By the Fiscal Responsibility Council and Representative Dockery

A bill to be entitled 1 2 An act relating to health studios; amending s. 205.1969, F.S.; removing a requirement for the 3 issuance of an occupational license to a health 4 studio; repealing ss. 501.012, 501.014, 5 501.015, and 501.016, F.S., relating to the 6 7 regulation of health studios by the Department 8 of Agriculture and Consumer Services; amending 9 s. 501.0125, F.S., to correct a cross reference and delete unnecessary definitions; amending s. 10 501.013, F.S.; removing requirement of certain 11 filings with the Department of Agriculture and 12 Consumer Services by certain entities exempt 13 14 from health studio requirements; correcting a cross reference; amending s. 501.017, F.S.; 15 requiring each health studio to provide certain 16 notice in its contracts; amending s. 501.019, 17 F.S.; correcting a cross reference; deleting 18 19 criminal and administrative penalties for 20 violating provisions repealed by this act; removing enforcement authority of the 21 2.2 Department of Agriculture and Consumer Services 23 relating to health studios; providing an 24 effective date. 25 26 Be It Enacted by the Legislature of the State of Florida: 27 28 Section 1. Section 205.1969, Florida Statutes, is 29 amended to read: 30 205.1969 Health studios; consumer protection.--No

county or municipality shall issue or renew an occupational

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license for the operation of a health studio pursuant to ss. 501.012-501.019 or ballroom dance studio pursuant to s. 501.143, unless such business exhibits a current license, registration, or letter of exemption from the Department of Agriculture and Consumer Services.

Section 2. <u>Sections 501.012, 501.014, 501.015, and 501.016, Florida Statutes, are repealed.</u>

Section 3. Section 501.0125, Florida Statutes, is amended to read:

501.0125 Health studios; definitions.—For purposes of ss.  $\underline{501.0125-501.019}$   $\underline{501.0125-501.019}$ , the following terms shall have the following meanings:

- (1) "Health studio" means any person who is engaged in the sale of services for instruction, training, or assistance in a program of physical exercise or in the sale of services for the right or privilege to use equipment or facilities in furtherance of a program of physical exercise.
- (2) "Health studio services" means privileges or rights offered for sale or provided by a health studio.
- (3) "Business location" means any place where health studio services are performed by a health studio.
- (4) "Department" means the Department of Agriculture and Consumer Services.
- (5) "Reasonable and fair service fee" means no more than 10 percent of the total contract price for contracts.

  Service fee includes, but is not limited to, registration fee, membership fee, and processing or startup fee.

Section 4. Section 501.013, Florida Statutes, is amended to read:

501.013 Health studios; exemptions.--The following businesses or activities <u>are</u> may be declared exempt from the

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provisions of ss. <u>501.0125-501.019</u> <u>501.012-501.019</u> upon the filing of an affidavit with the department establishing that the stated qualifications are met:

- (1) A bona fide nonprofit organization which has been granted tax-exempt status by the Internal Revenue Service.
- (2) A gymnastics school which engages only in instruction and training and in which exercise is only incidental to such instruction and training.
- (3) A golf, tennis, or racquetball club in which sports play is the only activity offered by the club. If the facility offers the use of physical exercise equipment, this exemption shall not apply.
- (4) A program or facility which is offered and used solely for the purpose of dance, aerobic exercise, or martial arts, and which utilizes no physical exercise equipment.
- (5) A country club that has as its primary function the provision of a social life and recreational amenities to its members, and for which a program of physical exercise is merely incidental to membership. As used in this subsection, the term "country club" means a facility that offers its members a variety of services that may include, but need not be limited to, social activities; dining, banquet, catering, and lounge facilities; swimming; yachting; golf; tennis; card games such as bridge and canasta; and special programs for members' children. Upon the filing of an affidavit with the department establishing that the stated qualifications of this subsection were met before July 1, 1997, this subsection will apply retroactively to the date that the country club met these qualifications.

Section 5. Subsection (2) of section 501.017, Florida Statutes, is amended to read:

501.017 Health studios; contracts.--

(2) Every health studio exempt from the requirements of s. 501.016(1) and (2) shall include in all of its contracts for health studio services, in the same manner as provided in subsection (1) of this section, the following disclosure:

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SHOULD YOU (THE BUYER) CHOOSE TO PAY FOR MORE THAN 1 MONTH OF THIS AGREEMENT IN ADVANCE, BE AWARE THAT YOU ARE PAYING FOR FUTURE SERVICES AND MAY BE RISKING LOSS OF YOUR MONEY IN THE EVENT THIS HEALTH STUDIO AND/OR THIS BUSINESS LOCATION CEASES TO OPERATE. THIS HEALTH STUDIO IS NOT REQUIRED BY FLORIDA LAW TO PROVIDE ANY SECURITY, AND THERE MAY NOT BE OTHER PROTECTIONS PROVIDED TO YOU SHOULD YOU CHOOSE TO PAY IN ADVANCE.

Section 6. Section 501.019, Florida Statutes, is amended to read:

501.019 Health studios; penalties.--

(1) Any health studio or any owner or manager thereof, or, in the case of corporate ownership, any substantial stockholder of the corporation owning the health studio, who is convicted of a violation of the provisions of ss. 501.0125-501.019 501.012-501.019 is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any health studio owner or, in the case of corporate ownership, any officer of the corporation, or any manager of a health studio or health studio's business 31 location, who knowingly makes a false representation to the 5

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department with the intent to obtain an exemption of any kind 1 from the requirements of s. 501.016 commits a felony of the third degree, punishable as provided in s. 775.082, s. 3 775.083, or s. 775.084. 4

- (3) The department may institute proceedings in the appropriate circuit court to recover any penalties or damages allowed in this section and for injunctive relief to enforce compliance with ss. 501.012-501.019 or any rule or order of the department. The department may seek a civil penalty of up to \$5,000 for each violation of this section.
- (4)(a) The department may enter an order imposing one or more of the penalties set forth in paragraph (b) if the department finds that a health studio:
- 1. Violated or is operating in violation of any of the provisions of this part or of the rules adopted or orders issued thereunder;
- 2. Made a material false statement in any application, document, or record required to be submitted or retained under this part;
- 3. Refused or failed, or any of its principal officers has refused or failed, after notice, to produce any document or record or disclose any information required to be produced or disclosed under this part or the rules of the department;
- 4. Made a material false statement in response to any request or investigation by the department, the Department of Legal Affairs, or the state attorney; or
- 5. Has intentionally defrauded the public through dishonest or deceptive means.
- (b) Upon a finding as set forth in paragraph (a), the department may enter an order doing one or more of the 31 following:

1	1. Issuing a notice of noncompliance pursuant to s.
2	<del>120.695.</del>
3	2. For a violation of s. 501.015 or s. 501.016,
4	imposing an administrative fine not to exceed \$5,000 per
5	violation.
6	3. For a violation of s. 501.013, s. 501.017, or s.
7	501.018, imposing an administrative fine not to exceed \$500
8	per violation.
9	4. Directing that the health studio cease and desist
10	specified activities.
11	5. Refusing to register or revoking or suspending a
12	registration.
13	6. Placing the registrant on probation for a period of
14	5 years, subject to such conditions as the department may
15	specify by rule.
16	(c) The administrative proceedings which could result
17	in the entry of an order imposing any of the penalties
18	specified in paragraph (b) shall be conducted in accordance
19	with chapter 120.
20	(5) All moneys collected pursuant to this section
21	shall be deposited into the General Inspection Trust Fund.
22	Section 7. This act shall take effect July 1, 2001.
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25	HOUSE SUMMARY
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27	Removes the registration requirement for health studios and the regulation of such health studios by the
28	Department of Agriculture and Consumer Services.
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