

1988

Session Law 88-147

Florida Senate & House of Representatives

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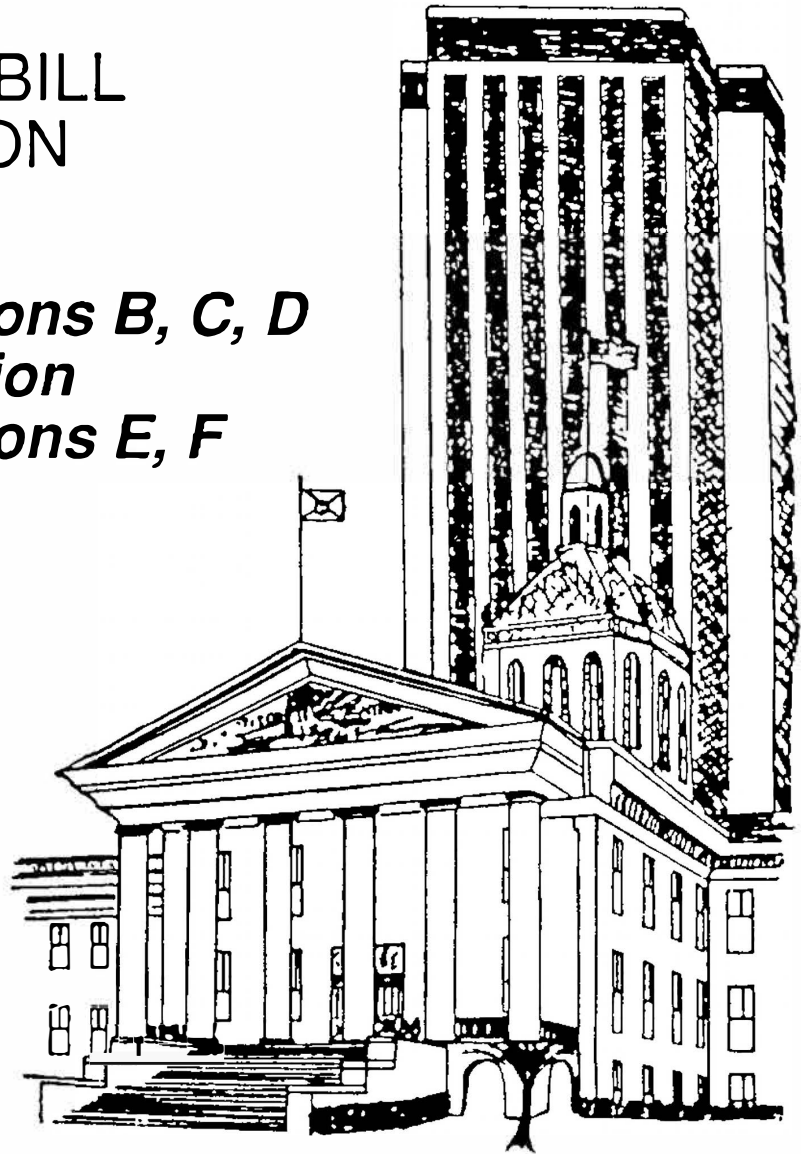
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FLORIDA LEGISLATURE

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

HISTORY OF SENATE BILLS

S 33 (CONTINUED)

- 04/05/88 SENATE Introduced, referred to Economic, Community and Consumer Affairs, Finance, Taxation and Claims—SJ 10, On Committee agenda—Economic, Community and Consumer Affairs, 04/05/88, 3 00 pm, Room—H, Comm Report. Favorable by Economic, Community and Consumer Affairs—SJ 67
- 04/06/88 SENATE Now in Finance, Taxation and Claims—SJ 67
- 04/11/88 SENATE On Committee agenda—Finance, Taxation and Claims, 04/13/88, 2 00 pm, Room—1C—Temporarily postponed
- 04/15/88 SENATE Extension of time granted Committee Finance, Taxation and Claims
- 04/18/88 SENATE On Committee agenda—Finance, Taxation and Claims, 04/20/88, 9:00 am, Room—1C
- 04/20/88 SENATE CS combines this bill and 197 & 241; Comm Report. CS by Finance, Taxation and Claims, placed on Calendar—SJ 166
- 04/26/88 SENATE CS read first time—SJ 176
- 04/28/88 SENATE Placed on Special Order Calendar—SJ 193, CS passed, YEAS 34 NAYS 0—SJ 207
- 05/03/88 HOUSE In Messages
- 05/04/88 HOUSE Received, referred to Finance & Taxation, Appropriations—HJ 320
- 05/10/88 HOUSE Withdrawn from Finance & Taxation—HJ 394, Now in Appropriations—HJ 394, Withdrawn from Appropriations—HJ 394, Placed on Calendar
- 05/11/88 HOUSE Placed on Special Order Calendar
- 05/16/88 HOUSE Substituted for CS/HB 109; Read second time—HJ 477
- 05/17/88 HOUSE Read third time, CS passed, YEAS 114 NAYS 0—HJ 503
- 05/18/88 Ordered enrolled—SJ 319
- 05/25/88 Signed by Officers and presented to Governor—SJ 425
- 06/01/88 Approved by Governor, Chapter No 88-65—SJ 787

S 34 GENERAL BILL/CS/ENG by Judiciary-Civil; Grant; Roa-Lehtinen; Langley; Weinstein; Dudley; Kirkpatrick; Frank (Compare H 48, H 296, H 337, H 372, H 411, H 519, CS/ENG/H 572, H 927, CS/H 985, CS/ENG/H 1085, ENG/H 1488, H 1550, H 1602, S 83, CS/ENG/S 111, S 169, S 525, S 657, S 721, S 847, S 1029, S 1182)

- Electors/Registration/Polling Room. (THIS BILL COMBINES S 34, 83, 657, 721, 847, 1029, 1182) modifies attesting witness requirements for registration of absent qualified electors overseas, provides for mailing of 1st primary, 2nd primary, & general elections ballots to absent qualified electors overseas; authorizes supervisors of elections to provide for registration on holidays & legal holidays that occur on weekdays, provides certain restrictions on access to polling rooms, etc Amends F S Effective Date 01/01/89 except as otherwise provided
- 11/06/87 SENATE Prefiled
- 11/18/87 SENATE Referred to Judiciary-Civil
- 04/05/88 SENATE Introduced, referred to Judiciary-Civil—SJ 10
- 04/15/88 SENATE Extension of time granted Committee Judiciary-Civil
- 04/29/88 SENATE Extension of time granted Committee Judiciary-Civil, On Committee agenda—Judiciary-Civil, 05/04/88, 9 00 am, Room—B—Motion to reconsider
- 05/05/88 SENATE On Committee agenda—Judiciary-Civil, 05/09/88, 2 00 pm, Room—B
- 05/09/88 SENATE CS combines this bill and 83, 657, 721, 847, 1029 & 1182; Combined CS additional reference(s) Appropriations, Comm Report CS by Judiciary-Civil—SJ 273
- 05/11/88 SENATE CS read first time—SJ 273, Now in Appropriations—SJ 273
- 05/19/88 SENATE Extension of time granted Committee Appropriations
- 06/01/88 SENATE Withdrawn from Appropriations—SJ 708, Placed on Calendar
- 06/03/88 SENATE Placed on Special Order Calendar—SJ 866 &—SJ 924
- 06/07/88 SENATE Placed on Special Order Calendar—SJ 1089, Amendments adopted—SJ 1131; CS passed as amended, YEAS 32 NAYS 1—SJ 1135
- 06/07/88 HOUSE In Messages, Received, placed on Calendar—HJ 1657, Read second time, Read third time, CS passed; YEAS 115 NAYS 3—HJ 1658
- 06/07/88 Ordered enrolled—SJ 1272
- 06/16/88 Signed by Officers and presented to Governor
- 07/01/88 Vetoed by Governor

S 35 GENERAL BILL/CS by Health and Rehabilitative Services, Grant (Compare H 345, CS/ENG/S 211)

- Pregnancy Termination/Procedures. prohibits use of live human embryo for experimental purposes except under certain circumstances, provides penalties for experimentation with certain embryos, fetuses, or premature infants, requires that report of termination of pregnancy must be filed with H R S by medical facility or physician within certain time, authorizes dept. to require additional information in such reports etc Amends 390 001, 002, creates 382 52 Effective Date 10/01/88
- 11/06/87 SENATE Prefiled
- 11/18/87 SENATE Referred to Health and Rehabilitative Services, Judiciary-Criminal
- 04/05/88 SENATE Introduced, referred to Health and Rehabilitative Services, Judiciary-Criminal—SJ 10

S 35 (CONTINUED)

- 04/08/88 SENATE On Committee agenda—Health and Rehabilitative Services, 04/12/88, 2 00 pm, Room—A
- 04/12/88 SENATE Comm Report. CS by Health and Rehabilitative Services—SJ 91
- 04/13/88 SENATE CS read first time—SJ 102, Now in Judiciary-Criminal—SJ 91
- 04/15/88 SENATE Extension of time granted Committee Judiciary-Criminal
- 04/29/88 SENATE Extension of time granted Committee Judiciary-Criminal
- 05/13/88 SENATE Extension of time granted Committee Judiciary-Criminal
- 05/19/88 SENATE On Committee agenda—Judiciary-Criminal, 05/23/88, 10:00 am, Room—C
- 05/23/88 SENATE Comm Report: Favorable by Judiciary-Criminal, placed on Calendar—SJ 366
- 06/07/88 SENATE Died on Calendar
- S 36 GENERAL BILL/ENG by Grant (Similar H 508, Compare H 157, CS/H 696, ENG/H 1397, CS/S 794)
- Federal Law Enf. Officers/Powers. provides definition of "federal law enforcement officer", grants certain powers to such federal officers re arrests without warrants, use of force, searches & seizures, & possession of firearms, provides that all state-certified law enforcement officers have full arrest authority re felonies committed in their presence Effective Date Upon becoming law
- 11/06/87 SENATE Prefiled
- 11/18/87 SENATE Referred to Judiciary-Criminal
- 01/19/88 SENATE On Committee agenda—Judiciary-Criminal, 02/02/88, 9 00 am, Room—C
- 02/02/88 SENATE Comm Report. Favorable with 1 amendment(s) by Judiciary-Criminal, placed on Calendar
- 04/05/88 SENATE Introduced, referred to Judiciary-Criminal—SJ 11, Comm. Report: Favorable with 1 amendment(s) by Judiciary-Criminal, placed on Calendar—SJ 53
- 04/19/88 SENATE Placed on Special Order Calendar—SJ 129, Passed as amended, YEAS 38 NAYS 0—SJ 141, Immediately certified—SJ 141
- 04/19/88 HOUSE In Messages
- 04/21/88 HOUSE Received, referred to Criminal Justice, Appropriations—HJ 212
- 06/07/88 HOUSE Died in Committee on Criminal Justice, Iden /Sim./ Compare bill passed, refer to HB 1397 (Ch 88-373)

S 37 GENERAL BILL by Grant (Identical H 84, Compare CS/CS/ENG/S 161)

- Veterans' Homes/Federal Funds. directs Secretary of Administration to apply to Veterans' Administration for federal funds for state nursing home for veterans. Effective Date. Upon becoming law
- 11/06/87 SENATE Prefiled
- 11/18/87 SENATE Referred to Economic, Community and Consumer Affairs, Appropriations
- 12/17/87 SENATE On Committee agenda—Economic, Community and Consumer Affairs, 01/05/88, 10 00 am, Room—H
- 01/05/88 SENATE Comm. Report. Favorable by Economic, Community and Consumer Affairs, Now in Appropriations
- 04/05/88 SENATE Introduced, referred to Economic, Community and Consumer Affairs, Appropriations—SJ 11; Comm Report. Favorable by Economic, Community and Consumer Affairs—SJ 52, Now in Appropriations—SJ 53
- 05/04/88 SENATE Extension of time granted Committee Appropriations
- 05/19/88 SENATE Extension of time granted Committee Appropriations
- 06/07/88 SENATE Died in Committee on Appropriations, Iden /Sim./ Compare bill passed, refer to CS/CS/SB 161 (Ch 88-290)

S 38 GENERAL BILL/CS/CS/ENG by Finance, Taxation and Claims; Economic, Community and Consumer Affairs; Economic, Community and Consumer Affairs (Similar ENG/H 1628, Compare CS/H 291, H 292, H 293, S 262, CS/S 362, S 364)

- Mobile Homes Parks & RV's. (SUNSET) provides for registration of nonresident motor vehicle, mobile home, & recreational vehicle dealers with D.O R for purpose of obtaining sales tax dealer registration number, clarifies ability of mobile home dealers to sell mobile homes in M H parks, requires park owner to deliver prospectus prior to occupancy by owner & provides voidability period for failure to do so, etc Amends Chs 320, 723, 418 304, revives/readopts 320.77- 866. Effective Date 10/01/88 except as otherwise provided
- 11/06/87 SENATE Prefiled
- 11/18/87 SENATE Referred to Economic, Community and Consumer Affairs, Finance, Taxation and Claims
- 11/23/87 SENATE On Committee agenda—Economic, Community and Consumer Affairs, 12/08/87, 9 00 am, Room—H
- 12/08/87 SENATE Comm Report CS by Economic, Community and Consumer Affairs, Now in Finance, Taxation and Claims
- 04/05/88 SENATE Introduced, referred to Economic, Community and Consumer Affairs, Finance, Taxation and Claims—SJ 11, Comm Report. CS by Economic, Community and Consumer Affairs—SJ 53, CS read first time—SJ 54, Now in Finance, Taxation and Claims—SJ 53
- 04/15/88 SENATE Extension of time granted Committee Finance, Taxation and Claims

HISTORY OF SENATE BILLS

S 38 (CONTINUED)

- 04/29/88 SENATE Extension of time granted Committee Finance, Taxation and Claims
- 06/06/88 SENATE On Committee agenda—Finance, Taxation and Claims, 05/10/88, 3:00 pm, Room-1C
- 06/10/88 SENATE Comm Report. CS/CS by Finance, Taxation and Claims, placed on Calendar—SJ 291
- 05/17/88 SENATE CS read first time—SJ 292
- 05/25/88 SENATE Placed on Special Order Calendar—SJ 374, Amendment pending—SJ 407
- 05/26/88 SENATE CS passed as amended, YEAS 35 NAYS 0—SJ 434
- 05/30/88 HOUSE In Messages
- 06/01/88 HOUSE Received, placed on Calendar—HJ 1179; Read second time, Amendments adopted; Read third time, CS passed as amended, YEAS 115 NAYS 0—HJ 1185
- 06/01/88 SENATE In Messages
- 06/03/88 SENATE Was taken up—SJ 894, Concurred, CS passed as amended, YEAS 36 NAYS 0—SJ 900
- 06/03/88 Ordered engrossed, then enrolled—SJ 900
- 06/16/88 Signed by Officers and presented to Governor
- 07/01/88 Approved by Governor, Chapter No 88-147

S 39 GENERAL BILL by Plummer (Compare CS/ENG/H 438)

- Estate Assets Investment/Guardian, provides that guardian may invest estate assets in securities guaranteed by full faith & credit of Federal Government Amends 744 444 Effective Date 10/01/88
- 11/06/87 SENATE Prefiled
- 11/18/87 SENATE Referred to Judiciary—Civil
- 04/05/88 SENATE Introduced, referred to Judiciary—Civil—SJ 11
- 04/14/88 SENATE On Committee agenda—Judiciary—Civil, 04/19/88, 2:00 pm, Room-B
- 04/15/88 SENATE Extension of time granted Committee Judiciary—Civil
- 04/19/88 SENATE Comm Report. Favorable by Judiciary—Civil, placed on Calendar—SJ 142
- 04/28/88 SENATE Placed on Special Order Calendar—SJ 193
- 05/03/88 SENATE Placed on Special Order Calendar—SJ 211
- 05/05/88 SENATE Placed on Special Order Calendar—SJ 225 &—SJ 228, Passed, YEAS 34 NAYS 0—SJ 238
- 05/10/88 HOUSE In Messages
- 05/11/88 HOUSE Received, referred to Judiciary—HJ 405
- 05/25/88 HOUSE On Committee agenda—Judiciary, 05/26/88, 8:30 am, 413C
- 05/26/88 HOUSE Preliminary Committee Action by Judiciary Favorable, Comm Report. Favorable by Judiciary, placed on Calendar—HJ 718
- 06/07/88 HOUSE Died on Calendar

S 40 GENERAL BILL/CS by Economic, Community and Consumer Affairs; Economic, Community and Consumer Affairs (Compare ENG/H 780, CS/H 1647, ENG/S 1031)

- Landscape Architecture/Revision, (SUNSET) increases cap on certain fees for licensure as registered landscape architect, revises certain licensing requirements, deletes certain requirements re practice of landscape architecture by corporation or partnership; provides for use of seal; provides for committee to delineate conditions under which landscape architects may submit permits for design of stormwater management systems, etc. Amends/revives/readopts Ch. 481 Effective Date 10/01/88 except as 14 & 17 take effect upon becoming law
- 11/06/87 SENATE Prefiled
- 11/18/87 SENATE Referred to Economic, Community and Consumer Affairs; Appropriations
- 11/23/87 SENATE On Committee agenda—Economic, Community and Consumer Affairs, 12/08/87, 9:00 am, Room-H—Temporarily postponed
- 12/17/87 SENATE On Committee agenda—Economic, Community and Consumer Affairs, 01/05/88, 10:00 am, Room-H
- 01/05/88 SENATE Comm Report CS by Economic, Community and Consumer Affairs, Now in Appropriations
- 04/05/88 SENATE Introduced, referred to Economic, Community and Consumer Affairs, Appropriations—SJ 11, Comm Report CS by Economic, Community and Consumer Affairs—SJ 53, CS read first time—SJ 54, Now in Appropriations—SJ 53
- 05/04/88 SENATE Extension of time granted Committee Appropriations
- 05/05/88 SENATE Withdrawn from Appropriations—SJ 233, Placed on Calendar
- 05/30/88 SENATE Placed on Special Order Calendar—SJ 463, Iden/Sim House Bill substituted, Laid on Table under Rule, Iden/Sim/Compare Bill passed, refer to HB 780 (Ch 88-347) & SB 1031 (Ch 88-2051—SJ 508

S 41 GENERAL BILL by Ros-Lehtinen (Identical H 419)

- Retirement/Military Service revises definition of "military service" to allow member, after having accumulated 10 years of creditable service in system, to purchase additional service credit for up to 4 years actual service in US Armed Forces, irrespective of whether service was during periods of peacetime or wartime subject to certain conditions Amends 121 021 Effective Date Upon becoming law
- 11/06/87 SENATE Prefiled

S 41 (CONTINUED)

- 11/18/87 SENATE Referred to Personnel, Retirement and Collective Bargaining, Appropriations
- 04/05/88 SENATE Introduced, referred to Personnel, Retirement and Collective Bargaining, Appropriations—SJ 11
- 04/15/88 SENATE Extension of time granted Committee Personnel, Retirement and Collective Bargaining
- 05/02/88 SENATE Extension of time granted Committee Personnel, Retirement and Collective Bargaining
- 05/13/88 SENATE Extension of time granted Committee Personnel, Retirement and Collective Bargaining
- 05/27/88 SENATE Extension of time granted Committee Personnel, Retirement and Collective Bargaining
- 06/07/88 SENATE Died in Committee on Personnel, Retirement and Collective Bargaining

S 42 GENERAL BILL/CS/CS/ENG by Judiciary-Civil; Health and Rehabilitative Services; Malchon; Girardeau (Similar H 245, H 683, Compare CS/ENG/H 750, S 49, CS/ENG/S 460)

- Civil Liability/Medical Personnel, (THIS BILL COMBINES S 42,49) provides exemption from civil liability for licensee medical personnel working gratuitously in nonprofit medical facilities Amends 768 13 Effective Date 10/01/88
- 11/06/87 SENATE Prefiled
- 11/18/87 SENATE Referred to Health and Rehabilitative Services, Judiciary—Civil
- 04/05/88 SENATE Introduced, referred to Health and Rehabilitative Services; Judiciary—Civil—SJ 11, On Committee agenda—Health and Rehabilitative Services, 04/06/88, 9:00 am, Room-A
- 04/06/88 SENATE CS combines this bill and 49, Comm Report: CS by Health and Rehabilitative Services—SJ 68
- 04/07/88 SENATE CS read first time—SJ 80, Now in Judiciary—Civil—SJ 68
- 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
- 05/19/88 SENATE On Committee agenda—Judiciary—Civil, 05/24/88, 9:00 am, Room-B
- 05/24/88 SENATE Comm Report CS/CS by Judiciary—Civil, placed on Calendar—SJ 375
- 05/25/88 SENATE CS read first time—SJ 376
- 05/30/88 SENATE Placed on Special Order Calendar—SJ 463, Amendment pending—SJ 542
- 05/31/88 SENATE Placed on Special Order Calendar—SJ 549, CS passed as amended, YEAS 29 NAYS 3—SJ 572
- 05/31/88 HOUSE In Messages
- 06/01/88 HOUSE Received, referred to Judiciary—HJ 1091
- 06/07/88 HOUSE Died in Committee on Judiciary, Iden/Sim/Compare bill passed, refer to CS/SB 460 (Ch 88-173)

S 43 GENERAL BILL by Malchon (Identical H 170)

- Motor Vehicles/License Taxes exempts certain motor vehicles from license taxes; provides for issuance of license plates & validation stickers to such vehicles; provides for establishing eligibility Amends 320 10 Effective Date 10/01/88
- 11/06/87 SENATE Prefiled
- 11/18/87 SENATE Referred to Transportation, Finance, Taxation and Claims; Appropriations
- 04/05/88 SENATE Introduced, referred to Transportation, Finance, Taxation and Claims, Appropriations—SJ 11
- 04/15/88 SENATE Extension of time granted Committee Transportation
- 04/29/88 SENATE Extension of time granted Committee Transportation
- 05/13/88 SENATE Extension of time granted Committee Transportation
- 05/17/88 SENATE Withdrawn from Transportation, Finance, Taxation and Claims, Appropriations, Indefinitely postponed—SJ 306

S 44 GENERAL BILL by Malchon (Similar CS/H 81)

- Employers/Retaliatory Action, prohibits employers from taking retaliatory personnel action against employees under certain conditions, authorizes civil actions & provides specified relief, provides for certain employer relief Effective Date: 10/01/88
- 11/06/87 SENATE Prefiled
- 11/18/87 SENATE Referred to Commerce, Judiciary—Civil
- 04/05/88 SENATE Introduced, referred to Commerce, Judiciary—Civil—SJ 11
- 04/15/88 SENATE Extension of time granted Committee Commerce
- 04/29/88 SENATE Extension of time granted Committee Commerce
- 05/13/88 SENATE Extension of time granted Committee Commerce
- 05/27/88 SENATE Extension of time granted Committee Commerce
- 06/07/88 SENATE Died in Committee on Commerce

S 45 GENERAL BILL/CS/CS by Appropriations, Health and Rehabilitative Services; Malchon and others (Similar CS/H 357, Compare CS/ENG/H 844)

- Community Care for Disabled Adults, creates Community Care for Disabled Adults Act, directs HRS Dept to provides program, expands definition of "elderly person" to include any person 60 years of age or over, includes such adults in home care for elderly program, requires dept to develop schedule of subsidy payments for disabled adults & elderly persons by 10/01/88, requires dept to conduct study, etc Creates 410 601- 606 037, amends 410 031- 033, 035 Appropriation \$50,000 Effective Date 07/01/88 or upon becoming law, whichever occurs later

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

COPY

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R. A. GRAY BUILDING
Tallahassee, FL 32399-0250
Series K Carton 1621

	<u>ANALYST</u>	<u>STAFF DIRECTOR</u>
1.	Balzer <u>bb</u>	Buck <u>DB</u>
2.	_____	_____
3.	_____	_____
4.	_____	_____

	<u>REFERENCE</u>	<u>ACTION</u>
1.	ECCA	_____
2.	FTC	_____
3.	_____	_____
4.	_____	_____

SUBJECT:

Mobile Home and Recreational
Vehicle Dealers and
Manufacturers

BILL NO. AND SPONSOR:

SB 38 by
Senate Committee on Economic,
Community and Consumer Affairs

I. SUMMARY:

A. Present Situation:

Section 11.61, F.S., provides for the periodic legislative review of professions and occupations. Chapter 81-318, L.O.F., automatically repeals sections 320.77 through 320.866, F.S., relating to mobile home and recreational vehicle dealers and manufacturers, on October 1, 1988, unless the Legislature revives and readopts it in the public interest as determined by a review conducted pursuant to the provisions of s. 11.61, F.S..

Section 320.77, F.S., provides for the licensing of mobile home and recreational vehicle dealers, and includes definitions to be used in construing the section.

Section 320.822, F.S., provides definitions to be used in construing sections 320.8225 through 320.866, F.S., relating to the licensing of mobile home and recreational vehicle manufacturers, uniform mobile home and recreational vehicle construction and repair standards, inspections, seals and labels, onsite inspections, reciprocity, penalties, minimum installation standards, department records, disclosure relating to the determination of the length of a mobile home, warranties, remedies, and department lists of licensed dealers and manufacturers.

Section 320.822(8), F.S., relating to the definition of a mobile home dealer, provides that a person who buys, sells, or deals in three or more mobile homes or recreational vehicles in any 12-month period or who offers or displays for sale three or more mobile homes or recreational vehicles in any 12-month period shall be prima facie presumed to be engaged in the business of a mobile home dealer.

B. Effect of Proposed Changes:

Section 320.822(8), F.S., is amended to provide that a person who buys, sells, or deals in one or more mobile homes or recreational vehicles in any 12-month period or who offers or displays for sale one or more mobile homes or recreational vehicles in any 12-month period shall be prima facie presumed to be engaged in the business of a mobile home dealer.

Section 320.834, F.S., is substantially reworded to clarify legislative purpose.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Presently, the sections and rules have established fees relating to mobile home and recreational vehicle dealers and manufacturers for initial licensure application, licensure renewal, and delinquent renewal fee, for dealer change of location, for seals and labels, for onsite inspections, and for lists of licensees. If sections 320.77 through 320.866, F.S., are allowed to repeal on October 1, 1988, as provided by chapter 81-318, L.O.F., mobile home and recreational vehicle dealers and manufacturers will no longer be required to pay these fees. This bill, however, revives and readopts the sections, which will result in applicants, licensees, and those seeking lists of licensees continuing to be subject to these fees after October 1, 1988.

The reduction of the number of transactions or offers to transact necessary to create a presumption that one is a mobile dealer could adversely affect those dealing in mobile homes or recreational vehicles to the extent that they are subject to regulation and its attendant fees, penalties, and state-imposed warranty duties as prescribed by s. 320.835(2), F.S.

Such reduction could benefit consumers to the extent that they purchase a unit from a person dealing in the sale of 2 or less mobile homes or recreational vehicles in a 12-month period; such person would be subject to the penalties prescribed by s. 320.831, F.S., and would be required to provide the state-imposed warranties prescribed by s. 320.835(2), F.S..

B. Government:

The cost of administering all licensing and registration provisions, including those relating to motor vehicle dealers and manufacturers, in FY 1986-87 was \$2,856,860. The cost is paid by HUD remittals to the Bureau of Mobile Home and Recreational Vehicle Construction based on the number of units sold in Florida and through fees paid by applicants and licensees to the Bureau of Licensing and Enforcement. If the act is repealed, that part of the \$2,856,860 attributable to mobile home and recreational vehicle dealers and manufacturers would no longer be incurred by the department after October 1, 1988. This bill reenacts sections 320.77 through 320.866, F.S., and would cause these regulatory costs to continue after October 1, 1988.

The reduction of the number of transactions or offers to transact necessary to create a presumption that one is a mobile home dealer could benefit the department to the extent it eases the department's ability to detect violations and enforce provisions.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

BILL VOTE SHEET

(VS-87: File with Secretary of Senate)

BILL NO. SB 38

COMMITTEE ON Economic, Community & Consumer Affairs

DATE December 8, 1987

FINAL ACTION:

TIME 9:00 am - Noon

 Favorably with amendments

PLACE Committee Room H, SOB

 x Favorably with Committee Substitute

OTHER COMMITTEE REFERENCES:
(In order shown)

 Unfavorably

FTC

OTHER: Temporarily Passed

 Reconsidered

 Not Considered

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Tallahassee, FL 32399 0250
Series 18 carton 1627

THE VOTE WAS:

FINAL BILL VOTE		SENATORS										
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay
x		Frank										
x		Girardeau										
x		Meek										
x		Ros-Lehtinen										
-	-	Thurman										
x		VICE CHAIRMAN Kirkpatrick										
x		CHAIRMAN Marqolis										
6*		TOTAL										
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay

*Present at the table without objection
(Attach additional page if necessary)

Please Complete: The key sponsor appeared (x)
 A Senator appeared ()
 Sponsor's aide appeared ()
 Other appearance ()

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Balzer</u>	<u>Buck</u>	1. <u>ECCA</u>	<u>FAV/CS</u>
2. _____	_____	2. <u>FTC</u>	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Mobile Home and Recreational Vehicle Dealers and Manufacturers

BILL NO. AND SPONSOR:

CS/SB 38 by Senate Committee on Economic Community and Consumer

(12) (13) (14) (15) (16) (17) (18) (19) (20) (21) (22) (23) (24) (25) (26) (27) (28) (29) (30) (31) (32) (33) (34) (35) (36) (37) (38) (39) (40) (41) (42) (43) (44) (45) (46) (47) (48) (49) (50) (51) (52) (53) (54) (55) (56) (57) (58) (59) (60) (61) (62) (63) (64) (65) (66) (67) (68) (69) (70) (71) (72) (73) (74) (75) (76) (77) (78) (79) (80) (81) (82) (83) (84) (85) (86) (87) (88) (89) (90) (91) (92) (93) (94) (95) (96) (97) (98) (99) (100)

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 FLORIDA STATE ARCHIVES
 ECONOMIC DEPARTMENT OF STATE
 OFFICE OF THE CLERK OF THE HOUSE OF REPRESENTATIVES
 R. H. HARRIS
 Tallahassee, FL 32399 0-350
 Boxes - 10 Carton 1625

I. SUMMARY:

A. Present Situation:

Section 11.61, F.S., provides for the periodic legislative review of professions and occupations. Chapter 81-318, L.O.F., automatically repeals sections 320.77 through 320.866, F.S., relating to mobile home and recreational vehicle dealers and manufacturers, on October 1, 1988, unless the Legislature revives and readopts it in the public interest as determined by a review conducted pursuant to the provisions of s. 11.61, F.S.

Section 320.01, F.S., provides general definitions.

Section 320.77, F.S., provides for the licensing of mobile home and recreational vehicle dealers, and includes definitions to be used in construing the section.

Section 320.822, F.S., provides definitions to be used in construing sections 320.8225 through 320.866, F.S., relating to the licensing of mobile home and recreational vehicle manufacturers, uniform mobile home and recreational vehicle construction and repair standards, inspections, seals and labels, onsite inspections, reciprocity, penalties, minimum installation standards, department records, disclosure relating to the determination of the length of a mobile home, warranties, remedies, and department lists of licensed dealers and manufacturers.

Section 320.822(8), F.S., relating to the definition of a mobile home dealer, provides that a person who buys, sells, or deals in three or more mobile homes or recreational vehicles in any 12-month period or who offers or displays for sale three or more mobile homes or recreational vehicles in any 12-month period shall be prima facie presumed to be engaged in the business of a mobile home dealer.

B. Effect of Proposed Changes:

Section 320.01(1)(b)5., F.S., is amended to include in the definition of "park trailer" units up to 14 feet, instead of 12 feet, in width and to include units up to 500 square feet when constructed to HUD standards.

Section 320.77, F.S., is amended to limit the term "mobile home or recreational vehicle broker" to mean those engaged in the business of offering to procure or procuring used, not new, units.

Section 320.822(8), F.S., is amended to provide that a person who buys, sells, or deals in one or more mobile homes or recreational vehicles in any 12-month period or who offers or displays for sale one or more mobile homes or recreational

vehicles in any 12-month period shall be prima facie presumed to be engaged in the business of a mobile home dealer.

Section 320.834, F.S., is substantially reworded to clarify legislative purpose.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Presently, the sections and rules have established fees relating to mobile home and recreational vehicle dealers and manufacturers for initial licensure application, licensure renewal, and delinquent renewal fee, for dealer change of location, for seals and labels, for onsite inspections, and for lists of licensees. If sections 320.77 through 320.866, F.S., are allowed to repeal on October 1, 1988, as provided by chapter 81-318, L.O.F., mobile home and recreational vehicle dealers and manufacturers will no longer be required to pay these fees. This bill, however, revives and readopts the sections, which will result in applicants, licensees, and those seeking lists of licensees continuing to be subject to these fees after October 1, 1988.

The provision limiting the term "mobile home or recreational vehicle brokers" to mean those procuring only used, not new, units, could adversely affect brokers to the extent that they are presently brokering new units and could benefit mobile home or recreational dealers to the extent that a potential alternative source of units for consumers would be foreclosed. The provision could adversely affect consumers to the extent that the prohibition against brokers procuring new units forecloses to consumers an alternative source of units.

The reduction of the number of transactions or offers to transact necessary to create a presumption that one is a mobile dealer could adversely affect those dealing in mobile homes or recreational vehicles to the extent that they are subject to regulation and its attendant fees, penalties, and state-imposed warranty duties as prescribed by s. 320.835(2), F.S.

Such reduction could benefit consumers to the extent that they purchase a unit from a person dealing in the sale of 2 or less mobile homes or recreational vehicles in a 12-month period; such person would be subject to the penalties prescribed by s. 320.831, F.S., and would be required to provide the state-imposed warranties prescribed by s. 320.835(2), F.S..

B. Government:

The cost of administering all licensing and registration provisions, including those relating to motor vehicle dealers and manufacturers, in FY 1986-87 was \$2,856,860. The cost is paid by HUD remittals to the Bureau of Mobile Home and Recreational Vehicle Construction based on the number of units sold in Florida and through fees paid by applicants and licensees to the Bureau of Licensing and Enforcement. If the act is repealed, that part of the \$2,856,860 attributable to mobile home and recreational vehicle dealers and manufacturers would no longer be incurred by the department after October 1, 1988. This bill reenacts sections 320.77 through 320.866, F.S., and would cause these regulatory costs to continue after October 1, 1988.

The reduction of the number of transactions or offers to transact necessary to create a presumption that one is a mobile home dealer could benefit the department to the extent it eases the department's ability to detect violations and enforce provisions.

REVISED: December 9, 1987

BILL NO. CS/SB 38

DATE: November 30, 1987

Page 3

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 38

-- CS/SB amends s. 320.01, F.S., to redefine the term "park trailer" to include units up to 14, instead of 12, feet wide, and to include units up to 500, from 400 square feet, square feet when constructed to HUD standards.

-- CS/SB 38 redefines the term "mobile home or recreational vehicle broker" to limit the term to mean those engaged in the business of offering to procure or procuring used, not new, units.

Committee on Economic, Community and
Consumer Affairs


Staff Director

(FILE THREE COPIES WITH THE SECRETARY OF THE SENATE)

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Balzer</u>	<u>Buck</u>	1. <u>ECCA</u>	<u>FAV/CS</u>
2. <u>Barrett</u>	<u>Beqqs</u>	2. <u>FTC</u>	<u>Fav/CS</u>
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Mobile Home and Recreational
Vehicle Dealers and
Manufacturers

BILL NO. AND SPONSOR:

CS/CS/SB 38 by Senate
Committees, Senators DeFuria
and Margolis

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Series _____ Carton _____

I. SUMMARY:

A. Present Situation:

Section 11.61, F.S., provides for the periodic legislative review of professions and occupations. Chapter 81-318, L.O.F., automatically repeals sections 320.77 through 320.866, F.S., relating to mobile home and recreational vehicle dealers and manufacturers, on October 1, 1988, unless the Legislature revives and readopts it in the public interest as determined by a review conducted pursuant to the provisions of s. 11.61, F.S.

Section 320.01, F.S., provides general definitions.

Section 320.77, F.S., provides for the licensing of mobile home and recreational vehicle dealers, and includes definitions to be used in construing the section.

Section 320.822, F.S., provides definitions to be used in construing sections 320.8225 through 320.866, F.S., relating to the licensing of mobile home and recreational vehicle manufacturers, uniform mobile home and recreational vehicle construction and repair standards, inspections, seals and labels, onsite inspections, reciprocity, penalties, minimum installation standards, department records, disclosure relating to the determination of the length of a mobile home, warranties, remedies, and department lists of licensed dealers and manufacturers.

Section 320.822(8), F.S., relating to the definition of a mobile home dealer, provides that a person who buys, sells, or deals in three or more mobile homes or recreational vehicles in any 12-month period or who offers or displays for sale three or more mobile homes or recreational vehicles in any 12-month period shall be prima facie presumed to be engaged in the business of a mobile home dealer.

Section 418.304(13)(c) requires a majority of qualified electors of a mobile home park recreation district to approve, by referendum election, a resolution to enter into a contract for real or tangible personal property, when the cost therefor exceeds \$25,000.

B. Effect of Proposed Changes:

Section 320.01(1)(b)5., F.S., is amended to include in the definition of "park trailer" units up to 14 feet, instead of 12 feet, in width and to include units up to 500 square feet when constructed to HUD standards.

Section 320.77, F.S., is amended to limit the term "mobile home or recreational vehicle broker" to mean those engaged in the business of offering to procure or procuring used, not new, units.

Section 320.822(8), F.S., is amended to provide that a person who buys, sells, or deals in one or more mobile homes or recreational vehicles in any 12-month period or who offers or displays for sale one or more mobile homes or recreational vehicles in any 12-month period shall be prima facie presumed to be engaged in the business of a mobile home dealer.

Section 320.834, F.S., is substantially reworded to clarify legislative purpose.

Section 418.304(13)(c) is amended to require that a referendum election in a mobile home park recreation district, that offers a resolution to acquire real or tangible personal property valued over \$25,000, be called for the purpose of considering such resolution.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Presently, the sections and rules have established fees relating to mobile home and recreational vehicle dealers and manufacturers for initial licensure application, licensure renewal, and delinquent renewal fee, for dealer change of location, for seals and labels, for onsite inspections, and for lists of licensees. If sections 320.77 through 320.866, F.S., are allowed to repeal on October 1, 1988, as provided by chapter 81-318, L.O.F., mobile home and recreational vehicle dealers and manufacturers will no longer be required to pay these fees. This bill, however, revives and readopts the sections, which will result in applicants, licensees, and those seeking lists of licensees continuing to be subject to these fees after October 1, 1988.

The provision limiting the term "mobile home or recreational vehicle brokers" to mean those procuring only used, not new, units, could adversely affect brokers to the extent that they are presently brokering new units and could benefit mobile home or recreational dealers to the extent that a potential alternative source of units for consumers would be foreclosed. The provision could adversely affect consumers to the extent that the prohibition against brokers procuring new units forecloses to consumers an alternative source of units, thus diminishing price competition.

The reduction of the number of transactions or offers to transact necessary to create a presumption that one is a dealer could adversely affect those dealing in the sale of 2 or less used mobile homes or recreational vehicles as well as owners selling their own units to the extent that they are subject to regulation and its attendant fees and penalties. Those selling 2 or less new units would have to meet not only the applicable fees and penalties but also the state-imposed warranty duties as prescribed by s. 320.835(2), F.S.

Such reduction could benefit consumers willing to pay the additional cost of the regulation. However those who prefer forgoing the additional benefit for a lower cost would be worse off.

B. Government:

The cost of administering all licensing and registration provisions, including those relating to motor vehicle dealers and manufacturers, in FY 1986-87 was \$2,856,860. The cost is paid by HUD remittals to the Bureau of Mobile Home and

Recreational Vehicle Construction based on the number of units sold in Florida and through fees paid by applicants and licensees to the Bureau of Licensing and Enforcement. If the act is repealed, that part of the \$2,856,860 attributable to mobile home and recreational vehicle dealers and manufacturers would no longer be incurred by the department after October 1, 1988. This bill reenacts sections 320.77 through 320.866, F.S., and would cause these regulatory costs to continue after October 1, 1988.

The reduction of the number of transactions or offers to transact necessary to create a presumption that one is a mobile home dealer could benefit the department to the extent it eases the department's ability to detect violations and enforce provisions.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
COMMITTEE SUBSTITUTE FOR SENATE BILL 38

Amends s. 418.304(13)(c) to require that a referendum election in a mobile home park recreation district, that offers a resolution to acquire real or tangible personal property, be called for the purpose of considering such resolution.

Committee on Finance, Taxation and Claims

Staff Director

(FILE THREE COPIES WITH THE SECRETARY OF THE SENATE)

BILL VOTE SHEET

(VS-88: File with Secretary of Senate)

BILL NO. CS/SB 38

COMMITTEE ON: Finance, Taxation & Claims Committee

DATE: May 10, 1988

ACTION:

TIME: 3:00 - 6:00 PM

Favorably with amendments

PLACE: Room 1C

Favorably with Committee Substitute

OTHER COMMITTEE REFERENCES:
(in order shown)

Unfavorably

None

Submitted as a Committee Bill

Temporarily Passed

Reconsidered

Not Considered

THE VOTE WAS:

FINAL BILL VOTE		SENATORS	05/10/88 #1 - #6 Deratany		05/10/88 #7 by Deratany		05/10/88 #8 by Deratany		05/10/88 Weinstein motions to make a CS			
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay
X		Crenshaw										
X		Dudley										
X		Johnson										
		Kiser										
X		Malchon										
X		Plummer										
		Stuart										
X		Weinstein										
X		Woodson										
		VICE-CHAIRMAN Crawford										
X		CHAIRMAN Deratany										
8	*	0	-	WD	W/O	-	W/O	-	W/O	-		
Aye	Nay	TOTAL	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay

* Present at the table without objection

Please Complete: The Key sponsor appeared (X)
 A Senator appeared ()
 Sponsor's aide appeared ()
 Other appearance ()



THE FLORIDA SENATE
COMMITTEE ON ECONOMIC, COMMUNITY
AND CONSUMER AFFAIRS
430 Senate Office Building
Tallahassee, Florida 32399-1100
(904) 487-5167

Gwen Margolis, *Chairman*
George Kirkpatrick, *Vice-Chairman*

Douglas Buck, *Staff Director*

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M E M O R A N D U M

TO: Senator Crawford
FROM: Douglas Buck *Doug*
SUBJECT: Constituent Issue - "Mobile Home Sales"
DATE: February 11, 1988

Section 320.015, F.S., provides that "A mobile home is to be considered real property only when the owner of the mobile home is also the owner of the land on which the mobile home is situated and said mobile home is permanently affixed thereto." According to Attorney General Opinion 82-84, (enclosed) a mobile home and the realty to which it is affixed may also be presumed to be real property when it has been assessed and taxed as such. The opinion also states: "whether a mobile home is personal property or real property in a particular case, or whether a mobile home which may have become realty by physical annexation or affixation to the realty may, by severance, become personalty again is a mixed question of fact and law." When a mobile home is classified as real property, any person acting for compensation as an agent of the owner in a transaction involving the property is subject to the requirements of chapter 475, F.S., pertaining to the licensure of real estate salesmen and brokers. Agents involved in the sale of mobile homes considered to be personally must be licensed as mobile home dealers pursuant to section 320.77, F.S. Your constituent, Mr. Martin, seems to have made an accurate assessment of his situation: As a consumer of services, his choices of an agent to handle the sale of his mobile home are somewhat limited. According to the Department of Highway Safety and Motor Vehicles (DHSMV) many mobile home dealers are primarily engaged in selling units from their lots rather than representing individual mobile home owners. Although some real estate licensees also hold a mobile home dealer license, the department does not identify persons according to their dual licensure status.

MEMORANDUM

Senator Crawford
February 11, 1988
Page 2

Assuming that real estate salesmen and brokers would be interested in conducting mobile home transactions, Mr. Martin is probably also correct in believing that a full or partial exemption for real estate licensees from the mobile home dealer licensure requirements would solve the problem he has encountered in attempting to sell his mobile home. In creating such an exemption, three issues would need to be addressed: the competency of real estate licensees, protection of consumers against economic loss, and fairness to currently licensed mobile home dealers. With respect to competency, the DHSMV has proposed an amendment to chapter 320, F.S., to require a seminar of up to 8 hours for mobile home dealers which would be similar to the educational requirement in current law for motor vehicle dealers. Legal counsel to the Florida Real Estate Commission has indicated that real estate licensees would need additional education in order to competently handle such aspects of mobile home transactions as title registration, collection of sales tax, and relevant provisions of law. To protect consumers from economic loss, either the surety bond requirements of chapter 320, F.S., or the real estate recovery fund could be employed. To allay the concerns of mobile home dealers about the unfair competitive advantage which an exemption would confer on real estate licensees, the exemption could be limited to a specific number of mobile home transactions per year by any real estate broker or salesman operating under the exemption.

Based on the initial reponse of DHSMV staff, it appears that a limited exemption for real estate licensees from the mobile home dealer licensure requirements may be workable. Such an exemption would involve real estate personnel taking any training required for mobile home dealers, use of the Real Estate Recovery Fund established in chapter 475, F.S., to provide for compensation of consumers who incur losses due to violations committed by salesmen or brokers, and the limitation that real estate personnel may sell only a very small number, perhaps 5 or fewer, mobile homes per year. With an exemption such as this, many real estate licensees may become interested in representing mobile home owners, especially since they would avoid payment of the currently required initial application fee of \$300 (s. 320.77(4), F.S.).

However, if an exemption from the mobile home dealer licensing requirements is created to allow real estate agents to deal in used mobile homes located upon a leased

MEMORANDUM
Senator Crawford
February 11, 1988
Page 3

mobile home park lots, mobile home dealers and brokers may counter by arguing that a similar exemption should be carved out of chapter 475, F.S. Therefore, where the mobile home owner owns the lot as well as the mobile home -- a mobile home dealer should be authorized to sell the lot as well as the home.

DB/ml



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Natural Resources and Conservation,
Chairman
Finance, Taxation and Claims,
Vice Chairman
Agriculture
Rules and Calendar

SENATOR ROBERT B. "BOB" CRAWFORD
13th District

January 11, 1988

RECEIVED
JAN 14 1988

Mr. Doug Buck, Staff Director
Senate Economic, Community and
Consumer Affairs Committee
430 Senate Office Building
Tallahassee, FL 32399-1100

Senate ECCA Committee

Dear Doug:

Recently, I was contacted by one of my constituents, Julius Martin, regarding a problem he has encountered trying to sell his mobile home. The mobile home he owns is located on a rented lot in a mobile home park. Mr. Martin had originally contracted with the mobile home park owner to sell his mobile home; however, the owner appeared to Mr. Martin to make little or no effort to sell the mobile home since he is continuing to collect the rent on the lot whether he sells the mobile home or not.

Mr. Martin also contacted numerous Realtors to obtain assistance with the sale, but none were agreeable. In fact, many stated that they were prohibited by state law from selling a mobile home located on rented property. They apparently are referring to Chapter 320, Florida Statutes, which requires an individual who sells more than a certain number of mobile homes during a 12-month period to be licensed as a mobile home dealer. In addition, Mr. Martin contacted several mobile home dealers and brokers, but none seemed interested.

Mr. Martin, in talking with the other mobile home owners, is convinced that the problem he is having selling his mobile home is shared by many mobile home owners. He has suggested that the Florida Statutes be amended to allow Realtors to sell an infinite number of mobile homes, located on rental lots, without having to obtain a mobile home dealer or broker license to do so. Mr. Martin believes this change would help solve this very serious problem for mobile homes owners.

I would appreciate having your comments on this matter and a suggested response to Mr. Martin.

Thank you for your assistance in this regard. I look forward to your reply.

Sincerely,

Bob Crawford
State Senator

REPLY TO:

- Post Office Box 9445, Winter Haven, Florida 33883 (813) 299-6750
- 318 Senate Office Building, Tallahassee, Florida 32399-1100 (904) 487-5044

BC: tjm

JOHN W. VOGT
President

JOHN A. HILL
President Pro Tempore

JOE BROWN
Secretary

WAYNE W. TODD, JR.
Sergeant at Arms



DEPARTMENT OF LEGAL AFFAIRS
 OFFICE OF THE ATTORNEY GENERAL
 THE CAPITOL
 TALLAHASSEE, FLORIDA 32304

JIM SMITH
 Attorney General
 State of Florida

March 7, 1983

Mr. Robert A. Butterworth
 Executive Director
 Department of Highway Safety
 and Motor Vehicles
 Neil Kirkman Building
 Tallahassee, Florida 32301

Re: DEPARTMENT OF HIGHWAY SAFETY AND MOTOR
 VEHICLES--MOBILE HOMES--REAL ESTATE AND
 REAL PROPERTY--sale of mobile homes
 affixed to realty.

Dear Mr. Butterworth:

This is in response to your request for an opinion as to whether a mobile home dealer's license, issued pursuant to §320.77, F.S. (1982 Supp.), is needed to sell mobile homes which are considered to be real property under the criteria set forth in AGO 82-84.

In the above referenced opinion, this office was asked when a mobile home is considered to be real estate, thereby requiring a real estate license to sell the land and the mobile home and when the mobile home is considered to be personalty, thereby permitting the sale of the mobile home by a mobile home dealer. This office concluded that when the owner of a mobile home and of the land on which the mobile home is located has permanently affixed the mobile home to the realty or when any such mobile home and the realty to which it is affixed has been classified and assessed on the local real property assessment roll and taxed as real property, it may be presumed for the purposes of the law regulating real estate brokers and salesmen, Ch. 475, F.S., that any such mobile home is realty or a part thereof. See, §320.015, F.S., which provides in part that a mobile home is to be considered to be real property only when the owner of the mobile home is also the owner of the land on which the mobile home is situated and said mobile home is permanently affixed thereto. See also, §193.075, F.S. However, if any such owner of a mobile home and of the land on which it has been annexed has properly severed the mobile home from the realty,

or has contracted to sell and deliver the mobile home to another to be removed and located elsewhere, the mobile home may well be considered to be personalty and the sale thereof would not be governed by the regulatory provisions of Ch. 475.

Your inquiry concerns the sale of mobile homes which are considered to be real property and which, according to AGO 82-84, are subject to the terms and conditions of Ch. 475, F.S. See, e.g., §475.42(1)(a), F.S., which provides that no person shall operate as a real estate broker or salesman without being the holder of a valid and current license therefor; and §475.01(3), F.S., which defines "broker" to mean a person who, inter alia, "for another, and for a compensation . . . sells . . . or negotiate[s] the sale . . . [of] any real property or any interest in or concerning the same . . . or who takes any part in the procuring of sellers, purchasers, lessors, or lessees of . . . the real property of another, or leases, or interest therein" See also, §475.01(4), F.S., defining "salesmen."

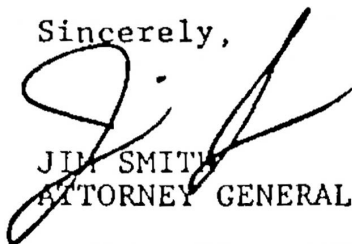
Section 320.77 provides for the licensure of mobile home and recreational dealers by the Department of Highway Safety and Motor Vehicles. See, §320.77(1)(a), F.S. (1982 Supp.), which defines mobile home dealer to mean any person engaged in the business of buying, selling or dealing in mobile homes or offering or displaying mobile homes for sale. Your inquiry, however, concerns mobile homes which have become realty by physical annexation or affixation to the realty and which are being sold as a part of that realty. Cf., Commercial Finance Co. v. Brooksville Hotel Co., 123 So. 814 (Fla. 1929) (a fixture is an article which was a chattel, but which by being physically annexed or affixed to the realty by someone having an interest in soil, becomes part and parcel of it). The sale of such property is already governed by the terms of Ch. 475, F.S. As this office stated in AGO 82-84, §320.77(1)(a) does not authorize mobile home dealers or mobile home brokers to engage in the business of buying, selling or dealing in real property or to act as the agent or middleman on behalf of the owner or seller of any real estate or real property which is for sale or to assist or represent the seller in finding a buyer for real property. Chapter 320 does not purport to amend the provisions of Ch. 475 to require that when a mobile home is a part of the realty being sold by a real estate broker, licensed pursuant to Ch. 475, such broker must also be licensed pursuant to Ch. 320.

Mr. Robert A. Butterworth
Page Three

Accordingly, in the absence of any legislative or judicial determination to the contrary, I am of the opinion that a mobile home dealer's license is not required to sell mobile homes which are considered to be realty or a part thereof; rather the sale of such property is subject to and governed by the regulatory provisions of Ch. 475.

With all good wishes, I am

Sincerely,

A handwritten signature in black ink, appearing to be "Jim Smith", written over the typed name and title.

JIM SMITH
ATTORNEY GENERAL

JS/JWw



DEPARTMENT OF LEGAL AFFAIRS

OFFICE OF THE ATTORNEY GENERAL

THE CAPITOL

TALLAHASSEE, FLORIDA 32301

JIM SMITH
Attorney General
State of Florida

October 14, 1982

INFORMATION COPY

082-84

The Honorable Samuel R. Shorstein, Secretary
Department of Professional Regulation
130 North Monroe Street
Tallahassee, Florida 32301

Re: REAL ESTATE AND REAL PROPERTY--MOBILE HOMES--
status of mobile homes as realty or personalty.
 §§320.015, 320.77(1), 475.01(3), 475.42(1), F.S.

Dear Secretary Shorstein:

At the request and on behalf of the Florida Real Estate Commission, you have requested an opinion on substantially the following question:

WHEN IS A MOBILE HOME CONSIDERED REAL ESTATE, THEREFORE REQUIRING A REAL ESTATE LICENSEE TO SELL THE LAND AND THE MOBILE HOME; AND WHEN IS A MOBILE HOME CONSIDERED CHATTEL, THEREFORE PERMITTING A MOBILE HOME DEALER TO SELL THE MOBILE HOME?

Section 475.42(1)(a), F.S., provides that "[n]o person shall operate as a broker or salesman without being the holder of a valid and current license therefor." The term "broker" is defined to mean a person who, among other things, "for another, and for a compensation . . . sells . . . or negotiate[s] the sale . . . [of] any real property or any interest in or concerning the same . . . or who takes any part in the procuring of sellers, purchasers, lessors, or lessees of . . . the real property of another, or leases, or interest therein" Section 475.01(3), F.S. Section 475.01(4) defines "salesman" to mean a person who performs, among other things, any of the aforementioned acts within the quoted definition of "broker," but who performs such acts under the

direction, control, or management of another person. For the purposes of Ch. 475, F.S., "[r]eal property" or "real estate" means inter alia, "[a]ny interest or estate in land" The term does not, however, include the renting of a mobile home lot in a mobile home park. Section 475.01(6), F.S.

Section 320.77(1)(a), F.S., as amended by §9 of Ch. 82-66, Laws of Florida, defines a mobile home dealer to mean any person engaged in the business of buying, selling or dealing in mobile homes, or offering or displaying mobile homes for sale. The amended statute further provides:

The term "dealer" includes any person engaged in the business of "mobile home . . . broker," which is hereby defined as any person engaged in the business of offering to procure or procuring mobile homes . . . for the general public, or who holds himself out through solicitation, advertisement, or otherwise as one who offers to procure or procures mobile homes . . . for the general public, or who acts as the agent or middleman on behalf of the owner or seller of a mobile home which is for sale or who assists or represents the seller in finding a buyer for the mobile home. Any person who buys, sells, deals in, or offers or displays for sale, or who acts as the agent for the sale of one or more mobile homes . . . in any 12-month period shall be prima facie presumed to be a dealer.

Section 320.77(1)(a), F.S., as amended, does not in terms purport to nor does it authorize mobile home dealers or mobile home brokers to engage in the business of buying, selling, or dealing in real property, or to act as the agent or middleman on behalf of the owner or seller of any real estate or real property which is for sale, or to assist or represent the seller in finding a buyer for real property.

Your question is governed by the law of fixtures. See generally, 27 Fla.Jur.2d Fixtures p. 59, et seq. See also, 6 Fla. Digest Fixtures §1, et seq. Whether a mobile home is personal property or real property in a particular case, or whether a mobile home which may have become realty by physical annexation or affixation to the realty may, by severance, become personalty again is a

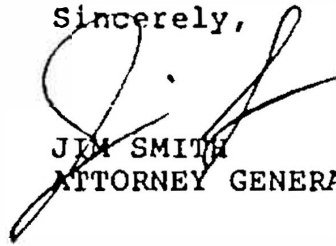
mixed question of fact and law. See, Commercial Finance Co. v. Brooksville Motel Co., 123 So 814 (Fla. 1929); Illinois Grain Corp. v. Schleman, 114 So.2d 307 (Fla. 1954). There does not appear to be any general rule of law which would be applicable to all cases. Therefore, I am unable to categorically or conclusively state when any particular mobile home is or is considered to be realty or personalty in any particular case.

Section 320.015, F.S., provides in pertinent part that "[a] mobile home is to be considered real property only when the owner of the mobile home is also the owner of the land on which the mobile home is situated and said mobile home is permanently affixed thereto." (e.s.) See also, §193.07, F.S. When the owner of the mobile home and the land on which the mobile home is placed meets this condition or when the mobile home and the realty to which it is affixed has been classified and assessed on the local real property assessment roll and taxed as real property, it may be presumed for the purposes of Ch. 475 that the mobile home is realty or a part thereof, and the sale of the real property by any person other than the owner or those persons exempted in §475.011, F.S., would be governed by the applicable regulatory provisions of Ch. 475, unless such person properly proves that he was not acting or attempting to act as a broker or salesman in violation of §475.42, F.S., and that the property sold was not in fact realty but personalty. See also, §475.43, F.S. However, if such owner of the mobile home and the land to which it has been annexed has properly severed or removed the mobile home from the land or contracted to sell and deliver only the mobile home itself (with subsequent removal and location elsewhere by the purchaser), the mobile home may be considered or found by the courts to be personalty. In such case, the sale of the mobile home as personalty would not be governed by the regulatory provisions of or penalties prescribed by Ch. 475. See generally, 27 Fla.Jur.2d Fixtures §8.

In summary, until legislatively or judicially determined otherwise, I conclude that when the owner of a mobile home and of the land on which the mobile home is located has permanently affixed the mobile home to the realty, or when any such mobile home and the realty to which it is affixed has been classified and assessed on the local real property assessment roll and taxed as real property, it may be presumed for the purpose of the law regulating real estate brokers and salesmen, Ch. 475, F.S., that any such mobile home is realty or a part thereof. However, if any such owner of a mobile home and of the land on which it has been annexed has properly severed the mobile home from the realty, or contracted to sell and deliver the

mobile home to another to be removed and located elsewhere, the mobile home may well be considered or found by the courts to be personalty. In such latter case, the sale of the mobile home as personalty would not be governed by the regulatory provisions of or penalties prescribed by Ch. 475.

Sincerely,



JIM SMITH
ATTORNEY GENERAL

Prepared by:



JEFFREY A. MILLER
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JS/JM/jh