

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** CS/HB 95 Yacht and Ship Brokers' Act

**SPONSOR(S):** Regulatory Reform & Economic Development Subcommittee, LaMarca

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 92

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**FINAL HOUSE FLOOR ACTION:** 113 Y's

0 N's

**GOVERNOR'S ACTION:** Approved

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### SUMMARY ANALYSIS

CS/HB 95 passed the House on March 5, 2024, as SB 92 as amended. The Senate concurred in the House amendment to the Senate bill and subsequently passed the bill as amended on March 6, 2024.

The Florida Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes (division), regulates yacht and ship brokers and salespersons. 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 bill expands the definition of "yacht" by:

- Increasing the number of vessels included by removing the vessel weight limit, and
- Requiring that the vessel be:
  - Manufactured or operated primarily for pleasure; or
  - Leased, rented, or chartered to someone other than the owner for the other person's pleasure.

The bill 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 of a yacht in Florida, if the transaction is executed with a Florida broker or salesperson.

The bill amends the requirements to become a broker by:

- Removing the requirement that the applicant be licensed as a salesperson for two years, and
- Requiring that the applicant has been a salesperson and can either:
  - Demonstrate direct involvement in at least four transactions that resulted in the sale of a yacht, or
  - Certify that he or she has obtained at least 20 education credits.

The bill provides circumstances where the division must, instead of may, deny a license to an applicant.

See Fiscal Analysis & Economic Impact Statement for fiscal impact of the bill.

The bill was approved by the Governor on May 17, 2024, ch. 2024-195, L.O.F., and will become effective on October 1, 2024.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF 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).<sup>1</sup>

The division provides consumer protection for Florida residents through education, complaint resolution, mediation and arbitration, and developer disclosure.<sup>2</sup> 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.<sup>3</sup>

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.<sup>4</sup>

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.<sup>5</sup> A person may not be licensed as a broker unless they have been a salesperson for at least 2 consecutive years.<sup>6</sup>

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.<sup>7</sup>

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

The division **may** deny a license as a broker or salesperson to any applicant who does not:<sup>10</sup>

- Furnish proof of good moral character.
- Certify that he or she has never been convicted of a felony.
- Post a \$25,000 bond for broker or a \$10,000 bond for salespersons to the division.
- Demonstrate that he or she a resident of Florida or that they conduct business in Florida.
- Furnish a full set of fingerprints taken within the 6 months immediately preceding the submission of the application.
- Have a current license and has operated as a broker or salesperson without a license.

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<sup>1</sup> S. 20.165, F.S.

<sup>2</sup> 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 Nov. 12, 2022).

<sup>3</sup> *Id.*

<sup>4</sup> S. 326.002(4), F.S.

<sup>5</sup> S. 326.002(1), F.S.

<sup>6</sup> S. 326.004(8), F.S.

<sup>7</sup> S. 326.002(3), F.S.

<sup>8</sup> Ch. 326, F.S.

<sup>9</sup> S. 326.004(1), F.S.

<sup>10</sup> S. 326.004(6), F.S.

A license is not required for:<sup>11</sup>

- 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.

Currently, there are 2,818 licensed salespersons and 1,270<sup>12</sup> licensed brokers. Last fiscal year, there were 29 yacht and ship broker complaints to the division, and there was one<sup>13</sup> disciplinary action.<sup>14</sup>

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

### **Effect of the Bill**

The bill expands the definition of “yacht” by:

- Increasing the number of vessels included by removing the vessel weight limit, and
- Requiring that the vessel be:
  - Manufactured or operated primarily for pleasure; or
  - Leased, rented, or chartered to someone other than the owner for the other person's pleasure.

The bill 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 of a yacht in Florida, if the transaction is executed with a broker or salesperson licensed in this state.

The bill amends the requirements to become a broker by:

- Removing the requirement that the applicant first be licensed as a salesperson for at least two consecutive years, and
- Requiring that the applicant has been a salesperson and can either:
  - Demonstrate that he or she has been directly involved in at least four transactions that resulted in the sale of a yacht, or
  - Certify that he or she has obtained at least 20 education credits approved by the division.

The bill provides that the division **must**, instead of may, deny a license to any applicant who does not:

- Furnish proof of good moral character.
- Certify that he or she has never been convicted of a felony.
- Post a \$25,000 bond for broker or a \$10,000 bond for salespersons to the division.
- Demonstrate that he or she a resident of Florida or that they conduct business in Florida.
- Furnish a full set of fingerprints taken within the 6 months immediately preceding the submission of the application.
- Have a current license and has operated as a broker or salesperson without a license.

The effective date of the bill is October 1, 2024.

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<sup>11</sup> S. 362.004(3), F.S.

<sup>12</sup> There are 938 employing brokers and 332 yacht and ship brokers.

<sup>13</sup> The division issued one warning letter.

<sup>14</sup> Email from Chris Kingry, Deputy Director of Legislative Affairs, Department of Business and Professional Regulation, RE: Yachts (Nov. 14, 2023).

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill may have an insignificant negative fiscal impact related to licensing fees collected by the division due to fewer out-of-state yacht and ship brokers needing to have a Florida license to do business in Florida in certain circumstances. However, the bill amends the requirements for an individual to become a broker which may increase fees as a result in increased licensure.

#### 2. Expenditures:

DBPR estimates that 4.00 new FTE will be needed to implement the requirements in the bill including \$286,776 in salaries and benefits and \$54,526 in expense budget authority.<sup>15</sup> However, as of January 2, 2024, the Division of Florida Condominiums, Timeshares and Mobile Homes, which oversees the Yacht and Ship Program, had 28.5 vacant FTE. Of these FTE, 12.5 have been vacant in excess of 150 days.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will bring very large and heavy yachts under the regulatory practice act. The bill may allow more out-of-state yacht and ship brokers to do business in Florida. Applicants for a broker license who opt to qualify for a license by completing 20 hours of education will incur costs related to completing those education hours.

### D. FISCAL COMMENTS:

None.

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<sup>15</sup> Florida Department of Business and Professional Regulation, Agency Analysis of 2023 Senate Bill 92, p. 4 (November 2, 2023).