

Assembly Bill No. 2119

CHAPTER 380

An act to amend Sections 719 and 725 of, and to add Sections 702.5 and 735.2 to, the Harbors and Navigation Code, relating to yacht and ship brokers.

[Approved by Governor September 8, 2000. Filed
with Secretary of State September 11, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2119, Leach. Yacht and Ship Brokers Act.

(1) The existing Yacht and Ship Brokers Act prescribes the qualifications of persons deemed qualified for a broker's license, including the requirement that the applicant have owned and operated a marine business selling new or used yachts for a minimum of 3 continuous years immediately preceding application for a broker's license, or have been employed as a broker or a yacht salesperson in another state.

This bill would require that any declaration, license, or other record generated pursuant to the act be construed as a record under the Uniform Electronic Transactions Act. The bill would revise the criteria for qualification to submit an application for a broker's license.

Existing provisions of the act authorize the issuance of temporary licenses to salespersons for a period not to exceed 60 days.

The bill would require the applicant for a temporary license to be at least 18 years of age.

(2) Under existing law, in prescribed circumstances, a record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

This bill would require the Department of Boating and Waterways to accept any electronic record or electronic or digital signature created, generated, sent, communicated, received, or stored on or after January 1, 2000.

(3) The bill also would make technical, nonsubstantive changes.

The people of the State of California do enact as follows:

SECTION 1. Section 702.5 is added to the Harbors and Navigation Code, to read:

702.5. Any declaration, license, or other record electronically generated or transmitted pursuant to this article shall meet the requirements of a "record" under Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code.

SEC. 2. Section 719 of the Harbors and Navigation Code is amended to read:

719. (a) A person shall be deemed qualified to submit an application for a broker's license if, as shown on the department's records, the person meets all of the following requirements:

- (1) Is at least 18 years of age.
- (2) Has not been cited for a violation of this article within the preceding two years.
- (3) Possesses a working knowledge and understanding of the principles of the yacht brokerage business and profession.
- (4) Either has been employed within five years preceding his or her application as a California licensed salesperson for at least one year, has been licensed as a California broker within five years preceding his or her application, has owned and operated a marine business selling new or used yachts for a minimum of three continuous years, or has been employed as a broker or a yacht salesperson in another state where that employment was a primary occupation for a minimum of three continuous years immediately preceding application for a broker's license in California. Proof of employment as a broker in another state or as an employee of a marine business selling new or used yachts in California shall be in the form of all of the following:

(A) State, if applicable, and federal income tax returns, or a proof of earning statement made by the applicant under penalty of perjury, for the three-year period preceding the filing of the application in California.

(B) If bonded, a statement issued by the applicant's bonding company that no action has been taken against the bond for fraud or gross misrepresentation for the period for which the bond has been issued.

(C) A copy of all business permits, issued by any state, county, or city agency, which, if applicable, includes the fictitious business name ("dba" or "doing business as") under which the applicant conducted a yacht or ship brokerage business or a marine business selling new or used yachts in California for the three-year period preceding application for a California broker's license.

(D) If the applicant conducts a yacht or ship brokerage business in another state that requires broker or salesperson licensing, evidence of a current license issued by that state.

(b) If the applicant is a partnership, then one of the partners of the applicant shall have the foregoing qualifications.

(c) If the applicant is a corporation, then the officer or officers of the corporation to be designated for a license as provided in this article shall have the foregoing qualifications.

SEC. 3. Section 725 of the Harbors and Navigation Code is amended to read:



725. Temporary licenses may be issued to salespersons under the following conditions:

(a) The licenses shall be issued for a period not to exceed 60 days and only one license shall be issued to each applicant.

(b) An application shall be filed for a temporary license and for a permanent license and at the same time the applicant shall pay all the prescribed fees.

(c) The application shall be in the form and upon the conditions required by the department as provided in this article with respect to a permanent salesperson's license.

(d) On or before the expiration date of the temporary license, the licensee shall take a written examination for a permanent license. If, without a valid excuse, the licensee fails to appear for the examination at the time prescribed, the examination fee shall be forfeited. In the event of failure to pass the required examination, the department shall notify the applicant, may suggest further study, and upon payment of fees, shall schedule a reexamination.

(e) The applicant shall be at least 18 years of age.

SEC. 4. Section 735.2 is added to the Harbors and Navigation Code, to read:

735.2. The department shall accept any electronic record or electronic or digital signature created, generated, sent, communicated, received, or stored by electronic means on or after January 1, 2000. A "digital signature" means a signature that complies with the regulations adopted by the Secretary of State relating to digital signatures.

