property of his principal with his own.

(f) Commits fraud or dishonest acts in the conduct of any transaction involving a yacht.

(g) Allows an unlicensed person to use his name to evade the provisions of this act.

(h) Violates any law governing the transactions involving a yacht, including those relating to the collection and payment of sales or use taxes.

(4) The department may suspend or revoke the license of a broker or salesman who within the 3 years immediately preceding has:

(a) Procured a license for himself or another by fraud, misrepresentation, falsification, or deceit.

(b) Been found guilty of a felony or a crime of moral turpitude.

(5) An action to suspend or revoke the license of a broker or salesman for a violation of this section must be commenced within 3 years after discovery of such violation by the department.

Section 7. This act shall take effect October 1, 1988.

SENATE SUMMARY

Establishes a licensing and regulatory system for yacht brokers and salesmen by the Department of Professional Regulation. Provides for the issuance, suspension, or revocation of such licenses. Sets fees and requires a surety bond. Provides for the handling and disposition of funds received by licensees.
A bill to be entitled
An act relating to the regulation of yacht
brokers and salesmen by the Department of
Professional Regulation; providing definitions;
providing for the administration of brokers'
and salesmen's licenses; prescribing
qualifications for issuance of a license;
prohibiting unlicensed persons from acting as
brokers or salesmen; providing exceptions;
providing for license fees; providing for the
denial, revocation, or suspension of licenses;
requiring surety bonds; providing for the
handling and disposition of funds received by
licensees; providing for the adoption of rules;
providing an effective date.

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

Section 1. Short title.—This act may be cited as the
"Yacht and Ship Brokers' Act."

Section 2. Definitions.—As used in this act, the
term:

(1) "Broker" means a person who, for or in expectation
of compensation, sells or offers or negotiates to sell, buys
or offers or negotiates to buy, solicits or obtains listings
of, or negotiates the purchase, sale, or exchange of, yachts
for other persons.

(2) "Department" means the Department of Professional
Regulation.

CODING: Words stricken are deletions; words underlined are additions.
(3) "Salesman" means a person who, for or in expectation of compensation, is employed by a broker to perform any acts of a broker.

(4) "Yacht" means any vessel which is propelled by sail or machinery in the water which exceeds 25 feet in length, and which weighs less than 300 gross tons.

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity.

Section 3. Administration.—The department shall:

(1) Administer this act and collect fees sufficient to administer this act.

(2) Adopt rules to administer this act and to classify brokers and salesman and regulate their activities.

Section 4. Licensing.—

(1) A person may not act as a broker or salesman unless licensed pursuant to this act. Licenses shall expire 2 years after the date of issuance.

(2) A broker may not engage in business as a broker under a fictitious name unless his license is issued in such name.

(3) A license is not required for:

(a) A person who sells his own yacht.

(b) An attorney-at-law for services rendered in his professional capacity.

(c) A receiver, trustee, or other person acting under a court order.

(d) A transaction involving the sale of a new yacht.

(e) A transaction involving the foreclosure of a security interest in a yacht.

(5) Any person who purchases a used yacht for resale must transfer title to such yacht into his name and maintain
the title or bill of sale in his possession to be exempt from licensure.

(6) The department shall establish biennial fees for initial licensing, renewal, and reinstatement of licenses in an amount not to exceed $500. The fees shall be adequate to proportionately fund the expenses of the department in this act.

(7) The department may deny a license to any applicant who does not:

(a) Furnish proof satisfactory to the department that he is of good moral character and obtain recommendations from 3 reputable state residents.

(b) Certify that he has never been convicted of a felony.

(c) Post the bond required by this act.

(d) Demonstrate that he is a resident of this state or that he conducts business in this state.

(8)(a) Annually, before any license may be issued to a yacht or ship broker, the broker of used yachts or ships must deliver to the department a good and sufficient surety bond or irrevocable letter of credit, executed by the broker as principal, in the sum of $25,000.

(b) Surety bonds and irrevocable letters of credit shall be in a form to be approved by the department and shall be conditioned that the broker shall comply with the conditions of any written contract made by such broker in connection with the sale or exchange of any yacht or ship and shall not violate any of the provisions of the Yacht and Ship Brokers' Act in the conduct of the business for which he is licensed. Such bonds and letters of credit shall be delivered to the department and in favor of any person in a transaction
who shall suffer any loss as a result of any violation of the conditions in this act. When the department determines that a person has incurred a loss as a result of a violation of the Yacht and Ship Brokers' Act, it shall notify the person in writing of the existence of the bond or letter of credit. Such bonds and letters of credit shall be for the license period, and a new bond or letter of credit or a proper continuation certificate shall be delivered to the department at the beginning of each license period. However, the aggregate liability of the surety in any one year shall in no event exceed the sum of the bond or, in the case of a letter of credit, the aggregate liability of the issuing bank shall not exceed the sum of the credit.

(c) Surety bonds shall be executed by a surety company authorized to do business in the state as surety, and irrevocable letters of credit shall be issued by a bank authorized to do business in the state as a bank.

(d) Irrevocable letters of credit shall be engaged by a bank as an agreement to honor demands for payment as specified in this section.

Such security shall remain on deposit for a period of 1 year after he ceases to be a broker. A person may not be licensed as a broker unless he has been a salesman for at least 2 consecutive years, and may not be licensed as a broker after October 1, 1990, unless he has been licensed as a salesman for at least 2 consecutive years.

(9) An applicant for a salesman's license or its renewal must deposit with the department a bond or equivalent securities in the sum of $10,000 subject to the conditions in subsection (8).
Any person injured by the fraud, deceit, or willful negligence of any broker or salesman or by the failure of any broker or salesman to comply with this act or other law may file an action for damages upon the respective bonds against the principals and the surety.

If a surety notifies the department that it is no longer the surety for a licensee, the department shall notify the licensee of such withdrawal, by certified mail, return receipt requested, addressed to the licensee's principal office. Upon the termination of such surety the licensee's license is automatically suspended until he files a new bond with the department.

Each broker must maintain a principal place of business in this state, which shall be operated year-round and may establish branch offices in the state. A separate license shall be maintained for each branch office.

Each license must be prominently displayed in the office of the broker.

Each salesman's license shall remain in the possession of the employing broker until canceled or until the salesman leaves such employment. Immediately upon a salesman's withdrawal from the employment of a broker, the broker shall return the salesman's license to the department for cancellation.

Section 5. Escrow depository, closing transactions.--

A broker shall place any funds received pursuant to a transaction into a trust account in a bank or recognized depository until he disburses such funds. A separate record shall be maintained of all such moneys received and the disposition thereof.
(2) At the closing of a transaction in which title to
a yacht is transferred, a broker shall provide the seller and
purchaser with an itemized closing statement, including the
selling price and all charges and credits, a description of
any yachts exchanged, and the amount of any consideration. If
the transaction is closed through escrow and the escrow holder
renders a closing statement which reveals such information,
that shall be deemed compliance with this subsection on the
part of the licensed broker.

Section 6. Disciplinary proceedings.--
(1) The department may, upon its own motion, and
shall, upon the verified written complaint of any person,
investigate any person acting as a broker or salesman, whether
or not licensed.
(2) Proceedings under this act shall be conducted
pursuant to chapter 120.
(3) The department may suspend or revoke the license
of a broker or salesman who:
(a) Makes a substantial and intentional
misrepresentation, with respect to a transaction involving a
yacht, upon which any person has relied.
(b) Makes a false warranty, with respect to a
transaction involving a yacht, of a character likely to
influence, persuade, or induce any person with whom business
is transacted.
(c) Engages in continued misrepresentation or makes
false warranties with respect to transactions involving a
yacht, whether or not relied upon by another person.
(d) Acts for both the buyer and seller in a
transaction involving a yacht without the knowledge and
consent of both parties.
(e) Commingles the money or other property of his principal with his own.

(f) Commits fraud or dishonest acts in the conduct of any transaction involving a yacht.

(g) Allows an unlicensed person to use his name to evade the provisions of this act.

(h) Violates any law governing the transactions involving a yacht, including those relating to the collection and payment of sales or use taxes.

(4) The department may suspend or revoke the license of a broker or salesman who within the 3 years immediately preceding has:

(a) Procured a license for himself or another by fraud, misrepresentation, falsification, or deceit.

(b) Been found guilty of a felony or a crime of moral turpitude.

(5) An action to suspend or revoke the license of a broker or salesman for a violation of this section must be commenced within 3 years after discovery of such violation by the department.

Section 7. This act shall take effect October 1, 1988.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR Senate Bill 557

-- Defines the term "person."

-- Replaces reference to U.S. Government securities in the amount of $25,000 with reference to a letter of credit in that amount.

-- Requires the broker to provide the parties with an itemized closing statement at the time of closing instead of within 1 week or closing.

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A bill to be entitled
An act relating to the regulation of yacht
brokers and salesmen by the Department of
Professional Regulation; providing definitions;
providing for the administration of brokers'
and salesmen's licenses; prescribing
qualifications for issuance of a license;
prohibiting unlicensed persons from acting as
brokers or salesmen; providing exceptions;
providing for license fees; providing for the
denial, revocation, or suspension of licenses;
requiring surety bonds; providing for the
handling and disposition of funds received by
licensees; providing for the adoption of rules;
providing for future repeal and review of the
act; providing an appropriation; providing an
effective date.

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

Section 1. Short title.—This act may be cited as the
"Yacht and Ship Brokers' Act."

Section 2. Definitions.—As used in this act, the
term:

(1) "Broker" means a person who, for or in expectation
of compensation, sells or offers or negotiates to sell, buys
or offers or negotiates to buy, solicits or obtains listings
of, or negotiates the purchase, sale, or exchange of, yachts
for other persons.

(2) "Department" means the Department of Professional
Regulation.
(3) "Salesman" means a person who, for or in expectation of compensation, is employed by a broker to perform any acts of a broker.

(4) "Yacht" means any vessel which is propelled by sail or machinery in the water which exceeds 25 feet in length, and which weighs less than 300 gross tons.

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity.

Section 3. Administration.--The department shall:

(1) Administer this act and collect fees sufficient to administer this act.

(2) Adopt rules to administer this act and to classify brokers and salesmen and regulate their activities.

Section 4. Licensing.--

(1) A person may not act as a broker or salesman unless licensed pursuant to this act. The department shall adopt rules establishing a procedure for the biennial renewal of licenses.

(2) A broker may not engage in business as a broker under a fictitious name unless his license is issued in such name.

(3) A license is not required for:

(a) A person who sells his own yacht.

(b) An attorney-at-law for services rendered in his professional capacity.

(c) A receiver, trustee, or other person acting under a court order.

(d) A transaction involving the sale of a new yacht.

(e) A transaction involving the foreclosure of a security interest in a yacht.

CODING: Words stricken are deletions; words underlined are additions.
(5) Any person who purchases a used yacht for resale must transfer title to such yacht into his name and maintain the title or bill of sale in his possession to be exempt from licensure.

(6) The department by rule shall establish fees for application, initial licensing, biennial renewal, and reinstatement of licenses in an amount not to exceed $500. The fees shall be adequate to proportionately fund the expenses of the department in this act.

(7) The department may deny a license to any applicant who does not:

(a) Furnish proof satisfactory to the department that he is of good moral character and obtain recommendations from 3 reputable state residents.

(b) Certify that he has never been convicted of a felony.

(c) Post the bond required by this act.

(d) Demonstrate that he is a resident of this state or that he conducts business in this state.

(8)(a) Annually, before any license may be issued to a yacht or ship broker, the broker of used yachts or ships must deliver to the department a good and sufficient surety bond or irrevocable letter of credit, executed by the broker as principal, in the sum of $25,000.

(b) Surety bonds and irrevocable letters of credit shall be in a form to be approved by the department and shall be conditioned that the broker shall comply with the conditions of any written contract made by such broker in connection with the sale or exchange of any yacht or ship and shall not violate any of the provisions of the Yacht and Ship Brokers' Act in the conduct of the business for which he is...
Such bonds and letters of credit shall be delivered to the department and in favor of any person in a transaction who shall suffer any loss as a result of any violation of the conditions in this act. When the department determines that a person has incurred a loss as a result of a violation of the Yacht and Ship Brokers' Act, it shall notify the person in writing of the existence of the bond or letter of credit. Such bonds and letters of credit shall be for the license period, and a new bond or letter of credit or a proper continuation certificate shall be delivered to the department at the beginning of each license period. However, the aggregate liability of the surety in any one year shall in no event exceed the sum of the bond or, in the case of a letter of credit, the aggregate liability of the issuing bank shall not exceed the sum of the credit.

(c) Surety bonds shall be executed by a surety company authorized to do business in the state as surety, and irrevocable letters of credit shall be issued by a bank authorized to do business in the state as a bank.

(d) Irrevocable letters of credit shall be engaged by a bank as an agreement to honor demands for payment as specified in this section.

Such security shall remain on deposit for a period of 1 year after he ceases to be a broker. A person may not be licensed as a broker unless he has been a salesman for at least 2 consecutive years, and may not be licensed as a broker after October 1, 1990, unless he has been licensed as a salesman for at least 2 consecutive years.

(9) An applicant for a salesman's license or its renewal must deposit with the department a bond or equivalent...
A securities in the sum of $10,000 subject to the conditions in subsection (8).

(10) Any person injured by the fraud, deceit, or willful negligence of any broker or salesman or by the failure of any broker or salesman to comply with this act or other law may file an action for damages upon the respective bonds against the principals and the surety.

(11) If a surety notifies the department that it is no longer the surety for a licensee, the department shall notify the licensee of such withdrawal, by certified mail, return receipt requested, addressed to the licensee's principal office. Upon the termination of such surety the licensee's license is automatically suspended until he files a new bond with the department.

(12) Each broker must maintain a principal place of business in this state, which shall be operated year-round and may establish branch offices in the state. A separate license shall be maintained for each branch office. A fee not to exceed $100 shall be set by department rule for each branch office license.

(13)(a) Each license must be prominently displayed in the office of the broker.

(b) Each salesman's license shall remain in the possession of the employing broker until canceled or until the salesman leaves such employment. Immediately upon a salesman's withdrawal from the employment of a broker, the broker shall return the salesman's license to the department for cancellation.

Section 5. Escrow depository, closing transactions.--

(1) A broker shall place any funds received pursuant to a transaction into a trust account in a bank or recognized
depository until he disburses such funds. A separate record
shall be maintained of all such moneys received and the
disposition thereof.

(2) At the closing of a transaction in which title to
a yacht is transferred, a broker shall provide the seller and
purchaser with an itemized closing statement, including the
selling price and all charges and credits, a description of
any yachts exchanged, and the amount of any consideration. If
the transaction is closed through escrow and the escrow holder
renders a closing statement which reveals such information,
that shall be deemed compliance with this subsection on the
part of the licensed broker.

Section 6. Disciplinary proceedings.--

(1) The department may, upon its own motion, and
shall, upon the verified written complaint of any person,
investigate any person acting as a broker or salesman, whether
or not licensed.

(2) Proceedings under this act shall be conducted
pursuant to chapter 120.

(3) The department may suspend or revoke the license
of a broker or salesman who:

(a) Makes a substantial and intentional
misrepresentation, with respect to a transaction involving a
yacht, upon which any person has relied.

(b) Makes a false warranty, with respect to a
transaction involving a yacht, of a character likely to
influence, persuade, or induce any person with whom business
is transacted.

(c) Engages in continued misrepresentation or makes
false warranties with respect to transactions involving a
yacht, whether or not relied upon by another person.
(d) Acts for both the buyer and seller in a transaction involving a yacht without the knowledge and consent of both parties.

(e) Commingles the money or other property of his principal with his own.

(f) Commits fraud or dishonest acts in the conduct of any transaction involving a yacht.

(g) Allows an unlicensed person to use his name to evade the provisions of this act.

(h) Violates any law governing the transactions involving a yacht, including those relating to the collection and payment of sales or use taxes.

(4) The department may suspend or revoke the license of a broker or salesman who within the 3 years immediately preceding has:

(a) Procured a license for himself or another by fraud, misrepresentation, falsification, or deceit.

(b) Been found guilty of a felony or a crime of moral turpitude.

(5) An action to suspend or revoke the license of a broker or salesman for a violation of this section must be commenced within 3 years after discovery of such violation by the department.

Section 7. Section 1 through 6 of this act are repealed on October 1, 1998, and shall be reviewed by the Legislature pursuant to section 11.61, Florida Statutes.

Section 8. There is hereby appropriated for fiscal year 1988-1989 to the Department of Professional Regulation $196,161 from the Professional Regulation Trust Fund and 7.5 positions for the purpose of implementing the provisions of this act.
Section 9. This act shall take effect October 1, 1988.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR CS/SB 557

Sections 1 through 6 are repealed on October 1, 1998, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes. Authorizes the Department of Professional Regulation to: 1) adopt rules for biennial renewal of licenses; 2) establish fees for application, initial licensing, biennial renewal, and reinstatement of licenses in an amount not to exceed $500; and 3) provides fees shall not exceed $100, for each branch office license. Additionally, authorizes appropriation of $196,161 for the Professional Regulation Trust Fund and 7.5 positions.

CODING: Words stricken are deletions; words *underlined* are additions.
A bill to be entitled
An act relating to yacht and ship brokers;
creating the Yacht and Ship Brokers' Act;
providing definitions; providing for
administration by the Department of
Professional Regulation; providing for
licensing; providing for escrow depository and
closing fees; providing for disciplinary
proceedings; providing an appropriation;
providing for review and repeal; providing an
effective date.

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

Section 1. Short title.--This act shall be known and
may be cited as the "Yacht and Ship Brokers' Act," and shall
be administered by the Department of Professional Regulation.

Section 2. Definitions.--As used in this act:

(1) "Broker" means a person who, for a compensation or
in expectation of a compensation, does, or negotiates to do,
one or more of the following acts for another or others: sells
or offers to sell, buys or offers to buy, solicits or obtains
listings of, or negotiates the purchase, sale or exchange of
yachts, and who does not own such yachts, and has been
licensed as a salesman as defined herein for a period of 1
year.

(2) "Salesman" means a natural person who, for
compensation, or in expectation of a compensation, is employed
by a licensed broker to do one or more of the acts set forth
in subsection (1). The term includes "saleswoman" and
"salesperson."

ODING: Words stricken are deletions; words underlined are additions.
(3) "Yacht" and "ship" means any vessel propelled by sail or machinery in the water and exceeding 25 feet in length and under 300 gross tons.

(4) "Person" means individuals, copartnerships, associations, and corporations or any other group of persons.

(5) "Department" means the Department of Professional Regulation.

Section 3. Administration.--

(1) Except as otherwise provided by law, all matters related to this act shall be administered by the Department of Professional Regulation.

(2) The department shall:

(a) Regulate and control the issuance and revocation of the licenses, temporary and permanent, issued under this act.

(b) Prescribe rules to make this act effective.

(c) Collect fees sufficient to administer the provisions of this act.

(d) Have the power to adopt rules, to classify yacht and ship brokers and salesmen, and to regulate their activities within the field for which they are qualified and licensed.

Section 4. Licensing.--

(1) It is unlawful for any person to engage in the business or to act in the capacity of a yacht and ship broker or salesman, or to accept compensation for acting in either capacity in whole or in part, without first obtaining a license. All licenses issued by the department shall expire 2 years after the date of issuance.
(2) Only the person to whom a license is issued may perform or offer to perform any services subject to the provisions of this act.

(3) No fictitious name shall be used by a broker in the conduct of any business for which a license is required under this act unless a license bearing such fictitious name has been issued to said broker.

(4) This act does not apply:
   (a) To a transaction involving the sale by an individual or corporation of his or its own yacht or ship.
   (b) To an attorney at law for services rendered in his capacity as attorney at law.
   (c) To any receiver, trustee in bankruptcy, or other person acting under the order of any court.
   (d) To a transaction involving the sale of a new yacht or ship or trade thereon.
   (e) To any transaction involving the foreclosure of a security interest in a yacht or ship.

(5) Any person purchasing used yachts or ships for resale must transfer actual title to any such yacht or ship into his name and have in his possession, subject to inspection by the department, a good and sufficient title or bill of sale if such person wishes to claim exemption under this act.

(6) The department by rule shall establish biennial fees for initial licensing renewal and reinstatement of licenses, none of which shall exceed $100. The fees shall be adequate to proportionately fund the expenses of the department which are allocated to the regulation of the licensees under this act.

CODING: Words struck are deletions; words underlined are additions.
(7) The department may deny a license to any applicant who fails to:
(a) Furnish proof satisfactory to the department that the applicant is of good moral character with recommendations of three reputable residents of this state.
(b) Certify that he has never been convicted of a felony.
(c) Post bonds as required in this act.
(d) Demonstrate that the applicant is a resident of the state or has sufficient business relationships to Florida.

(8) Every applicant for a broker's license or renewal thereof shall deposit with the department a good and sufficient surety bond issued by a company authorized to do business in the state in the amount of at least $25,000 or in an amount equal to the maximum amount the broker will hold in escrow at any time, whichever amount is greater, and in such form and on such conditions as the department may require for the protection of persons with whom the applicant may deal as a licensee, or, in lieu thereof, bonds of the United States Government with a cash value in a like amount; it shall be necessary for the broker to continue the bond while employed or acting as a yacht or ship broker in the state and for those who have deposited United States Government bonds to leave them on deposit for a period of 1 year after ceasing to be a broker.

(9) Every applicant for a salesman's license or renewal thereof shall deposit with the department a similar bond or equivalent thereto in the sum of $10,000, as provided in subsection (8), subject to the same conditions as set forth therein.
(10) The state or any person claiming to be injured by
the fraud, deceit, or willful negligence of any broker, of any
broker's salesman, or by the failure of any broker or salesman
to comply with the provisions of this act or any other
provision of law, may bring an action upon the bonds deposited
with the department against both the principals and the surety
in any court of competent jurisdiction to recover the damage
caused by such fraud, deceit, willful negligence, or failure
to comply with the provisions of this act.

(11) Upon the filing of notice with the department by
any surety of its withdrawal as surety for any licensee under
the provisions of this section, the department shall forthwith
notify the licensee of such withdrawal, by registered mail
addressed to his principal office as shown by the records of
the department, with request for return receipt. The license
of any licensee shall be suspended and shall be returned to
the department upon the termination of the bond of the surety
as provided in this section, unless, prior to the termination,
a new bond has been filed with the department.

(12) Every broker seeking a license under this act
shall maintain a place of business within the state and may
establish branch offices elsewhere in the state. Every broker
maintaining more than one place of business within the state
shall procure an additional license for each office maintained
by him.

(13)(a) Every license shall be prominently displayed
in the office of the broker in which the business of the
broker or salesman is transacted.

(b) Every salesman's license shall remain in the
possession of the broker by whom the salesman is employed
until canceled or until he leaves the employment of the
broker. Immediately upon the salesman's withdrawal from the employment of the broker, the broker shall return the salesman's license to the department for cancellation.

Section 5. Escrow depository; closing transactions.--

(1) A licensed broker who accepts funds from others in connection with any transaction subject to this article who does not as soon as possible place such funds into a neutral escrow depository, shall place such funds into a trust fund account maintained by the broker in some bank or recognized depository and shall retain all such funds in the account until such time as such broker has made a disbursement of the funds. A separate record shall be maintained of all moneys received subject to this section and shall further indicate the disposition thereof.

(2) Within 1 week after the closing of a transaction in which title to a yacht is conveyed from a seller to a purchaser through a licensed broker, such licensee shall inform, or cause the information to be given to, the seller and purchaser in writing of the selling price thereof, including all charges and credits which shall be itemized, and in the event an exchange of yachts is involved, such information shall include a description of such yachts and amount of added money consideration, if any. If the transaction is closed through escrow and the escrow holder renders a closing statement which reveals such information, the transaction shall be deemed in compliance with this section on the part of the licensed broker.

Section 6. Disciplinary proceedings.--

(1) The department may, upon its own motion and shall upon the verified written complaint of any person, investigate...
the actions of any broker or salesman, whether or not licensed.

[2] Proceedings under this act shall be conducted in accordance with the rules of the department and chapter 120, Florida Statutes.

[3] The department may suspend or revoke the license of a broker or salesman who commits any of the following acts:

(a) Makes a substantial and intentional misrepresentation upon which any person has relied.

(b) Makes a false warranty of a character likely to influence, persuade, or induce any person with whom business is transacted under this act.

(c) Engages in a continued flagrant course of misrepresentation or makes false warranties, whether or not relied upon by another person.

(d) Acts for the buyer and seller in a transaction without the knowledge and consent of both parties.

(e) Commingles the money or other property of his principal with that of his own.

(f) Resorts to fraud or dishonesty in the conduct of any transaction with his principal or other persons.

(g) Permits the use of his name to assist any person who is not a licensed yacht and ship broker or salesman to evade the provisions of this act.

(h) Fails to comply with any provisions of Florida law, particularly those dealing with the payment of sales or use taxes as due.

(4) The department may suspend or revoke the license of a broker or salesman, who within 3 years immediately preceding, has committed any of the following acts or against
whom and within said period, any of the following conditions exists:

(a) Procured a license under this act for himself or another by fraud, misrepresentation, falsification, or deceit.

(b) Has been convicted of a felony.

(5) An action to suspend or revoke the license of a broker or of a salesman for a violation of the provisions of this section shall be commenced within 3 years after the discovery by the department of such violation.

(6) A plea of nolo contendere, a conviction or a plea of guilty or a verdict of guilty to a charge of felony or of any offense involving moral turpitude is deemed to be a conviction within the meaning of this act.

Section 7. There is hereby appropriated 2 positions and $79,600 in 1988-1989 from the Professional Regulation Trust Fund to the Department of Professional Regulation to comply with the provisions of this act.

Section 8. Sections 1 through 7 of this act are repealed on October 1, 1988, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

Section 9. This act shall take effect October 1, 1988.

*****************************************

HOUSE SUMMARY

Creates the Yacht and Ship Brokers' Act administered by the Department of Professional Regulation to provide for the licensing of yacht and ship brokers. Provides an appropriation. See bill for details.

CODING: Words stricken are deletions; words underlined are additions.
This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

CODING: Words stricken are deletions; words underlined are additions.
A bill to be entitled
An act relating to yacht and ship brokers;
creating the Yacht and Ship Brokers' Act;
providing definitions; providing for
administration by the Department of
Professional Regulation; providing for
licensing; providing for escrow depository and
closing fees; providing for disciplinary
proceedings; providing an appropriation;
providing for review and repeal; providing an
effective date.

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

Section 1. Short title.--This act shall be known and
may be cited as the "Yacht and Ship Brokers' Acts," and shall
be administered by the Department of Professional Regulation.

Section 2. Definitions.--As used in this act:
1) "Broker" means a person who, for a compensation or
in expectation of a compensation, does, or negotiates to do,
one or more of the following acts for another or others: sells
or offers to sell, buys or offers to buy, solicits or obtains
listings of, or negotiates the purchase, sale or exchange of
yachts, and who does not own such yachts, and has been
licensed as a salesman as defined herein for a period of 1
year.
2) "Salesman" means a natural person who, for
compensation, or in expectation of a compensation, is employed
by a licensed broker to do one or more of the acts set forth
in subsection 1). The term includes "saleswoman" and
"salesperson."

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(3) "Yacht" and "ship" means any vessel propelled by sail or machinery in the water and exceeding 25 feet in length and under 300 gross tons.

(4) "Person" means individuals, partnerships, associations, and corporations or any other group of persons.

(5) "Department" means the Department of Professional Regulation.

Section 3. Administration.--

(1) Except as otherwise provided by law, all matters related to this act shall be administered by the Department of Professional Regulation.

(2) The department shall:

(a) Regulate and control the issuance and revocation of the licenses, temporary and permanent, issued under this act.

(b) Prescribe rules to make this act effective.

(c) Collect fees sufficient to administer the provisions of this act.

(d) Have the power to adopt rules, to classify yacht and ship brokers and salesmen, and to regulate their activities within the field for which they are qualified and licensed.

Section 4. Licensing.--

(1) It is unlawful for any person to engage in the business or to act in the capacity of a yacht and ship broker or salesmen or to accept compensation for acting in either capacity in whole or in part, without first obtaining a license. All licenses issued by the department shall expire 2 years after the date of issuance.
(2) Only the person to whom a license is issued may perform or offer to perform any services subject to the provisions of this act.

(3) No fictitious name shall be used by a broker in the conduct of any business for which a license is required under this act unless a license bearing such fictitious name has been issued to said broker.

(4) This act does not apply:

(a) To a transaction involving the sale by an individual or corporation of his or its own yacht or ship.

(b) To an attorney at law for services rendered in his capacity as attorney at law.

(c) To any receiver, trustee in bankruptcy, or other person acting under the order of any court.

(d) To a transaction involving the sale of a new yacht or ship or trade thereon.

(e) To any transaction involving the foreclosure of a security interest in a yacht or ship.

(5) Any person purchasing used yachts or ships for resale must transfer actual title to any such yacht or ship into his name and have in his possession, subject to inspection by the department, a good and sufficient title or bill of sale if such person wishes to claim exemption under this act.

(6) The department by rule shall establish biennial fees for initial licensing, renewal and reinstatement of licenses, none of which shall exceed $100. The fees shall be adequate to proportionately fund the expenses of the department which are allocated to the regulation of the licensees under this act.

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(7) The department may deny a license to any applicant who fails to:
(a) Furnish proof satisfactory to the department that the applicant is of good moral character with recommendations of three reputable residents of this state;
(b) Certify that he has never been convicted of a felony;
(c) Post bonds as required in this act;
(d) Demonstrate that the applicant is a resident of the state or has sufficient business relationships to Florida.
(8)(a) Annually, before any license shall be issued to a yacht or ship broker, the broker of used yachts or ships shall deliver to the department a good and sufficient surety bond or irrevocable letter of credit, executed by the broker as principal, in the sum of $25,000.
(b) Surety bonds and irrevocable letters of credit shall be in a form to be approved by the department and shall be conditioned that the broker shall comply with the conditions of any written contract made by such broker in connection with the sale or exchange of any yacht or ship and shall not violate any of the provisions of the Yacht and Ship Brokers' Act in the conduct of the business for which he is licensed. Such bonds and letters of credit shall be delivered to the department and in favor of any person in a transaction who shall suffer any loss as a result of any violation of the conditions in this act. When the department determines that a person has incurred a loss as a result of a violation of the Yacht and Ship Brokers' Act, it shall notify the person in writing of the existence of the bond or letter of credit. Such bonds and letters of credit shall be for the license period, and a new bond or letter of credit or a proper
continuation certificate shall be delivered to the department
at the beginning of each license period. However, the
aggregate liability of the surety in any 1 year shall in no
event exceed the sum of the bond or, in the case of a letter
of credit, the aggregate liability of the issuing bank shall
not exceed the sum of the credit.
(c) Surety bonds shall be executed by a surety company
authorized to do business in the state as surety, and
irrevocable letters of credit shall be issued by a bank
authorized to do business in the state as a bank.
(d) Irrevocable letters of credit shall be engaged by
a bank as an agreement to honor demands for payment as
specified in this section.
(e) Every applicant for a salesman’s license or
renewal thereof shall deposit with the department a similar
bond or equivalent therefor in the sum of $10,000, as provided
in subsection (e), subject to the same conditions as set forth
therein.
(f) The state or any person claiming to be injured by
the fraud, deceit, or willful negligence of any broker, or any
broker’s salesman, or by the failure of any broker or salesman
to comply with the provisions of this act or any other
provision of law, may bring an action upon the bonds deposited
with the department against both the principals and the surety
in any court of competent jurisdiction to recover the damage
caused by such fraud, deceit, willful negligence, or failure
to comply with the provisions of this act.
(i) Upon the filing of notice with the department by
any surety of its withdrawal as surety for any licensee under
the provisions of this section, the department shall forthwith
notify the licensee of such withdrawal by registered mail

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addressed to his principal office as shown by the records of
the department, with request for return receipt. The license
of any licensee shall be suspended and shall be returned to
the department upon the termination of the bond of the surety
as provided in this section, unless, prior to the termination,
a new bond has been filed with the department.

(12) Every broker seeking a license under this act
shall maintain a place of business within the state and may
establish branch offices elsewhere in the state. Every broker
maintaining more than one place of business within the state
shall procure an additional license for each office maintained
by him.

(13)(a) Every license shall be prominently displayed
in the office of the broker in which the business of the
broker or salesman is transacted.

(b) Every salesman's license shall remain in the
possession of the broker by whom the salesman is employed
until canceled or until he leaves the employment of the
broker. Immediately upon the salesman's withdrawal from the
employment of the broker, the broker shall return the
salesman's license to the department for cancellation.

Section 5. Escrow depository; closing transactions.--

(11) A licensed broker who accepts funds from others in
connection with any transaction subject to this article who
does not as soon as possible place such funds into a neutral
escrow depository, shall place such funds into a trust fund
account maintained by the broker in some bank or recognized
depository and shall retain all such funds in the account
until such time as such broker has made a disbursement of the
funds. A separate record shall be maintained of all moneys

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received subject to this section and shall further indicate
the disposition thereof.

(2) Within 1 week after the closing of a transaction
in which title to a yacht is conveyed from a seller to a
purchaser through a licensed broker, such licensee shall
inform, or cause the information to be given to, the seller
and purchaser in writing of the selling price thereof,
including all charges and credits which shall be itemized, and
in the event an exchange of yachts is involved, such
information shall include a description of such yachts and
amount of added money consideration, if any. If the
transaction is closed through escrow and the escrow holder
renders a closing statement which reveals such information,
the transaction shall be deemed in compliance with this
section on the part of the licensed broker.

Section 6. Disciplinary proceedings—

(1) The department may upon its own motion and shall
upon the verified written complaint of any person, investigate
the actions of any broker or salesman, whether or not
licensed.

(2) Proceedings under this act shall be conducted in
accordance with the rules of the department and chapter 120,
Florida Statutes.

(3) The department may suspend or revoke the license
of a broker or salesman who commits any of the following acts:
[a] Makes a substantial and intentional
misrepresentation upon which any person has relied,
[b] Makes a false warranty of a character likely to
influence, persuade, or induce any person with whom business
is transacted under this act.

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(c) Engages in a continued flagrant course of
misrepresentation or makes false warranties, whether or not
gulled upon by another person.

(d) Acts for the buyer and seller in a transaction
without the knowledge and consent of both parties.

(e) Commands the money or other property of his
principal with that of his own.

(f) Reports to fraud or dishonesty in the conduct of
any transaction with his principal or other persons.

(g) Permits the use of his name to assist any person
who is not a licensed yacht and ship broker or salesman to
 evade the provisions of this act.

(h) Fails to comply with any provisions of Florida
law, particularly those dealing with the payment of sales or
use taxes as due.

(i) The department may suspend or revoke the license
of a broker or salesman, who within 3 years immediately
 preceding, has committed any of the following acts or against
 whom and within said period, any of the following conditions
 exists:

   (a) Procured a license under this act for himself or
    another by fraud, misrepresentation, falsification, or deceit.

   (b) Has been convicted of a felony.

   (5) An action to suspend or revoke the license of a
    broker or of a salesman for a violation of the provisions of
    this section shall be commenced within 3 years after the
discovery by the department of such violation.

   (6) A plea of nolo contendere, a conviction or a plea
    of guilty or a verdict of guilty to a charge of felony or of
    any offense involving moral turpitude is deemed to be a
    conviction within the meaning of this act.

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Section 7. There is hereby appropriated 2 positions and $79,600 in 1988-1989 from the Professional Regulation Trust Fund to the Department of Professional Regulation to comply with the provisions of this act. 

Section 8. Sections 1 through 7 of this act are repealed on October 1, 1988, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes. 

Section 9. This act shall take effect October 1, 1988. 

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HOUSE SUMMARY

Creates the Yacht and Ship Brokers' Act administered by the Department of Professional Regulation to provide for the licensing of yacht and ship brokers. Provides an appropriation. See bill for details.

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FLORIDA LEGISLATURE

FINAL LEGISLATIVE BILL INFORMATION

1987 Special Sessions B, C, D
1988 Regular Session
1988 Special Sessions E, F

prepared by:

Joint Legislative Management Committee
Legislative Information Division
Capitol Building, Room 826 — 488-4371
S 556 (CONTINUED)
05/25/88 HOUSE Withdrawn from Appropriations - HJ 716; Placed on Calendar, Substituted for CS/HB 854, Read second time - HJ 710
05/26/88 HOUSE Read third time; CS passed; YEAS 113 NAYS 0 - HJ 729
05/26/88 HOUSE Ordered enrolled - SJ 432
05/31/88 Signed by Officers and presented to Governor - SJ 611
06/07/88 Approved by Governor, Chapter No 88-95 - SJ 1272

S 557 GENERAL BILL/CS/CS by Appropriations•; Economic, Community and Consumer Affairs; McPherson (Similar CS/ENG/H 1125)
Yacht Brokers & Salesmen/Regulation; provides for regulation of yacht brokers & salesmen by D.P.R.; provides definitions & for administration of brokers’ & salesmen’s licenses; rescinds qualifications for issuance of license; prohibits unlicensed persons from acting as brokers or salesmen; provides exceptions, provides for license fees & for denial, revocation, or suspension of lic.; requires surety bonds; provides for adoption of rules; provides for repeal & review, etc. Appropriation: $196,161 Effective Date 10/01/88.

S 558 GENERAL BILL by Gordon (Identical H 951)
Discriminatory Practices/Remedies; provides for right of action for equitable remedies & actual & punitive damages for persons aggrieved by discriminatory practices in areas of education, employment, housing, & public accommodations; provides for attorney's fees & court costs, among other things due to actions of action accruing after 10/01/88. Creates 760.07 Effective Date: 10/01/88.
03/29/88 SENATE Prefiled
04/12/88 SENATE Introduced, referred to Economic, Community and Consumer Affairs, Finance, Taxation and Claims; Appropriations - SJ 70
04/15/88 SENATE Extension of time granted Committee Economic, Community and Consumer Affairs - SJ 166
04/22/88 SENATE CS read first time - SJ 179, Now in Finance, Taxation and Claims - SJ 166
04/29/88 SENATE Extension of time granted Committee Finance, Taxation and Claims
05/03/88 SENATE On Committee agenda--Finance, Taxation and Claims
05/04/88 SENATE Comm Report Favorable with 3 amendment(s) by Finance, Taxation and Claims - SJ 228
05/05/88 SENATE Now in Appropriations - SJ 228
05/10/88 SENATE Extension of time granted Committee Appropriations, 05/19/88, 2:00 pm, Room-A - SJ 341
05/19/88 SENATE Comm Report: CS/CS by Appropriations, placed on Calendar - SJ 359
05/23/88 SENATE CS read first time - SJ 360
05/30/88 SENATE Placed on Special Order Calendar - SJ 463, lden./Sim. House Bill substituted, Laid on Table under Rule, Iden./Sim./Compare Bill passed, refer to CS/HB 1125 (Ch. 88-382) - SJ 321

S 559 GENERAL BILL/CS/ENG by Judiciary-Civil, Gordon (Compare CS/H 1094)
Financial Institutions, provides that deposits in any branch or office in this state of a financial institution are governed by law of this state; provides that contracts for extensions of credit by branch or office of financial institution are governed by law of this state if contract so provides, provides exceptions & definitions; specifies jurisdiction of courts of this state with respect thereto; provides applicability Effective Date. 07/01/88.
03/29/88 SENATE Prefiled
04/12/88 SENATE Introduced, referred to Judiciary-Civil - SJ 70
04/15/88 SENATE Extension of time granted Committee Judiciary-Civil
04/29/88 SENATE Extension of time granted Committee Judiciary-Civil
05/13/88 SENATE Extension of time granted Committee Judiciary-Civil
05/27/88 SENATE Extension of time granted Committee Judiciary-Civil
06/07/88 SENATE Died in Committee on Judiciary-Civil

S 560 GENERAL BILL/CS/CS/CS by Appropriations•; Finance, Taxation and Claims; Commerce; Weilstein and others (Similar CS/ENG/H 1031)
Travel Agencies/Regulation; provides definitions, provides for registration of sellers of travel & registration fees; provides for submission of documents by sellers of travel & by promoters; provides for recordkeeping, suspension or revocation of registration, prescribes acts or omissions which constitute violations; prescribes criminal & civil penalties; provides for bonds by registrants; provides for future review & repeal, etc Creates 559.927. Appropriation: $179,344. Effective Date: 10/01/88.
03/29/88 SENATE Prefiled
04/12/88 SENATE Introduced, referred to Commerce, Finance, Taxation and Claims, Appropriations - SJ 70; On Committee agenda-- Commerce, 04/14/88, 9:00 am, Room-A
04/15/88 SENATE CS read first time - SJ 126, Now in Finance, Taxation and Claims - SJ 104
04/29/88 SENATE Extension of time granted Committee Finance, Taxation and Claims
05/02/88 SENATE On Committee agenda--Finance, Taxation and Claims
05/04/88 SENATE Comm Report. CS/CS by Finance, Taxation and Claims
05/09/88 SENATE CS read first time - SJ 246; Now in Appropriations - SJ 246
05/19/88 SENATE Extension of time granted Committee Appropriations
05/23/88 SENATE On Committee agenda--Appropriations, 05/24/88, 2:00 pm, Room-A
05/24/88 SENATE Comm. Report: CS/CS by Appropriations, placed on Calendar - SJ 426
05/26/88 SENATE CS read first time - SJ 427
06/01/88 SENATE Placed on Special Order Calendar - SJ 611 & - SJ 612; Amendments adopted, Iden./Sim. House Bill substituted; Laid on Table under Rule, Iden./Sim./Compare Bill passed, refer to CS/HB 1031 (Ch. 88-363) - SJ 111

S 561 GENERAL BILL by Gordon and others (Identical H 797)
Tourist Development Trust Fund: creates said fund; provides for distribution of fund to certain counties in which pari-mutuel establishment is located; provides for annual appropriation, increases distribution from Pari-mutuel Tax Collection Trust Fund. Amends 125.014, 550.13. Appropriation: $16,000,000. Effective Date: 07/01/88 or upon becoming law, whichever occurs later.
03/29/88 SENATE Prefiled
04/12/88 SENATE Introduced, referred to Economic, Community and Consumer Affairs; Finance, Taxation and Claims, Appropriations - SJ 70
04/15/88 SENATE Extension of time granted Committee Economic, Community and Consumer Affairs
04/29/88 SENATE On Committee agenda--Economic, Community and Consumer Affairs
04/28/88 SENATE Now in Finance, Taxation and Claims - SJ 193
04/29/88 SENATE Extension of time granted Committee Finance, Taxation and Claims
05/13/88 SENATE Extension of time granted Committee Finance, Taxation and Claims
05/15/88 SENATE On Committee agenda--Finance, Taxation and Claims
05/19/88 SENATE Comm. Report: Unfavorable by Finance, Taxation and Claims, laid on Table under Rule - SJ 358

S 562 GENERAL BILL/ENG by Frank (Identical CS/R 515, Compare S 380)
Charitable Contribution Solicitation: requires persons who solicit contributions for named individual above specified limit to register with Department of State; requires certain reports; imposes duties on such persons; specifies use of such contributions; provides for penalties. Amends 496.04; creates 496.042. Effective Date: 10/01/88.
03/28/88 SENATE Prefiled
04/12/88 SENATE Introduced, referred to Governmental Operations - SJ 70
04/15/88 SENATE On Committee agenda - Governmental Operations
04/18/88 SENATE Extension of time granted Committee Governmental Operations
04/18/88 SENATE Comm. Report: Favorable with 3 amendment(s) by Governmental Operations, placed on Calendar - SJ 129
04/28/88 SENATE Placed on Special Order Calendar - SJ 193 & - SJ 198; Passed as amended; YEAS 38 NAYS 0 - SJ 203
05/03/88 HOUSE In Messages

(CONTINUED ON NEXT PAGE)
H 1120 (CONTINUED)
grants Amends 401, 107, 113 Effective Date. 10/01/88.
04/05/88 HOUSE Filed
04/08/88 HOUSE Introduced, referred to Health & Rehabilitative Services; Appropriations - HJ 105
04/12/88 HOUSE On Committee agenda—Health & Rehabilitative Services, 04/14/88, 9:00 am, 21-HOB—For ratification of subreferral.
04/14/88 HOUSE Subreferred to Subcommittee on Health and Medical Services
04/22/88 HOUSE On subcommittee agenda—Health & Rehabilitative Services, 04/26/88, 3:30 pm, 24-HOB
04/26/88 HOUSE Subcommittee Recommendation pending ratification by full Committee. Favorable, On Committee agenda, pending subcommittee action—Health & Rehabilitative Services, 04/28/88, 8:00 am, 317C
04/28/88 HOUSE Preliminary Committee Action by Health & Rehabilitative Services Unfavorable
04/29/88 HOUSE Comm. Report Unfavorable by Health & Rehabilitative Services, laid on Table under Rule—HJ 302

H 1121 GENERAL BILL by Mackey (Identical S 596)
State Sports Hall of Fame, designates Florida Sports Hall of Fame in Lake City as the official sports Hall of Fame Effective Date Upon becoming law.
04/05/88 HOUSE Filed
04/08/88 HOUSE Introduced, referred to Tourism & Cultural Affairs - HJ 105
04/13/88 HOUSE Withdrawn from Tourism & Cultural Affairs - HJ 157, Placed on Calendar, Placed on Special Order Calendar; Read second time, Iden./Sim. Senate Bill substituted, Laid on Table under Rule, Iden./Sim. Compare Bill passed, refer to SB 596 (Ch 88-415) - HJ 164

H 1122 GENERAL BILL/CS by Insurance; Young (Similar ENG/S 682)
Insurance/Exchange of Business: amends provision re exchange of business, provides additional restrictions, disclosures, & requirements, provides for liability of insurers for coverage written by unlicensed agents under certain circumstances. Amends 626.752. Effective Date. 07/01/88 or upon becoming law, whichever occurs later
04/05/88 HOUSE Filed
04/08/88 HOUSE Introduced, referred to Insurance; Appropriations - HJ 105
04/22/88 HOUSE Subreferred to Subcommittee on Property and Casualty Insurance, On subcommittee agenda—Insurance, 04/26/88, 3:30 pm, 317C
04/26/88 HOUSE Subcommittee Recommendation pending ratification by full Committee Favorable as a proposed Committee Substitute
04/29/88 HOUSE On Committee agenda—Insurance, 05/03/88, 8:00 am, 317C
05/03/88 HOUSE Preliminary Committee Action by Insurance. Favorable as a Committee Substitute; Comm. Report: CS by Insurance - HJ 317, CS read first time— HJ 316, Now in Appropriations - HJ 317
05/19/88 HOUSE Withdrawn from Appropriations— HJ 595; Placed on Calendar
05/24/88 HOUSE Placed on Special Order Calendar
05/26/88 HOUSE Read second time— HJ 777; Amendments adopted, Iden./Sim. Senate Bill substituted, Laid on Table under Rule, Iden./Sim. Compare Bill passed, refer to SB 692 (Ch 88-104) - HJ 778

H 1123 GENERAL BILL/CS by Criminal Justice; Hargrett (Similar CS/S 683, S 680, Compare ENG/H 423, CS/H 1059, CS/ENG/S 90, ENG/S 457)
Misdemeanor/Concealment or Removal, prohibits removal of minor from state or concealment of location of minor under specified circumstances, provides penalty. Amends 787.04. Effective Date: 10/01/88
04/05/88 HOUSE Filed
04/08/88 HOUSE Introduced, referred to Criminal Justice - HJ 105
04/15/88 HOUSE Subreferred to Subcommittee on Human Resources
04/18/88 HOUSE On Committee agenda—Criminal Justice, 04/20/88, 3:30 pm, Morris Hall; For ratification of subreferral
04/22/88 HOUSE On subcommittee agenda—Criminal Justice, 04/28/88, 3:30 pm, 415C-HOB
04/26/88 HOUSE Subcommittee Recommendation pending ratification by full Committee Favorable with amendment
04/29/88 HOUSE On Committee agenda—Criminal Justice, 05/03/88, 8:00 am, Morris Hall; Not considered
05/06/88 HOUSE On Committee agenda—Criminal Justice, 05/10/88, 3:30 pm, Morris Hall
05/10/88 HOUSE Preliminary Committee Action by Criminal Justice, Favorable as a Committee Substitute
05/19/88 HOUSE Comm. Report— CS by Criminal Justice, placed on Calendar— HJ 624, CS read first time— HJ 623
06/07/88 HOUSE Died on Calendar, Iden./Sim./Compare Bill passed, refer to CS/SB 90 (Ch 88-151)

H 1124 GENERAL BILL by Metcalf; Gordon and others (Similar S 1090)
Health Insurance/Mental Illness: prohibits discrimination against mental illness in any coverage for medical care or treatment, creates Mental Illness Benefits Study Commission; provides for appointment of members, requires report & specifies contests re benefits for treatment of mental illness, provides for expiration of commission, repeals provision re requirement for optional coverage for mental & nervous disorders, etc. Amends 627 6675, repeals 627 668 Effective Date: 07/01/88 or upon becoming law, whichever occurs later, except as otherwise provided.
04/08/88 HOUSE Filed
04/08/88 HOUSE Introduced, referred to Insurance, Appropriations - HJ 105
04/26/88 HOUSE On Committee agenda—Insurance, 04/28/88, 8:00 am, 317C—For ratification of subreferral
05/03/88 HOUSE On Committee agenda—Insurance, 05/05/88, 1:15 pm, 317C—Not considered
06/07/88 HOUSE Died in Committee on Insurance

H 1125 GENERAL BILL/CS/ENG by Regulatory Reform; Mackenzie; Lewis (Similar CS/S/CS 657)
Yacht Brokers & Salesmen/Regulation; provides definitions, provides for administration of brokers’ & salesmen’s licenses, prescribes qualifications for issuance of license, prohibits unlicensed persons from acting as brokers or salesmen, provides for handling & disposition of funds received by licensees, provides for adoption of rules & for review & repeal, etc. Appropriation: $196,161 Effective Date. 10/01/88
04/05/88 HOUSE Filed
04/08/88 HOUSE Introduced, referred to Regulatory Reform; Finance & Taxation, Appropriations - HJ 105
04/11/88 HOUSE Subreferred to Committee on Technical and Consumer Resources, On subcommittee agenda—Regulatory Reform, 04/13/88, 8:00 am, 24-HOB
04/13/88 HOUSE Subcommittee Recommendation pending ratification by full Committee Favorable as a proposed Committee Substitute, On Committee agenda, pending subcommittee action—Regulatory Reform, 04/14/88, 3:30 pm, Morris Hall
04/20/88 HOUSE Preliminary Committee Action by Regulatory Reform Favorable as a Committee Substitute
04/20/88 HOUSE Comm. Report CS by Regulatory Reform— HJ 229; CS read first time— HJ 229, Now in Finance & Taxation— HJ 229
04/25/88 HOUSE Withdrawn from Finance & Taxation— HJ 243; Now in Appropriations - HJ 243
05/13/88 HOUSE On Committee agenda— Appropriations, 05/17/88, 3:30 pm, Morris Hall
05/17/88 HOUSE Preliminary Committee Action by Appropriations Favorable with 2 amendments
05/20/88 HOUSE Comm. Report Favorable with 2 amendment(s) by Appropriations, placed on Calendar— HJ 633
05/24/88 HOUSE Placed on Special Order Calendar
05/26/88 HOUSE Read second time— HJ 755, Amendments adopted; Read third time, CS passed as amended, YEAS 109 NAYS 6— HJ 757
05/26/88 SENATE In Messages
05/30/88 SENATE Received, referred to Economic, Community and Consumer Affairs, Commerce; Finance, Taxation and Claims; Appropriations—S 470; Withdrawn from Economic, Community and Consumer Affairs, Commerce; Finance, Taxation and Claims, Appropriations; Substituted for CS/CS/SB 557, CS passed as amended; YEAS 35 NAYS 0—SJ 521
06/09/88 HOUSE In Messages
06/01/88 HOUSE Was taken up— HJ 1190, Amendment to Senate amendment adopted, Concurred in Senate amendment as amended; CS passed as amended, YEAS 112 NAYS 0— HJ 1191
06/01/88 SENATE In Messages
06/03/88 SENATE Concurred; CS passed as amended; YEAS 37 NAYS 0— SJ 792
06/03/88 SENATE Ordered engrossed, then enrolled
06/21/88 Signed by Officers and presented to Governor
07/05/88 Approved by Governor; Chapter No. 88-282

H 1126 GENERAL BILL by Liberti (Compare ENG/H 1632, CS/ENG/S 361)
Contractual/Financial Mismanagement: provides additional basis of financial mismanagement, provides for expedited procedure in cases involving such mismanagement, repeals provision re contractor holding in trust funds owed to him or Amends 493.129, repeals 713.347 Effective Date Upon becoming law.
04/05/88 HOUSE Filed
04/08/88 HOUSE Introduced, referred to Regulatory Reform, Appropriations - HJ 105
04/14/88 HOUSE Subreferred to Subcommittee on Professional Regulation, On subcommittee agenda—Regulatory Reform, 04/18/88, 1:15 pm, Morris Hall; Not considered
04/21/88 HOUSE On subcommittee agenda—Regulatory Reform, 04/25/88, 3:30 pm, Morris Hall

(PAGE NUMBERS REFLECT DAILY HRNATE AND HOUSE JOURNALS AND NOT FINAL BOUND JOURNAL 1988)

(CONTINUED ON NEXT PAGE)
Journal
of the
Florida
House of Representatives

Ninetieth
Regular Session
since Statehood in 1845
April 5 through June 7, 1988

[Including a record of transmittal of Acts subsequent to sine die adjournment]
VOTES AFTER ROLL CALL

YEAS—Figg

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

Without objection, consideration of CS/HB 1122 was temporarily deferred.

CS/HB 1125—A bill to be entitled An act relating to yacht and ship brokers, creating the Yacht and Ship Brokers’ Act, providing definitions, providing for administration by the Department of Professional Regulation, providing for licensing; providing for escrow depository and closing fees, providing for disciplinary proceedings, providing an appropriation, providing for review and repeal; providing an effective date—was read the second time by title.

The Committee on Appropriations offered the following amendment:

Amendment 1—On pages 1-9, strike everything after the enacting clause and insert Section 1. Short title—This act may be cited as the “Yacht and Ship Brokers’ Act.”

Section 2. Definitions—As used in this act, the term

(1) “Broker” means a person who, for or in expectation of compensation, sells or offers or negotiates to sell, buys or offers or negotiates to buy, solicits or obtains listings of, or negotiates the purchase, sale, or exchange of, yachts for others.

(2) “Department” means the Department of Professional Regulation.

(3) “Salesman” means a person who, for or in expectation of compensation, is employed by a broker to perform any acts of a broker.

(4) “Yacht” means any vessel which is propelled by sail or machinery in the water which exceeds 25 feet in length, and which weighs less than 300 gross tons.

(5) “Person” means an individual, partnership, firm, corporation, association, or other entity.

Section 3. Administration—The department shall

(1) Administer this act and collect fees sufficient to administer this act.

(2) Adopt rules to administer this act and to classify brokers and salesmen and regulate their activities.

Section 4. Licensing—

(1) A person may not act as a broker or salesman unless licensed pursuant to this act. The department shall adopt rules establishing a procedure for the biennial renewal of licenses.

(2) A broker may not engage in business as a broker under a fictitious name unless his license is issued in such name.

(3) A license is not required for

(a) A person who sells his own yacht.

(b) An attorney-at-law for services rendered in his professional capacity.

(c) A receiver, trustee, or other person acting under a court order.

(d) A transaction involving the sale of a new yacht.

(e) A transaction involving the foreclosure of a security interest in a yacht.

(5) Any person who purchases a used yacht for resale must transfer title to such yacht into his name and maintain the title or bill of sale in his possession to be exempt from licensing.

(6) The department by rule shall establish fees for application, initial licensing, biennial renewal, and reinstatement of licenses in an amount not to exceed $500. The fees shall be adequate to proportionately fund the expenses of the department in this act.

(7) The department may deny a license to any applicant who does not

(a) Furnish proof satisfactory to the department that he is of good moral character and obtain recommendations from three reputable state residents.

(b) Certify that he has never been convicted of a felony.

(c) Post the bond required by this act.

(d) Demonstrate that he is a resident of this state or that he conducts business in this state.

(8)(a) Annually, before any license may be issued to a yacht or ship broker, the broker of used yachts or ships must deliver to the department a good and sufficient surety bond or irrevocable letter of credit, executed by the broker as principal, in the sum of $25,000.

(b) Surety bonds and irrevocable letters of credit shall be in a form to be approved by the department and shall be conditioned that the broker shall comply with the conditions of any written contract made by such broker in connection with the sale or exchange of any yacht or ship and shall not violate any of the provisions of the Yacht and Ship Brokers’ Act in the conduct of the business for which he is licensed. Such bonds and letters of credit shall be delivered to the department and in favor of any person who shall suffer any loss as a result of any violation of the conditions in this act. When the department determines that a person has incurred a loss as a result of a violation of the Yacht and Ship Brokers’ Act, it shall notify the person in writing of the existence of the bond or letter of credit. Such bonds and letters of credit shall be for the license period, and a new bond or letter of credit or a proper continuation certificate shall be delivered to the department at the beginning of each license period. However, the aggregate liability of the surety in any one year shall in no event exceed the sum of the bond or, in the case of a letter of credit, the aggregate liability of the issuing bank shall not exceed the sum of the credit.

(c) Surety bonds shall be executed by a surety company authorized to do business in the state as surety, and irrevocable letters of credit shall be issued by a bank authorized to do business in the state as a bank.

(d) Irrevocable letters of credit shall be engaged by a bank as an agreement to honor demands for payment as specified in this section.

Such security shall remain on deposit for a period of 1 year after he ceases to be a broker. A person may not be licensed as a broker unless he has been a salesman for at least 2 consecutive years, and may not be licensed as a broker after October 1, 1990, unless he has been licensed as a salesman for at least 2 consecutive years.

(9) An applicant for a salesman’s license or its renewal must deposit with the department a bond or equivalent securities in the sum of $10,000 subject to the conditions in subsection (8).

(10) Any person injured by the fraud, deceit, or willful negligence of any broker or salesman or by the failure of any broker or salesman to comply with this act or other law may file an action for damages upon the respective bonds against the principals and the surety.

(11) If a surety notifies the department that it is no longer the surety for a licensee, the department shall notify the licensee of such withdrawal, by certified mail, return receipt requested, addressed to the licensee’s principal office. Upon the termination of such surety the licensee’s license is automatically suspended until he files a new bond with the department.

(12) Each broker must maintain a principal place of business in this state, which shall be operated year-round and may establish branch offices in the state. A separate license shall be maintained for each branch office. A fee not to exceed $100 shall be set by department rule for each branch office license.

(13)(a) Each license must be prominently displayed in the office of the broker.

(b) Each salesman’s license shall remain in the possession of the employing broker until canceled or until the salesman leaves such employment. Immediately upon a salesman’s withdrawal from the employment of a broker, the broker shall return the salesman’s license to the department for cancellation.
Section 5 Escrow depository, closing transactions —  
(1) A broker shall place any funds received pursuant to a transaction into a trust account in a bank or recognized depository until he disburses such funds. A separate record shall be maintained of all such moneys received and the disposition thereof.  
(2) At the closing of a transaction in which title to a yacht is transferred, a broker shall provide the seller and purchaser with an itemized closing statement, including the selling price and all charges and credits, a description of any yachts exchanged, and the amount of any consideration. If the transaction is closed through escrow and the escrow holder renders a closing statement which reveals such information, that shall be deemed compliance with this subsection on the part of the licensed broker.  
Section 6 Disciplinary proceedings —  
(1) The department may, upon its own motion, and shall, upon the verified written complaint of any person, investigate any person acting as a broker or salesman, whether or not licensed.  
(2) Proceedings under this act shall be conducted pursuant to chapter 120.  
(3) The department may suspend or revoke the license of a broker or salesman who:  
(a) Makes a substantial and intentional misrepresentation, with respect to a transaction involving a yacht, upon which any person has relied  
(b) Makes a false warranty, with respect to a transaction involving a yacht, of a character likely to influence, persuade, or induce any person with whom business is transacted  
(c) Engages in continued misrepresentation or makes false warranties with respect to transactions involving a yacht, whether or not relied upon by another person  
(d) Acts for both the buyer and seller in a transaction involving a yacht without the knowledge and consent of both parties  
(e) Commingles the money or other property of his principal with his own  
(f) Commits fraud or dishonest acts in the conduct of any transaction involving a yacht  
(g) Allows an unlicensed person to use his name to evade the provisions of this act  
(h) Violates any law governing the transactions involving a yacht, including those relating to the collection and payment of sales or use taxes  
(4) The department may suspend or revoke the license of a broker or salesman who within the 3 years immediately preceding has:  
(a) Procured a license for himself or another by fraud, misrepresentation, falsification, or deceit  
(b) Been found guilty of a felony or a crime of moral turpitude  
(5) An action to suspend or revoke the license of a broker or salesman for a violation of this section must be commenced within 3 years after discovery of such violation by the department.  
Section 7 Sections 1 through 6 of this act are repealed on October 1, 1995, and shall be reviewed by the Legislature pursuant to s 11 61, Florida Statutes.  
Section 8 There is hereby appropriated for fiscal year 1988-1989 to the Department of Professional Regulation $196,161 from the Professional Regulation Trust Fund and 75 positions for the purpose of implementing the provisions of this act.  
Section 9 This act shall take effect October 1, 1988.  
On motion by Rep Mackenzie, the House agreed to reconsider the vote by which Amendment 1 was adopted. The question recurred on the adoption of the amendment.  
Representatives Thomas and Mackenzie offered the following amendment to the amendment:  
Amendment 1 to Amendment 1—On page 1, lines 22-23, strike “Department of Professional Regulation” and insert Department of Business Regulation.  
Rep Mackenzie moved the adoption of the amendment to the amendment which was adopted.  
Representatives Thomas and Mackenzie offered the following amendment to the amendment:  
Amendment 2 to Amendment 1—On page 1, line 28, strike “25” and insert 32.  
Rep Mackenzie moved the adoption of the amendment to the amendment which was adopted.  
Representatives Thomas and Mackenzie offered the following amendment to the amendment:  
Amendment 3 to Amendment 1—On page 7, lines 19 and 20, strike all of said lines and insert, year 1988-1989 to the Department of Business Regulation $196,161 and 75.  
Rep Mackenzie moved the adoption of the amendment to the amendment which was adopted. The question recurred on the adoption of Amendment 1, as amended, which was adopted.  
The Committee on Appropriations offered the following title amendment:  
Amendment 2—On page 1, lines 1-11, strike the entire title and insert An act relating to the regulation of yacht brokers and salesmen by the Department of Professional Regulation, providing definitions, providing for the administration of brokers’ and salesmen’s licenses, prescribing qualifications for issuance of a license, prohibiting unlicensed persons from acting as brokers or salesmen, providing exceptions, providing for license fees, providing for the denial, revocation, or suspension of licenses, requiring surety bonds, providing for the handling and disposition of funds received by licensees, providing for the adoption of rules, providing for review and repeal, providing an appropriation, providing an effective date.  
Rep Mackenzie moved the adoption of the amendment, which was adopted without objection.  
On motion by Rep Mackenzie, the House agreed to reconsider the vote by which Amendment 2 was adopted. The question recurred on the adoption of the amendment.  
Representatives Thomas and Mackenzie offered the following amendment to the title amendment:  
Amendment 1 to Amendment 2—On page 1, line 17, strike “Professional Regulation” and insert Business Regulation.  
Rep Mackenzie moved the adoption of the amendment to the amendment, which was adopted without objection.  
The question recurred on the adoption of Amendment 2, as amended, which was adopted.  
Without objection, further consideration of CS/HB 1125 was temporarily deferred.  
Subsequently, Representative Mackenzie offered the following amendment:  
Amendment 3—On page 1, line 27, after the word “any” insert: pleasure or recreational.  
Rep Mackenzie moved the adoption of the amendment, which was adopted.  
On motion by Rep Mackenzie, the rules were waived by two-thirds vote and CS/HB 1125, as amended, was read a third time by title. On passage, the vote was...
Journal
of the
SENATE
State of Florida

TWENTIETH REGULAR SESSION
UNDER THE CONSTITUTION AS REVISED IN 1968
APRIL 5 THROUGH JUNE 7, 1988
HB 181—A bill to be entitled An act relating to technology transfer centers at community colleges, amending s. 240.334, F.S., which provides an exemption from public records requirements for certain materials generated during the course of activities conducted within the community colleges; saving such exemption from repeal; providing for future review and repeal; providing an effective date

—was read the second time by title. On motion by Senator D. Childers, by two-thirds vote HB 181 was read the third time by title, passed and certified to the House. The vote on passage was:

Years—34

Yeas—Brown Childers, D. Childers, W D Crenshaw Deratany Dudley Frank Girardeau Gordon

Nays—None

On motions by Senator Margolis, by two-thirds vote HB 274 was withdrawn from the Committees on Judiciary-Civil; and Finance, Taxation and Claims.

On motion by Senator Margolis—

HB 274—A bill to be entitled An act relating to bond validation; amending s. 215.82, F.S.; providing additional procedures for actions to validate certain state bonds; providing an effective date

—a companion measure, was substituted for CS for SB 274 and read the second time by title.

Senator Margolis moved the following amendments which were adopted:

Amendment 1—On page 2, between lines 6 and 7, insert.

Section 2 Subsection (4) is added to section 218.37, Florida Statutes, to read.

218.37 Powers and duties of Division of Bond Finance, advisory council —

(4) The Division of Bond Finance of the Department of General Services shall conduct a study of professional fees paid to fiscal advisors, bond counsel and others, and shall adopt a recommended fee schedule which is commensurate with fees typically paid in states similar to Florida in size and character. Such schedule shall be adopted by the division as the recommended fee schedule for all state and state agency financings.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 4, after the semicolon (;) insert, amending s. 218.37, F.S., requiring the Division of Bond Finance of the Department of General Services to adopt recommended fee schedules for certain professional fees.

On motion by Senator Margolis, by two-thirds vote HB 274 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Year—34

Yeas—Beard Brown Crenshaw Dudley

Nays—None

CS for CS for SB 446—A bill to be entitled An act relating to pharmacy; amending s. 465.003, F.S., defining nuclear pharmacist; creating s. 465.0126, F.S., relating to nuclear pharmacists, providing for application and licensure; providing a fee; requiring certain activities; providing for qualifications, providing for rules; amending s. 465.018, F.S., relating to community pharmacies; requiring certain notification by prescription department managers; amending s. 465.0193, F.S., deleting language on nuclear pharmacists, amending s. 499.0054, F.S., providing that certain advertisements are violations; providing an appropriation; amending s. 465.022, F.S.; modifying pharmacy licensure fees; providing an effective date

—was read the second time by title. On motion by Senator Margolis, by two-thirds vote CS for SB 446 was read the third time by title, passed and certified to the House. The vote on passage was:

Year—32

Yeas—Beard Childers, D. Childers, W D Crenshaw Deratany Dudley Frank Girardeau Gordon

Nays—None

On motions by Senator McPherson, by two-thirds vote CS for SB 446 was withdrawn from the Committees on Economic, Community and Consumer Affairs, Commerce, Finance, Taxation and Claims, and Appropriations.

On motions by Senator McPherson, by two-thirds vote—

CS for HB 1125—A bill to be entitled An act relating to the regulation of yacht brokers and salesmen by the Department of Business Regulation, providing definitions; providing for the administration of brokers' and salesmen's licenses; prescribing qualifications for issuance of a license; prohibiting unlicensed persons from acting as brokers or salesmen, providing exceptions, providing for license fees; providing for the denial, revocation, or suspension of licenses; requiring surety bonds; providing for the handling and disposition of funds received by licensees, providing for the adoption of rules; providing for review and repeal; providing an appropriation; providing an effective date

—a companion measure, was substituted for CS for SB 557 and by two-thirds vote read the second time by title.

Senator McPherson moved the following amendment which was adopted:

Amendment 1—On page 2, line 4, strike "pleasure or recreational"

On motion by Senator McPherson, by two-thirds vote CS for HB 1125 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Year—35

Yeas—Beard Brown Childers, D Childers, W D Crenshaw Deratany Dudley

Nays—None

Senator McPherson moved the following amendment which was adopted:

Amendment 1—On page 2, line 4, strike "pleasure or recreational"

On motion by Senator McPherson, by two-thirds vote CS for HB 1125 as amended was read the third time by title, passed and certified to the House. The vote on passage was:
I. SUMMARY:

A. PRESENT SITUATION:

Currently, in Florida, there are no state laws requiring yacht and ship brokers to be registered or licensed. Persons or companies involved in the negotiation of the sale of yachts or ships may be required, at the city or county level, to obtain an occupational license. Yacht and ship brokers also are not required to be residents of the state or to be bonded.

Section 212.18(3), F.S., requires individuals who conduct business in this state and who sell or receive anything of value to apply to the Department of Revenue for a certificate of registration for the purpose of collecting taxes levied according to Chapter 212, F.S. Yacht and ship brokers doing business in this state are required to comply with this law.

B. EFFECT OF PROPOSED CHANGES:

CS/HB 1125 creates the Yacht and Ship Brokers' Act, and provides for the licensure of brokers and salesmen who arrange for the sale of yachts or ships. Yachts and ships are defined as vessels exceeding 25 feet in length and weighing under 300 gross tons, which are propelled, in the water, by sail or machinery.

The Department of Professional Regulation (DPR) is to administer the act and is responsible for issuing and revoking licenses, promulgating rules, and establishing and collecting fees. The department shall also investigate complaints.

The bill provides for exemption from licensure of an individual or corporation which sells its own yacht or ship, an attorney at law rendering professional services, an individual acting under court order, an individual involved in the sale of a new yacht or ship, or an individual involved in the foreclosure of a security interest in a yacht or ship.
Licenses issued are valid for a two year period. The department is to establish biennial fees for initial licensing renewal and reinstatement of licenses, which shall not exceed $100.

Conditions for licensure include that an applicant must either reside or have sufficient business relationships in this state, be of good moral character and provide recommendations from three reputable residents, certify that he has not been convicted of a felony and post bonds as required.

Applicants for a broker's license are required to obtain a surety bond or obtain an irrevocable letter of credit, in the sum of $25,000. Applicants for licensure as a salesman are to be bonded for $10,000. The bonds and letters of credit are to offset any loss a person has incurred as a result of a violation of the act.

Persons claiming to be injured by fraud, deceit, or willful negligence of a broker or salesman may bring an action upon the bonds against the principals and the surety in any court of competent jurisdiction.

The bill requires the department to notify any licensee of the withdrawal of any surety and provides for the suspension of a license under certain circumstances.

Brokers are to maintain a place of business in the state and may establish branch offices. Licenses are required for each office maintained by a broker and are required to be displayed.

Brokers are also required to place funds received for a business transaction into an escrow account and to maintain a record of the funds.

The bill further provides for conditions under which the department may suspend or revoke the license of a broker or salesman.

The bill appropriates two positions and $79,600 from the Professional Regulation Trust Fund to Department of Professional Regulation to implement the act.

The act is repealed on October 1, 1998, subject to sunset review.

C. SECTION-BY-SECTION ANALYSIS:

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT: FY 88-89 FY 89-90 FY 90-91

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

   Expenditures:
   Department of Professional Regulation
   Operating Capital Outlay $40,067

2. Recurring or Annualized Continuation Effects:

   Expenditures:
   Department of Professional Regulation
   Salaries and Benefits (7.5 FTE's) $140,232 $186,976 $196,324
   Expenses 15,862 21,150 22,207

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TOTAL RECURRING EXPENDITURES: $156,094 $208,126 $218,531

Revenues:
Department of Professional Regulation
Initial Licensure $158,000 $7,500 $7,500
Renewal Licensure 0 0 $165,500
TOTAL RECURRING REVENUES: $158,000 $7,500 $173,000

3. Long Run Effects Other Than Normal Growth:
None

4. Appropriations Consequences:

Expenditures:
Department of Professional Regulation
Professional Regulation Trust Fund $196,161 $208,126 $218,531

Revenues:
Professional Regulation Trust Fund $158,000 $7,500 $173,000

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:
None

2. Recurring or Annualized Continuation Effects:
None

3. Long Run Effects Other Than Normal Growth:
None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:
Potential licensees will incur additional costs of licensure fees and the costs associated with securing a surety bond or an irrevocable letter of credit. The initial license fee, renewal fee, and the fee for reinstatement of license will not exceed $100 each.

2. Direct Private Sector Benefits:
Consumers using the services of yacht and ship brokers may realize a positive fiscal impact from an increased protection of their investments.

3. Effects on Competition, Private Enterprise, and Employment Markets:
None
D. FISCAL COMMENTS:

Revenue calculations are based on 1,580 initial licensures in FY 1988-89, 75 initial licensures in FY 1989-90 and FY 1990-91, and 1,665 renewal licensures in 1990-91. Additionally, the fee cap is set in the bill at $100 per license. According to the Department of Professional Regulation, this fee is inadequate to cover its regulatory costs. The Department recommends a fee cap of $250 to cover these costs.

An amendment adopted by the Committee on Appropriations provides an appropriation from the Professional Regulation Trust Fund to implement the requirements of this legislation. The amendment also raises the fee caps from $100 to $500, resulting in maximum revenues of $790,000 in FY 1988-89, $37,500 in FY 1989-90, and $865,000 in FY 1990-91.

III. LONG RANGE CONSEQUENCES:

None.

IV. COMMENTS:

Legislation creating the Florida Yacht and Ship Brokers Act was enacted in 1965. Chapter 537, F.S., which provided for the licensure of yacht and ship brokers remained in effect until it was automatically repealed on July 1, 1978, pursuant to the Sunset Act.

Legislation similar to CS/HB 1125 was filed during the 1986 Legislative Session. Legislation identical to CS/HB 1125 passed both the House and Senate last Session and died in messages the last day of Session.

Examples of persons dishonestly engaged in the practice of arranging for the sale of yachts and ships have been reported periodically, particularly in the South Florida area.

V. AMENDMENTS:

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by:

Susan Turner

FINANCE & TAXATION:
Prepared by:

Staff Director:
Cliff Nilson

APPROPRIATIONS:
Prepared by:

Lori L. Kilpatrick

Staff Director:
Dr. James A. Zingale

1240
I. SUMMARY:

A. PRESENT SITUATION:

Currently, in Florida, there are no state laws requiring yacht and ship brokers to be registered or licensed. Persons or companies involved in the negotiation of the sale of yachts or ships may be required, at the city or county level, to obtain an occupational license. Yacht and ship brokers also are not required to be residents of the state or to be bonded.

Section 212.18(3), F.S., requires individuals who conduct business in this state and who sell or receive anything of value to apply to the Department of Revenue for a certificate of registration for the purpose of collecting taxes levied according to Chapter 212, F.S. Yacht and ship brokers doing business in this state are required to comply with this law.

B. EFFECT OF PROPOSED CHANGES:

CS/HB 1125 creates the Yacht and Ship Brokers' Act, and provides for the licensure of brokers and salesmen who arrange for the sale of yachts or ships. Yachts and ships are defined as vessels exceeding 32 feet in length and weighing under 300 gross tons, which are propelled, in the water, by sail or machinery.

The Department of Business Regulation (DBR) is to administer the act and is responsible for issuing and revoking licenses,
promulgating rules, and establishing and collecting fees. The department shall also investigate complaints.

The bill exempts from licensure a person who sells his own yacht, an attorney at law rendering professional services, an individual acting under court order, an individual involved in the sale of a new yacht, or an individual involved in the foreclosure of a security interest in a yacht.

Licenses issued are valid for a two year period. The department is to establish fees for application, initial licensing, biennial renewal and reinstatement of licenses, which shall not exceed $500.

Conditions for licensure include that an applicant must either reside or conduct business in this state, be of good moral character and provide recommendations from three reputable residents, certify that he has never been convicted of a felony and post bonds as required.

Applicants for a broker's license are required to obtain a surety bond or obtain an irrevocable letter of credit, in the sum of $25,000. Such security must be maintained for one year after a broker ceases to do business. Applicants for licensure as a salesman are to be bonded for $10,000. The bonds and letters of credit are to offset any loss a person has incurred as a result of a violation of the act. A person may not be licensed as a broker unless he has been a salesman for at least two consecutive years, and may not be so licensed after October 1, 1990, unless he has been licensed as a salesman for two consecutive years.

Persons claiming to be injured by fraud, deceit, or willful negligence of a broker or salesman may bring an action upon the bonds against the principals and the surety.

The bill requires the department to notify any licensee of the withdrawal of any surety and provides for the suspension of a license under certain circumstances.

Brokers are to maintain a place of business in the state and may establish branch offices. Licenses are required for each office maintained by a broker and are required to be displayed. DBR shall assess a fee, not to exceed $100, for each license issued for each branch office.

Brokers are also required to place funds received for a business transaction into a trust account and to maintain a record of the funds. A broker must provide each party with an itemized closing statement at the time of closing.

The bill further provides for conditions under which the department may suspend or revoke the license of a broker or salesman.
The bill appropriates 7.5 positions and $196,161 to Department of Business Regulation for fiscal year 1988-89 to implement the act.

The act is repealed on October 1, 1998, subject to sunset review.

C. SECTION-BY-SECTION ANALYSIS:

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT: FY 88-89 FY 89-90 FY 90-91

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

   Expenditures:
   Department of Business Regulation
   Operating Capital Outlay            $40,067

2. Recurring or Annualized Continuation Effects:

   Expenditures:
   Department of Business Regulation
   Salaries and Benefits (7.5 FTE's) $140,232 $186,976 $196,324
   Expenses                      15,862    21,150    22,207
   TOTAL RECURRING EXPENDITURES: $156,094 $208,126 $218,531

   Revenues:
   Department of Business Regulation
   Initial Licensure               $790,000 $37,500     $37,500
   Renewal Licensure              0          0           $832,500
   TOTAL RECURRING REVENUES:      $790,000 $37,000     $870,000

3. Long Run Effects Other Than Normal Growth:
   None

4. Appropriations Consequences:

   Department of Business Regulation
   Expenditures:                   $196,161 $208,126 $218,531
   Revenues:                       $790,000 $37,500     $870,000

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B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:
   None

2. Recurring or Annualized Continuation Effects:
   None

3. Long Run Effects Other Than Normal Growth:
   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   Potential licensees will incur additional costs of licensure fees and the costs associated with securing a surety bond or an irrevocable letter of credit. The application fee, initial license fee, renewal fee, and the fee for reinstatement of license will not exceed $500 each. The fee for each branch office licenses is not to exceed $100.

2. Direct Private Sector Benefits:

   Consumers using the services of yacht and ship brokers may realize a positive fiscal impact from an increased protection of their investments.

3. Effects on Competition, Private Enterprise, and Employment Markets:

   None

D. FISCAL COMMENTS:

   Revenue calculations are based on 1,580 initial licensures in FY 1988-89, 75 initial licensures in FY 1989-90 and FY 1990-91, and 1,665 renewal licensures in 1990-91, and assume fees would be set at the $500 cap. The bill does not specify the funding source for the appropriation or the fund into which the fees would be deposited.

III. LONG RANGE CONSEQUENCES:

   None.

IV. COMMENTS:

   Legislation creating the Florida Yacht and Ship Brokers Act was enacted in 1965. Chapter 537, F.S., which provided for the licensure of yacht and ship brokers remained in effect until it was automatically repealed on July 1, 1978, pursuant to the Sunset Act.
Examples of persons dishonestly engaged in the practice of arranging for the sale of yachts and ships have been reported periodically, particularly in the South Florida area.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: Susan Turner

Staff Director: Cliff Nilson

APPROPRIATIONS:
Prepared by: Lori L. Kilpatrick

Staff Director: Dr. James A. Zingale
I. SUMMARY:

A. Present Situation:

Currently, there is no state law requiring yacht and shipbrokers to be registered or licensed. Persons or companies involved in the negotiation of the sale of yachts or ships may be required, by the city or county, to obtain an occupational license. Yacht and shipbrokers also are not required to be residents of the state or to be bonded.

Section 212.18(3), F.S., requires individuals who conduct business in this state and who sell or receive anything of value to apply to the Department of Revenue for a certificate of registration for the purpose of collecting taxes levied according to ch.212, F.S. Yacht and shipbrokers doing business in this state are required to comply with this law.

B. Effect of Proposed Changes:

The bill creates the Yacht and Shipbrokers' Act and provides for the licensure of brokers and salesmen who arrange for the sale of yachts or ships. Yachts and ships are defined as vessels exceeding 25 feet in length and weighing under 300 gross tons.

The bill provides that the Department of Professional Regulation (DPR) is to administer the act and is responsible for issuing and revoking licenses, promulgating rules, establishing and collecting fees, and investigating complaints.

The bill exempts from licensure a person who sells his own yacht, an attorney rendering professional services, a person acting under court order such as a receiver or a trustee, and a person involved in the sale of a new yacht or a foreclosure of a security interest in a yacht.

Licenses are valid for a 2 year period and the department is to establish biennial fees for initial licensing, renewal, and reinstatement of licenses, which would not exceed $500.

Conditions for licensure include that an applicant must be of good moral character and obtain recommendations from three reputable state residents, certify that he has never been convicted of a felony, post a bond, and reside or conduct business in Florida.

Applicants for a broker's license or renewal are required to obtain a surety bond or letter of credit in the amount of $25,000. Such security must be maintained for 1 year after a broker ceases to do business. A person may not be licensed as a broker unless he has been a salesman for at least 2
consecutive years, and may not be so licensed after October 1,
1990 unless he has been licensed as a salesman for 2
consecutive years. Applicants for licensure as a salesman must
obtain a $10,000 bond.

Persons claiming injury from fraud, deceit, or willful
negligence of a broker or salesmen may bring an action upon the
bond against the principals and the surety.

The bill requires the department to notify any licensee of the
withdrawal of any surety and provides for the automatic
suspension of a license upon the withdrawal of the surety.
Brokers are to maintain a place of business in the state and
may establish branch offices. Licenses, which must be
displayed, are required for each office maintained by a broker.
Each salesman's license must be in the employing broker's
possession until canceled or the salesman leaves such
employment.

Brokers are required to place funds received for a business
transaction into an escrow account and to maintain a record of
the funds. A broker must provide each party with an itemized
closing statement at the time of closing.

The bill further provides for conditions under which the
department may suspend or revoke the license of a broker or
salesman.

The act provides an effective date of October 1, 1988.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Persons wishing to be licensed as yacht and ship brokers and
salesmen will incur costs to the extent they would be subject
to the licensure fees and the costs associated with securing a
$25,000 surety bond or letter of credit. The initial
licensing, renewal, and reinstatement fees are not to exceed
$500. It is generally assumed that the costs incurred by yacht
and ship brokers and salesmen may be passed on to consumers in
the form of higher fees for services.

The provisions requiring the posting of surety bonds would
benefit individuals using the services of yacht and shipbrokers
to the extent they receive increased protection of their yacht
purchase due to the bond requirement.

B. Government:

According to the DPR, 340 people would apply for licensure as a
broker and 1,240 for licensure as a salesman the first year if
the bill is enacted and 75 would apply for licensure as a
broker or salesman each successive year. Based on these
numbers, the DPR projects the following recurring or annualized
expenditures and revenue in the first 3 years:
EXPENDITURES

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<thead>
<tr>
<th></th>
<th>1988-89</th>
<th>1989-90</th>
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<tbody>
<tr>
<td>Dept. of Prof. Reg.</td>
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<tr>
<td>Administrative Costs</td>
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<tr>
<td>Licensure</td>
<td>$6,400</td>
<td>7,040</td>
<td>7,750</td>
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<td>Regulation</td>
<td>37,200</td>
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<td>$94,340</td>
<td>$103,650</td>
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REVENUES

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<tr>
<td>Estimated Fee Revenues</td>
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<tr>
<td>Initial Fees</td>
<td>$118,500</td>
<td>$7,500</td>
<td>$7,500</td>
</tr>
<tr>
<td>($100 x 1,580)*</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>($100 x 75)*</td>
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<tr>
<td>Biennial Renewal</td>
<td>$118,500</td>
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<td>$158,000</td>
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<tr>
<td>($100 x 1,580)</td>
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<tr>
<td>Total Recurring Revenues (est.)</td>
<td>$118,500</td>
<td>$7,500</td>
<td>$165,500</td>
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Projected Revenues

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<tr>
<td></td>
<td>$118,500</td>
<td>7,500</td>
<td>$165,500</td>
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<td>(9 months)</td>
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Projected Expenditures

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<td>79,600</td>
<td>94,340</td>
<td>103,650</td>
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* These numbers are based on those provided by the Marine Industries Association of South Florida. Bill authorizes appropriation of $196,161 from the Professional Regulation Trust Fund and 7.5 positions for implementation of the provisions of the Bill.

Authorizes the Department of Professional Regulation (DPR) to adopt rules for biennial renewal of licenses.

Authorizes the DPR, by rule, to establish fees for application, initial licensing, biennial renewal, and reinstatement of licenses in an amount not to exceed $500.

Provides for the DPR to set a fee not to exceed $100, for each branch office license.

III. COMMENTS:

Chapter 537, F.S., "The Florida Yacht and Shipbrokers Act," was enacted in 1965 and allowed to sunset on July 1, 1978 pursuant to the Sunset Act. The Division of General Regulation within the Department of Business Regulation was authorized to regulate the issuance and revocation of licenses and to prescribe rules to make the chapter effective. Applicants for a license were required to be at least 18 years of age, pass a written examination, furnish recommendations by two citizens of good repute of the county in which the applicant resided or did business, certify that he had never been convicted of a felony, and post an $8,000 bond.

The proposed bill contains elements of a registration, rather than a licensing, act in that it requires no proof of competency such as education or training. Registration is the appropriate form of regulation when the public needs assistance only in identifying competent practitioners and the risks of harm to the public are not great. If the risk of economic harm to the public from yacht broker misconduct is sufficient to require licensure, however, applicants should be required to establish competency either through education of the relevant laws or training.

The bill requires an applicant to certify that he has not been convicted of a felony. Most of the practice acts require that an applicant not have been convicted of a felony related to the practice act.

The bill requires that applicants for licensure be a resident of the state or conduct business in this state. The general rule is that license statutes discriminating against nonresidents of the
state either by refusing to grant licenses to such nonresidents or by granting them on different terms when not required under the police power of the state for the protection of its citizens are unconstitutional and void as violating the due process and equal protection clauses of the state and federal constitutions. State ex rel. James v Gerrell 188 So. 812 (1938). Residency as a requirement was deleted from the Hearing Aid Practice Act during the 1986 session.

The bill requires that yacht brokers obtain a surety bond in the amount of $25,000. This is the same amount of bond required of used motor vehicle dealers pursuant to s. 320.27(10)(a), F.S. According to the Florida Independent Automobile Dealers Association, the average cost of a used motor vehicle in Florida is $5,500. According to the Department of Revenue, the average price of a yacht in Florida is $200,000.

This bill does not provide for automatic repeal or Sunset review. All of the other practice acts provide for automatic repeal and review by the legislature pursuant to the Sunset Act.

Only one other state, California, currently regulates yacht brokers (ss. 700-739 of Cal. Harb and Nav. Code). The California code defines a yacht as any vessel 16 feet or more in length and under 300 gross tons; requires the state to annually publish a directory of licensed brokers and salesmen; requires a licensed broker who accepts funds pursuant to the law to obtain the written consent of the person entrusting funds to use the deposit money for other than purposes provided; requires applicants to demonstrate by written exam knowledge of arithmetic common to yacht brokerage business, principles of the business including certificate of ownership, certificate of number, security agreement, and bill of sale, of maritime and admiralty liens concerning vessels, equipment legally required on a yacht, obligations between principal and agent and their fiduciary relationship; and requires a $10,000 surety bond which the department may require to be supplemented if an action is commenced on the bond.

A similar bill, CS/HB 1125, has been filed in the House.

Sections 1 through 6 are repealed on October 1, 1998, and will be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

This bill will take effect October 1, 1988.

IV. AMENDMENTS:

None.
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**Prime Bill Title (short title):**

Yacht & Ship Brokers Act

**Similar/Identical Bill Substituted by Prime Bill:**

88/S0557

**Documentation Reproduced Analysis**

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**Note:** Consult the Final Legislative Bill Information (from Joint Legislative Management Committee, Division of Legislative Information, 1988) for more detailed bill history data. If prime bill number above is followed by an asterisk (*), it was amended on the floor, and the staff analysis for that bill may not be in accordance with the enacted law. The analyses reproduced here were supplied by the appropriate committee, who is solely responsible for their accuracy and completeness.

**Additional Information:**

(FRM 25-12/88)