

By the Committee on Judiciary; and Senator Aronberg

308-2470-03

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.
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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
12 s. 328.17, 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, other than
11 a prior lien perfected under the Uniform Commercial Code,
12 despite noncompliance by the marina with the requirements of
13 this section.

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

1 to the owner or secured lienholder in person or by certified
2 mail to the owner's or the secured lienholder's last known
3 address. If the owner or the secured lienholder does not claim
4 the sale proceeds within 1 year after the date of sale, the
5 proceeds shall be deemed abandoned, and the owner or the
6 secured lienholder shall have no further obligation with
7 regard to the payment of the proceeds.

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

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

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23 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
24 COMMITTEE SUBSTITUTE FOR
25 Senate Bill 2652

26 Provides that marina liens are subordinate to prior liens
27 perfected under the Uniform Commercial Code.

28 Provides that good faith buyer of vessel takes free of any
29 claims except those prior liens perfected under the Uniform
30 Commercial Code.
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