HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 529 Yacht and Ship Brokers Located out of State
SPONSOR(S): Regulatory Reform Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Regulatory Reform Subcommittee		Wright	Anstead

SUMMARY ANALYSIS

The Florida Department of Business and Professional Regulation (DBPR) regulates and licenses various businesses and professionals in Florida through 12 divisions, including the Division of Florida Condominiums, Timeshares, and Mobile Homes (division), which regulates yacht and ship brokers and salespersons. A person may not act as a broker or salesperson in Florida unless they are licensed by the division.

For the purposes of the practice act, "yacht" means any vessel which is propelled by sail or machinery in the water which exceeds 32 feet in length, and which weighs less than 300 gross tons.

A yacht and ship "broker" is a person who, for or in expectation of compensation: sells, offers, or negotiates to sell; buys, offers, or negotiates to buy; solicits or obtains listings of; or negotiates the purchase, sale, or exchange of, yachts for other persons. A person may not be licensed as a broker unless they have been a salesperson for at least 2 consecutive years.

A license is not required for:
- A person who sells his or her own yacht,
- An attorney at law for services rendered in his or her professional capacity,
- A receiver, trustee, or other person acting under a court order,
- A transaction involving the sale of a new yacht, or
- A transaction involving the foreclosure of a security interest in a yacht.

The PCS provides that a license is not required for a person who regularly conducts business as a yacht or ship broker or salesperson in another state who engages in the purchase or sale of a yacht under this act, if the transaction is executed with a broker or salesperson licensed in this state. This limitation does not apply to a duly licensed attorney.

The bill may have a minimal indeterminate fiscal impact on state government, and no fiscal impact on local governments.

The PCS is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Yacht and Ship Brokers

The Florida Department of Business and Professional Regulation (DBPR) regulates and licenses various businesses and professionals in Florida through 12 divisions, including the Division of Florida Condominiums, Timeshares, and Mobile Homes (division).[1]

The division provides consumer protection for Florida residents through education, complaint resolution, mediation and arbitration, and developer disclosure.[2] The division has limited regulatory authority over the following business entities and individuals:

- Condominium Associations;
- Cooperative Associations;
- Florida Mobile Home Parks and related associations;
- Vacation Units and Timeshares;
- Yacht and Ship Brokers and related business entities; and
- Homeowners' Associations.[3]

For the purposes of the practice act, "yacht" means any vessel which is propelled by sail or machinery in the water which exceeds 32 feet in length, and which weighs less than 300 gross tons.[4]

A yacht and ship "broker" is a person who, for or in expectation of compensation: sells, offers, or negotiates to sell; buys, offers, or negotiates to buy; solicits or obtains listings of; or negotiates the purchase, sale, or exchange of, yachts for other persons.[5] A person may not be licensed as a broker unless they have been a salesperson for at least 2 consecutive years.[6]

A yacht and ship "salesperson" is a person who, for or in expectation of compensation, is employed by a broker to perform any acts of a broker.[7]

Yacht and ship brokers, salespersons, and related business organizations are regulated under ch. 326, F.S., and by the division.[8] A person may not act as a broker or salesperson in Florida unless they are licensed by the division.[9]

An applicant for a license as a broker or salesperson must demonstrate or provide the following to the division:[10]

- Proof of good moral character.
- Proof that they have never been convicted of a felony.
- A $25,000 bond for broker or a $10,000 bond for salespersons to the division.
- Proof that they are a resident of Florida or that they conduct business in Florida.
- A full set of fingerprints taken within the 6 months immediately preceding the submission of the application.
- Proof that they have not operated as a broker or salesperson without a license.

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[1] S. 20.165, F.S.
[2] Department of Business and Professional Regulation, *Division of Florida Condominiums, Timeshares, and Mobile Homes*, http://www.myfloridalicense.com/DBPR/condos-timeshares-mobile-homes/ (last visited Feb. 4, 2022).
[3] *Id*.
[4] S. 326.002(4), F.S.
[5] S. 326.002(1), F.S.
[6] S. 326.004(8), F.S.
[7] S. 326.002(3), F.S.
[8] Ch. 326, F.S.
[9] S. 326.004(1), F.S.
[10] S. 326.004(6), F.S.

A license is not required for:[11]

- A person who sells his or her own yacht,
- An attorney at law for services rendered in his or her professional capacity,
- A receiver, trustee, or other person acting under a court order,
- A transaction involving the sale of a new yacht, or
- A transaction involving the foreclosure of a security interest in a yacht.

There are no provisions for a license by endorsement, or licensure for persons who are licensed in another jurisdiction.

Effect of the Bill

The PCS provides that a license is not required for a person who regularly conducts business as a yacht or ship broker or salesperson in another state who engages in the purchase or sale of a yacht under this act, if the transaction is executed with a broker or salesperson licensed in this state. This limitation does not apply to a duly licensed attorney.

The PCS is effective upon becoming law.

B. SECTION DIRECTORY:

Section 1: Amends s. 326.004, F.S.; relating to a licensure exception.
Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The PCS may have a minimal decrease in licensing fees to the division due to less out-of-state yacht and ship brokers needing to have a Florida license to do business in Florida in certain circumstances.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The PCS may allow more out-of-state yacht and ship brokers to do business in Florida.

D. FISCAL COMMENTS:

None.

[11] S. 362.004(3), F.S.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This PCS does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES