



HB 1453

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CHAMBER ACTION

The Committee on Judiciary recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to vessels; amending s. 328.17, F.S.;
revising language with respect to the nonjudicial sale of
vessels; providing an effective date.

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

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

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

328.17 Nonjudicial sale of vessels.--

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



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

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

33 (4) A marina, as defined in s. 327.02(19), shall have a
 34 possessory lien upon any vessel for storage fees, dockage fees,
 35 repairs, improvements, or other work-related storage charges,
 36 and for expenses necessary for preservation of the vessel or
 37 expenses reasonably incurred in the sale or other disposition of
 38 the vessel. The possessory lien shall attach as of the date the
 39 vessel is brought to the marina, or as of the date the vessel
 40 first occupies rental space at the marina facility. However, in
 41 the event of default, the marina must give notice to persons who
 42 hold perfected security interests against the vessel under the
 43 Uniform Commercial Code in which the owner is named as the
 44 debtor.

45 (5) A marina's possessory lien may be satisfied as
 46 follows:

47 (a) The marina shall provide written notice to the
 48 vessel's owner, delivered in person or by certified mail to the
 49 owner's last known address and conspicuously posted at the
 50 marina and on the vessel. In addition, the marina shall provide
 51 written notice to each recorded lienholder of such vessel
 52 registered with this state as shown by the records of the
 53 Department of Highway Safety and Motor Vehicles, at least 30
 54 days prior to the proposed sale.



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- 55 (b) The notice shall include:
- 56 1. An itemized statement of the marina's claim, showing
57 the sum due at the time of the notice and the date upon which
58 the sum became due.
- 59 2. A description of the vessel.
- 60 3. A demand for payment.
- 61 4. A conspicuous statement that, unless the claim is paid
62 within the time stated in the notice, the vessel will be
63 advertised for sale or other disposition and will be sold or
64 otherwise disposed of at a specified time and place.
- 65 5. The name, street address, and telephone number of the
66 marina that the owner may contact to respond to the notice.
- 67 (6) Any notice given pursuant to this section shall be
68 presumed delivered when it is deposited with the United States
69 Postal Service, certified, and properly addressed with postage
70 prepaid.
- 71 (7) If the fees and costs that give rise to such a lien
72 are due and unpaid 120 days after the vessel owner is given
73 written notice, the marina may sell the vessel, including its
74 machinery, rigging, and accessories as provided for in
75 subsection (8).
- 76 (8) The marina shall first publish an advertisement of the
77 sale or other disposition once a week for 2 consecutive weeks in
78 a newspaper of general circulation in the area in which the
79 marina is located. Inasmuch as any sale may involve more than
80 one vessel, a single advertisement may be used to dispose of
81 more than one vessel at any one sale.
- 82 (a) The advertisement shall include:



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- 83 | 1. A brief and general description of the vessel.
- 84 | 2. The address of the marina facility or the address where
85 | the marina is located and the name of the owner of the vessel.
- 86 | 3. The time, place, and manner of the sale or other
87 | disposition. The sale or other disposition shall take place no
88 | sooner than 15 days after the first publication.
- 89 | (b) If there is no newspaper of general circulation in the
90 | area in which the marina is located, the advertisement shall be
91 | posted at least 10 days before the date of the sale or other
92 | disposition in no fewer than three conspicuous places in the
93 | neighborhood in which the marina is located.
- 94 | (9) Any sale or other disposition of the vessel shall
95 | conform to the terms of the notification as provided for in this
96 | section and shall be conducted in a commercially reasonable
97 | manner, as that term is used in s. 679.610.
- 98 | (10) Before any sale or other disposition of the vessel
99 | pursuant to this section, the owner may pay the amount necessary
100 | to satisfy the lien and the reasonable expenses incurred under
101 | this section and thereby redeem the vessel. Upon receipt of such
102 | payment, the marina shall return the property to the owner and
103 | thereafter shall have no liability to any person with respect to
104 | such vessel.
- 105 | (11) Unless otherwise provided by law, a purchaser in good
106 | faith of a vessel sold to satisfy a lien provided for in this
107 | section takes the property free of any claims other than a prior
108 | lien perfected under the Uniform Commercial Code, despite
109 | noncompliance by the marina with the requirements of this
110 | section.



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111 (12) In the event of a sale under this section, the marina
112 may satisfy its lien from the proceeds of the sale, provided the
113 marina's lien has priority over all other liens on the vessel
114 other than a prior lien perfected under the Uniform Commercial
115 Code. The lien rights of secured lienholders are automatically
116 transferred to the remaining proceeds of the sale. The balance,
117 if any, shall be held by the marina for delivery on demand to
118 the owner. A notice of any balance shall be delivered by the
119 marina to the owner in person or by certified mail to the last
120 known address of the owner. If the owner does not claim the
121 balance of the proceeds within 1 year after the date of sale,
122 the proceeds shall be deemed abandoned, and the marina shall
123 have no further obligation with regard to the payment of the
124 balance. In the event that the marina's lien does not have
125 priority over all other liens, the sale proceeds shall be held
126 for the benefit of the holders of those liens having priority. A
127 notice of the amount of the sale proceeds shall be delivered by
128 the marina to the owner or secured lienholder in person or by
129 certified mail to the owner's or the secured lienholder's last
130 known address. If the owner or the secured lienholder does not
131 claim the sale proceeds within 1 year after the date of sale,
132 the proceeds shall be deemed abandoned, and the owner or the
133 secured lienholder shall have no further obligation with regard
134 to the payment of the proceeds.

135 (13) In making application for transfer of title of a
136 vessel sold pursuant to this section, the new owner shall
137 establish proof of ownership by submitting with the application,
138 which includes the applicable fees and the original bill of sale



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139 executed by the marina, a copy of each registered or certified
140 letter sent by the marina to the previous owner and lienholder
141 and a certified copy of the public notice of intent to sell
142 published in a newspaper of general circulation in the county in
143 which the marina is located. At the time the purchase price is
144 paid, the marina shall provide the documentation required by
145 this subsection to the purchaser.

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