



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.

5
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
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
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
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 other than a prior
99 lien perfected under the Uniform Commercial Code, despite
100 noncompliance by the marina with the requirements of this
101 section.

102 (12) In the event of a sale under this section, the marina
103 may satisfy its lien from the proceeds of the sale, provided the
104 marina's lien has priority over all other liens on the vessel
105 other than a prior lien perfected under the Uniform Commercial
106 Code. The lien rights of secured lienholders are automatically
107 transferred to the remaining proceeds of the sale. The balance,
108 if any, shall be held by the marina for delivery on demand to
109 the owner. A notice of any balance shall be delivered by the
110 marina to the owner in person or by certified mail to the last



111 known address of the owner. If the owner does not claim the
112 balance of the proceeds within 1 year after the date of sale,
113 the proceeds shall be deemed abandoned, and the marina shall
114 have no further obligation with regard to the payment of the
115 balance. In the event that the marina's lien does not have
116 priority over all other liens, the sale proceeds shall be held
117 for the benefit of the holders of those liens having priority. A
118 notice of the amount of the sale proceeds shall be delivered by
119 the marina to the owner or secured lienholder in person or by
120 certified mail to the owner's or the secured lienholder's last
121 known address. If the owner or the secured lienholder does not
122 claim the sale proceeds within 1 year after the date of sale,
123 the proceeds shall be deemed abandoned, and the owner or the
124 secured lienholder shall have no further obligation with regard
125 to the payment of the proceeds.

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

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