

1                                   A bill to be entitled  
 2           An act relating to nonjudicial sale of vessels; amending  
 3           s. 328.17, F.S.; revising notice requirements of a marina  
 4           having a possessory lien on a vessel for unpaid costs,  
 5           charges, or fees prior to nonjudicial sale of the vessel;  
 6           reducing the time allowed to pay the fees, charges, and  
 7           costs giving rise to the lien prior to sale of the vessel;  
 8           revising requirements with respect to perfection of and  
 9           priority over prior or other liens; providing an effective  
 10          date.

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

Section 1. Subsections (4), (5), (7), (10), (11), and (12) of section 328.17, Florida Statutes, are amended to read:

328.17 Nonjudicial sale of vessels.--

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

29 (5) A marina's possessory lien may be satisfied as  
30 follows:

31 (a)1. The marina shall provide written notice to the  
32 vessel's owner, delivered in person or by certified mail to the  
33 owner's last known address. The notice shall also be ~~and~~  
34 conspicuously posted at the marina and on the vessel.

35 2. In addition to notice provided to the vessel owner  
36 under subparagraph 1., the marina shall provide written notice  
37 to each person or entity that:

38 a. Holds a security interest on the vessel as shown in the  
39 records of the Department of Highway Safety and Motor Vehicles  
40 with respect to state-titled vessels;

41 b. Holds a preferred ship mortgage or has filed a claim of  
42 lien with the United States Coast Guard Vessel Documentation  
43 Center;

44 c. Is known by the marina to possess a maritime lien  
45 against the vessel pursuant to 46 U.S.C. ss. 31301-31343 or  
46 other applicable federal maritime law; or

47 d. Has perfected a lien against the subject vessel by  
48 filing a judgment lien certificate pursuant to s. 55.201-55.209.

49 3. In furtherance of the requirements of subparagraph 2.,  
50 the marina shall:

51 a. Obtain a copy of the title for the vessel and trailer,  
52 if applicable, from the Department of Highway Safety and Motor  
53 Vehicles or other agency where the vessel is registered.

54 b. Obtain an abstract from the United States Coast Guard  
55 for a vessel that is documented as defined in 46 U.S.C. s.  
56 301.01.

57 c. Conduct a current Uniform Commercial Code lien search.

58 d. Conduct a current Florida judgment lien certificate  
 59 search.

60 4. A written notice required by this paragraph shall be  
 61 made at least 60 days prior to any sale of the vessel under this  
 62 section recorded lienholder of such vessel registered with this  
 63 state as shown by the records of the Department of Highway  
 64 Safety and Motor Vehicles, at least 30 days prior to the  
 65 proposed sale.

66 (b) The notice shall include:

67 1. An itemized statement of the marina's claim, showing  
 68 the sum due at the time of the notice and the date upon which  
 69 the sum became due.

70 2. A description of the vessel.

71 3. A demand for payment.

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

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

78 (7) If the fees, charges, and costs that give rise to such  
 79 a lien are due and unpaid 60 ~~120~~ days after the vessel owner and  
 80 lienholder are ~~is~~ given written notice, the marina may sell the  
 81 vessel, including its machinery, rigging, and accessories as  
 82 provided for in subsection (8).

83 (10) Before any sale or other disposition of the vessel  
 84 pursuant to this section, the owner, or the holder of any

85 perfected lien who is entitled to possession of the vessel, may  
 86 pay the amount necessary to satisfy the lien and the reasonable  
 87 expenses incurred under this section and thereby redeem and take  
 88 possession of the vessel. Upon receipt of such payment, the  
 89 marina shall return the property to the person ~~owner~~ and  
 90 thereafter shall have no liability to any person with respect to  
 91 such vessel.

92 (11) Unless otherwise provided by law, a purchaser in good  
 93 faith of a vessel sold to satisfy a lien provided for in this  
 94 section takes the property free of any claims other than a prior  
 95 lien perfected under state or federal law ~~the Uniform Commercial~~  
 96 ~~Code, despite noncompliance by the marina with the requirements~~  
 97 ~~of this section.~~

98 (12) In the event of a sale under this section, the marina  
 99 may satisfy its lien from the proceeds of the sale, provided the  
 100 marina's lien has priority over all other liens on the vessel  
 101 ~~other than a prior lien perfected under the Uniform Commercial~~  
 102 ~~Code.~~ The lien rights of secured lienholders ~~are~~ automatically  
 103 also attach ~~transferred~~ to the remaining proceeds of the sale.  
 104 The balance, if any, shall be held by the marina for delivery on  
 105 demand to the owner. A notice of any balance shall be delivered  
 106 by the marina to the owner in person or by certified mail to the  
 107 last known address of the owner. If the owner does not claim the  
 108 balance of the proceeds within 1 year after the date of sale,  
 109 the proceeds shall be deemed abandoned, and the marina shall  
 110 have no further obligation with regard to the payment of the  
 111 balance. In the event that the marina's lien does not have  
 112 priority over all other liens, the sale proceeds shall be held

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113 | for the benefit of the holders of those liens having priority. A  
114 | notice of the amount of the sale proceeds shall be delivered by  
115 | the marina to the owner or secured lienholder in person or by  
116 | certified mail to the owner's or the secured lienholder's last  
117 | known address. If the owner or the secured lienholder does not  
118 | claim the sale proceeds within 1 year after the date of sale,  
119 | the proceeds shall be deemed abandoned, and the owner or the  
120 | secured lienholder shall have no further obligation with regard  
121 | to the payment of the proceeds.

122 |       Section 2. This act shall take effect July 1, 2005.