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1                                   A bill to be entitled  
2           An act relating to vessels; amending s. 328.17, F.S.;  
3           revising language with respect to the nonjudicial sale of  
4           vessels; providing an effective date.

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6   Be It Enacted by the Legislature of the State of Florida:

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8           Section 1.   Section 328.17, Florida Statutes, is amended to  
9   read:

10           (Substantial rewording of section. See s. 328.17, F.S.,  
11 for present text.)

12           328.17 Nonjudicial sale of vessels.--

13           (1) It is the intent of the Legislature that any  
14 nonjudicial sale of any vessel held for unpaid costs, storage  
15 charges, or dockage fees, or any vessel held for failure to pay  
16 removal costs pursuant to s. 327.53(7), be disposed of pursuant  
17 to the provisions of this section.

18           (2) The Department of Highway Safety and Motor Vehicles  
19 shall provide certification forms for the nonjudicial sale of  
20 vessels as authorized by this section.

21           (3) For purposes of this section, "owner" shall mean the  
22 person holding title to the vessel, or any person the marina  
23 reasonably believes to be authorized to act for the vessel.

24           (4) A marina, as defined in s. 327.02(19), shall have a  
25 possessory lien upon any vessel for storage fees, dockage fees,  
26 repairs, improvements, or other work-related storage charges,  
27 and for expenses necessary for preservation of the vessel or  
28 expenses reasonably incurred in the sale or other disposition of  
29 the vessel. The possessory lien shall attach as of the date the  
30 vessel is brought to the marina, or as of the date the vessel



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31 first occupies rental space at the marina facility. However, in  
32 the event of default, the marina must give notice to persons who  
33 hold perfected security interests against the vessel under the  
34 Uniform Commercial Code in which the owner is named as the  
35 debtor.

36 (5) A marina's possessory lien may be satisfied as  
37 follows:

38 (a) The marina shall provide written notice to the  
39 vessel's owner, delivered in person or by certified mail to the  
40 owner's last known address and conspicuously posted at the  
41 marina and on the vessel. In addition, the marina shall provide  
42 written notice to each recorded lienholder of such vessel  
43 registered with this state as shown by the records of the  
44 Department of Highway Safety and Motor Vehicles, at least 30  
45 days prior to the proposed sale.

46 (b) The notice shall include:

47 1. An itemized statement of the marina's claim, showing  
48 the sum due at the time of the notice and the date upon which  
49 the sum became due.

50 2. A description of the vessel.

51 3. A demand for payment.

52 4. A conspicuous statement that, unless the claim is paid  
53 within the time stated in the notice, the vessel will be  
54 advertised for sale or other disposition and will be sold or  
55 otherwise disposed of at a specified time and place.

56 5. The name, street address, and telephone number of the  
57 marina that the owner may contact to respond to the notice.

58 (6) Any notice given pursuant to this section shall be  
59 presumed delivered when it is deposited with the United States  
60 Postal Service, certified, and properly addressed with postage



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61 prepaid.

62 (7) If the fees and costs that give rise to such a lien  
63 are due and unpaid 120 days after the vessel owner is given  
64 written notice, the marina may sell the vessel, including its  
65 machinery, rigging, and accessories as provided for in  
66 subsection (8).

67 (8) The marina shall first publish an advertisement of the  
68 sale or other disposition once a week for 2 consecutive weeks in  
69 a newspaper of general circulation in the area in which the  
70 marina is located. Inasmuch as any sale may involve more than  
71 one vessel, a single advertisement may be used to dispose of  
72 more than one vessel at any one sale.

73 (a) The advertisement shall include:

74 1. A brief and general description of the vessel.

75 2. The address of the marina facility or the address where  
76 the marina is located and the name of the owner of the vessel.

77 3. The time, place, and manner of the sale or other  
78 disposition. The sale or other disposition shall take place no  
79 sooner than 15 days after the first publication.

80 (b) If there is no newspaper of general circulation in the  
81 area in which the marina is located, the advertisement shall be  
82 posted at least 10 days before the date of the sale or other  
83 disposition in no fewer than three conspicuous places in the  
84 neighborhood in which the marina is located.

85 (9) Any sale or other disposition of the vessel shall  
86 conform to the terms of the notification as provided for in this  
87 section and shall be conducted in a commercially reasonable  
88 manner, as that term is used in s. 679.610.

89 (10) Before any sale or other disposition of the vessel  
90 pursuant to this section, the owner may pay the amount necessary



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91 to satisfy the lien and the reasonable expenses incurred under  
92 this section and thereby redeem the vessel. Upon receipt of such  
93 payment, the marina shall return the property to the owner and  
94 thereafter shall have no liability to any person with respect to  
95 such vessel.

96 (11) Unless otherwise provided by law, a purchaser in good  
97 faith of a vessel sold to satisfy a lien provided for in this  
98 section takes the property free of any claims, despite  
99 noncompliance by the marina with the requirements of this  
100 section.

101 (12) In the event of a sale under this section, the marina  
102 may satisfy its lien from the proceeds of the sale, provided the  
103 marina's lien has priority over all other liens on the vessel.  
104 The lien rights of secured lienholders are automatically  
105 transferred to the remaining proceeds of the sale. The balance,  
106 if any, shall be held by the marina for delivery on demand to  
107 the owner. A notice of any balance shall be delivered by the  
108 marina to the owner in person or by certified mail to the last  
109 known address of the owner. If the owner does not claim the  
110 balance of the proceeds within 1 year after the date of sale,  
111 the proceeds shall be deemed abandoned, and the marina shall  
112 have no further obligation with regard to the payment of the  
113 balance. In the event that the marina's lien does not have  
114 priority over all other liens, the sale proceeds shall be held  
115 for the benefit of the holders of those liens having priority. A  
116 notice of the amount of the sale proceeds shall be delivered by  
117 the marina to the owner or secured lienholder in person or by  
118 certified mail to the owner's or the secured lienholder's last  
119 known address. If the owner or the secured lienholder does not  
120 claim the sale proceeds within 1 year after the date of sale,



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121 the proceeds shall be deemed abandoned, and the owner or the  
122 secured lienholder shall have no further obligation with regard  
123 to the payment of the proceeds.

124 (13) In making application for transfer of title of a  
125 vessel sold pursuant to this section, the new owner shall  
126 establish proof of ownership by submitting with the application,  
127 which includes the applicable fees and the original bill of sale  
128 executed by the marina, a copy of each registered or certified  
129 letter sent by the marina to the previous owner and lienholder  
130 and a certified copy of the public notice of intent to sell  
131 published in a newspaper of general circulation in the county in  
132 which the marina is located. At the time the purchase price is  
133 paid, the marina shall provide the documentation required by  
134 this subsection to the purchaser.

135 Section 2. This act shall take effect upon becoming a law.