

1 A bill to be entitled
2 An act relating to vessels; amending s. 327.59, F.S.;
3 holding vessel owners liable for certain damages to marina
4 property; authorizing marina owners, operators, employees,
5 and agents to take actions to secure vessels during severe
6 weather and to charge fees and be held harmless for such
7 service; amending s. 328.17, F.S.; providing for
8 possessory liens for marinas on certain abandoned vessels;
9 providing for attachment of the lien and recovery of
10 certain costs under certain circumstances; amending s.
11 376.11, F.S.; revising provisions relating to the Florida
12 Coastal Protection Trust Fund to conform to changes made
13 by the act; amending s. 376.15, F.S.; revising provisions
14 relating to the removal of abandoned and derelict vessels;
15 specifying officers authorized to remove such vessels;
16 providing that certain costs shall be recoverable;
17 requiring the Department of Legal Affairs to represent the
18 Fish and Wildlife Conservation Commission in certain
19 actions; expanding eligibility for disbursement of grant
20 funds for the removal of derelict vessels; amending s.
21 705.101, F.S.; defining certain vessels as abandoned
22 property; amending s. 823.11, F.S.; revising provisions
23 relating to abandoned and derelict vessels and the removal
24 of such vessels; specifying officers authorized to remove
25 such vessels; providing that vessel removal may be funded
26 by certain grants; requiring the Department of Legal
27 Affairs to represent the Fish and Wildlife Conservation
28 Commission in certain actions; deleting a provision

29 | authorizing the commission to delegate certain authority
 30 | to local governments under certain circumstances;
 31 | providing an effective date.

32 |

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

34 |

35 | Section 1. Section 327.59, Florida Statutes, is amended to
 36 | read:

37 | 327.59 Marina evacuations.--

38 | (1) After June 1, 1994, marinas may not adopt, maintain,
 39 | or enforce policies pertaining to evacuation of vessels which
 40 | require vessels to be removed from marinas following the
 41 | issuance of a hurricane watch or warning, in order to ensure
 42 | that protecting the lives and safety of vessel owners is placed
 43 | before interests of protecting property.

44 | (2) If, after a hurricane watch or warning is issued, the
 45 | owner or operator of a vessel fails to remove the vessel from a
 46 | marina pursuant to subsection (1), the owner shall be liable for
 47 | any damages to the marina's property caused, or contributed to,
 48 | by the vessel.

49 | (3)~~(2)~~ Nothing in this section may be construed to
 50 | restrict the ability of an owner of a vessel or the owner's
 51 | authorized representative to remove a vessel voluntarily from a
 52 | marina at any time or to restrict a marina owner from dictating
 53 | the kind of cleats, ropes, fenders, and other measures that must
 54 | be used on vessels as a condition of use of a marina. After a
 55 | tropical storm or hurricane watch has been issued, a marina
 56 | owner, operator, employee, or agent may take actions to further

57 secure any vessel within the marina to minimize damage to a
 58 vessel, the marina property, and the environment. The marina
 59 owner, operator, employee, or agent may charge reasonable fees
 60 for further securing of a vessel, shall not be held liable for
 61 any damage incurred to a vessel from such storms or hurricanes,
 62 and are held harmless as a result of such actions.

63 Section 2. Subsection (4) of section 328.17, Florida
 64 Statutes, is amended to read:

65 328.17 Nonjudicial sale of vessels.--

66 (4) A marina, as defined in s. 327.02(19), shall have:

67 (a) A possessory lien upon any vessel for storage fees,
 68 dockage fees, repairs, improvements, or other work-related
 69 storage charges, and for expenses necessary for preservation of
 70 the vessel or expenses reasonably incurred in the sale or other
 71 disposition of the vessel. The possessory lien shall attach as
 72 of the date the vessel is brought to the marina, or as of the
 73 date the vessel first occupies rental space at the marina
 74 facility.

75 (b) A possessory lien upon any vessel in a wrecked,
 76 junked, or substantially dismantled condition, which has been
 77 left docked, grounded, beached, or otherwise abandoned at a
 78 marina without consent of the marina owner, for expenses
 79 reasonably incurred in the removal and disposal of the vessel.
 80 The possessory lien shall attach as of the date the vessel is
 81 discovered at the marina facility. If the funds recovered from
 82 the sale of such a vessel, or from the scrap or salvage value of
 83 such a vessel, are insufficient to cover the expenses reasonably
 84 incurred by the marina in removing and disposing of the vessel,

85 all costs in excess of recovery shall be recoverable against the
 86 owner of the vessel.

87
 88 ~~However,~~ In the event of default, the marina must give notice to
 89 persons who hold perfected security interests against the vessel
 90 under the Uniform Commercial Code in which the owner is named as
 91 the debtor.

92 Section 3. Paragraph (g) of subsection (4) of section
 93 376.11, Florida Statutes, is amended to read:

94 376.11 Florida Coastal Protection Trust Fund.--

95 (4) Moneys in the Florida Coastal Protection Trust Fund
 96 shall be disbursed for the following purposes and no others:

97 (g) The funding of a grant program to ~~coastal~~ local
 98 governments, pursuant to s. 376.15(2)(b) and (c), for the
 99 removal of derelict vessels from the public waters of the state.

100 Section 4. Section 376.15, Florida Statutes, is amended to
 101 read:

102 376.15 Derelict vessels; removal from public waters.--

103 (1) It is unlawful for any person, firm, or corporation to
 104 store or leave any vessel, as defined in s. 327.02(37), in a
 105 wrecked, junked, or substantially dismantled condition or
 106 abandoned upon any public waters or at any port in this state
 107 without the consent of the agency having jurisdiction thereof or
 108 docked or grounded at any private property without the consent
 109 of the owner of the private property.

110 (2)(a) The Fish and Wildlife Conservation Commission and
 111 its officers and all law enforcement officers as specified in s.
 112 327.70 ~~are is hereby designated as the agency of the state~~

113 authorized and empowered to remove any derelict vessel as
 114 described in subsection (1) from public waters. All costs
 115 incurred by the commission or other law enforcement agency in
 116 the removal of any abandoned or derelict vessel shall be
 117 recoverable against the owner of the vessel. The Department of
 118 Legal Affairs shall represent the commission in such actions.

119 (b) The commission may establish a program to provide
 120 grants to ~~establish~~ local governments for the removal of derelict
 121 vessels from the public waters of the state. The program shall
 122 be funded from the Florida Coastal Protection Trust Fund.
 123 Notwithstanding the provisions in s. 216.181(11), funds
 124 available for grants may only be authorized by appropriations
 125 acts of the Legislature.

126 (c) The commission shall adopt by rule procedures for
 127 submitting a grant application and criteria for allocating
 128 available funds. Such criteria shall include, but not be limited
 129 to, the following:

130 1. The number of derelict vessels within the jurisdiction
 131 of the applicant.

132 2. The threat posed by such vessels to public health or
 133 safety, the environment, navigation, or the aesthetic condition
 134 of the general vicinity.

135 3. The degree of commitment of the local government to
 136 maintain waters free of abandoned and derelict vessels and to
 137 seek legal action against those who abandon vessels in the
 138 waters of the state.

139 (d) This section shall constitute the authority ~~of the~~
 140 ~~commission~~ for such removal, but is not intended to be in
 141 contravention of any applicable federal act.

142 ~~(e) The Department of Legal Affairs shall represent the~~
 143 ~~Fish and Wildlife Conservation Commission in such actions.~~

144 Section 5. Subsection (3) of section 705.101, Florida
 145 Statutes, is amended to read:

146 705.101 Definitions.--As used in this chapter:

147 (3) "Abandoned property" means all tangible personal
 148 property that does not have an identifiable owner and that has
 149 been disposed on public property in a wrecked, inoperative, or
 150 partially dismantled condition or has no apparent intrinsic
 151 value to the rightful owner. Vessels determined to be derelict
 152 by the Fish and Wildlife Conservation Commission or a county or
 153 municipality in accordance with the provisions of s. 376.15 or
 154 s. 823.11 are included within this definition.

155 Section 6. Section 823.11, Florida Statutes, is amended to
 156 read:

157 823.11 Abandoned and derelict vessels; removal; penalty.--

158 (1) It is unlawful for any person, firm, or corporation to
 159 store or leave any vessel as defined in s. 327.02(37) ~~by~~
 160 ~~maritime law~~ in a wrecked, junked, or substantially dismantled
 161 condition or abandoned upon or in any public water or at any
 162 port in this state without the consent of the agency having
 163 jurisdiction thereof, or docked or grounded at any private
 164 property without the consent of the owner of the private ~~such~~
 165 property.

166 (2) The Fish and Wildlife Conservation Commission and its
 167 officers and all law enforcement officers as specified in s.
 168 327.70 are is designated as the agency of the state authorized
 169 and empowered to remove or cause to be removed any abandoned or
 170 derelict vessel from public waters in any instance when the same
 171 obstructs or threatens to obstruct navigation or in any way
 172 constitutes a danger to the environment. Removal of vessels
 173 pursuant to this section may be funded by grants provided
 174 pursuant to s. 376.15. All costs incurred by the commission in
 175 the removal of any abandoned or derelict vessel as set out above
 176 shall be recoverable against the owner thereof. The Department
 177 of Legal Affairs shall represent the commission in such actions.
 178 ~~Pursuant to an agreement with the governing body of a county or~~
 179 ~~municipality, and upon a finding by the commission that the~~
 180 ~~county or municipality is competent to undertake said~~
 181 ~~responsibilities, the commission may delegate to the county or~~
 182 ~~municipality its authority to remove or cause to be removed an~~
 183 ~~abandoned or derelict vessel from public waters within the~~
 184 ~~county or municipality.~~

185 (3) Any person, firm, or corporation violating this act is
 186 guilty of a misdemeanor of the first degree and shall be
 187 punished as provided by law.

188 Section 7. This act shall take effect upon becoming a law.