

By Senator Aronberg

27-900-03

See HB 1453

1                                   A bill to be entitled  
2           An act relating to vessels; amending s. 328.17,  
3           F.S.; revising provisions with respect to the  
4           nonjudicial sale of vessels; providing an  
5           effective date.  
6  
7   Be It Enacted by the Legislature of the State of Florida:  
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9           Section 1. Section 328.17, Florida Statutes, is  
10   amended to read:  
11           (Substantial rewording of section. See s. 328.17,  
12           F.S., for present text.)  
13           328.17 Nonjudicial sale of vessels.--  
14           (1) It is the intent of the Legislature that any  
15   nonjudicial sale of any vessel held for unpaid costs, storage  
16   charges, or dockage fees, or any vessel held for failure to  
17   pay removal costs pursuant to s. 327.53(7), be disposed of  
18   pursuant to the provisions of this section.  
19           (2) The Department of Highway Safety and Motor  
20   Vehicles shall provide certification forms for the nonjudicial  
21   sale of vessels as authorized by this section.  
22           (3) For purposes of this section, "owner" shall mean  
23   the person holding title to the vessel, or any person the  
24   marina reasonably believes to be authorized to act for the  
25   vessel.  
26           (4) A marina, as defined in s. 327.02(19), shall have  
27   a possessory lien upon any vessel for storage fees, dockage  
28   fees, repairs, improvements, or other work-related storage  
29   charges, and for expenses necessary for preservation of the  
30   vessel or expenses reasonably incurred in the sale or other  
31   disposition of the vessel. The possessory lien shall attach as

1 of the date the vessel is brought to the marina, or as of the  
2 date the vessel first occupies rental space at the marina  
3 facility. However, in the event of default, the marina must  
4 give notice to persons who hold perfected security interests  
5 against the vessel under the Uniform Commercial Code in which  
6 the owner is named as the debtor.

7 (5) A marina's possessory lien may be satisfied as  
8 follows:

9 (a) The marina shall provide written notice to the  
10 vessel's owner, delivered in person or by certified mail to  
11 the owner's last known address and conspicuously posted at the  
12 marina and on the vessel. In addition, the marina shall  
13 provide written notice to each recorded lienholder of such  
14 vessel registered with this state as shown by the records of  
15 the Department of Highway Safety and Motor Vehicles, at least  
16 30 days prior to the proposed sale.

17 (b) The notice shall include:

18 1. An itemized statement of the marina's claim,  
19 showing the sum due at the time of the notice and the date  
20 upon which the sum became due.

21 2. A description of the vessel.

22 3. A demand for payment.

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

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

30 (6) Any notice given pursuant to this section shall be  
31 presumed delivered when it is deposited with the United States

1 Postal Service, certified, and properly addressed with postage  
2 prepaid.

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

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

14 (a) The advertisement shall include:

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

16 2. The address of the marina facility or the address  
17 where the marina is located and the name of the owner of the  
18 vessel.

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

22 (b) If there is no newspaper of general circulation in  
23 the area in which the marina is located, the advertisement  
24 shall be posted at least 10 days before the date of the sale  
25 or other disposition in no fewer than three conspicuous places  
26 in the neighborhood in which the marina is located.

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

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1           (10) Before any sale or other disposition of the  
2 vessel pursuant to this section, the owner may pay the amount  
3 necessary to satisfy the lien and the reasonable expenses  
4 incurred under this section and thereby redeem the vessel.  
5 Upon receipt of such payment, the marina shall return the  
6 property to the owner and thereafter shall have no liability  
7 to any person with respect to the vessel.

8           (11) Unless otherwise provided by law, a purchaser in  
9 good faith of a vessel sold to satisfy a lien provided for in  
10 this section takes the property free of any claims, despite  
11 noncompliance by the marina with the requirements of this  
12 section.

13           (12) In the event of a sale under this section, the  
14 marina may satisfy its lien from the proceeds of the sale,  
15 provided the marina's lien has priority over all other liens  
16 on the vessel. The lien rights of secured lienholders are  
17 automatically transferred to the remaining proceeds of the  
18 sale. The balance, if any, shall be held by the marina for  
19 delivery on demand to the owner. A notice of any balance shall  
20 be delivered by the marina to the owner in person or by  
21 certified mail to the last known address of the owner. If the  
22 owner does not claim the balance of the proceeds within 1 year  
23 after the date of sale, the proceeds shall be deemed  
24 abandoned, and the marina shall have no further obligation  
25 with regard to the payment of the balance. In the event that  
26 the marina's lien does not have priority over all other liens,  
27 the sale proceeds shall be held for the benefit of the holders  
28 of those liens having priority. A notice of the amount of the  
29 sale proceeds shall be delivered by the marina to the owner or  
30 secured lienholder in person or by certified mail to the  
31 owner's or the secured lienholder's last known address. If the

1 owner or the secured lienholder does not claim the sale  
2 proceeds within 1 year after the date of sale, the proceeds  
3 shall be deemed abandoned, and the owner or the secured  
4 lienholder shall have no further obligation with regard to the  
5 payment of the proceeds.

6 (13) In making application for transfer of title of a  
7 vessel sold pursuant to this section, the new owner shall  
8 establish proof of ownership by submitting with the  
9 application, which includes the applicable fees and the  
10 original bill of sale executed by the marina, a copy of each  
11 registered or certified letter sent by the marina to the  
12 previous owner and lienholder and a certified copy of the  
13 public notice of intent to sell published in a newspaper of  
14 general circulation in the county in which the marina is  
15 located. At the time the purchase price is paid, the marina  
16 shall provide the documentation required by this subsection to  
17 the purchaser.

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