

Bill No. SB 2156

Barcode 313372

CHAMBER ACTION

Senate

House

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The Committee on Transportation (Margolis) recommended the following amendment:

**Senate Amendment (with title amendment)**

On page 3, line 9, through  
page 4, line 7, delete those lines

and insert:

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) 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.

(b) A possessory lien upon any vessel in a wrecked,

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1 junked, or substantially dismantled condition which has been  
2 left docked, grounded, beached, or otherwise abandoned at a  
3 marina, without the consent of the marina owner, for the  
4 expenses reasonably incurred by the marina in the removal and  
5 disposal of the vessel. The possessory lien attaches on the  
6 date the vessel is discovered at the marina facility. If the  
7 funds recovered from the sale of the vessel or from the scrap  
8 or salvage value of the vessel are insufficient to cover the  
9 expenses reasonably incurred by the marina in removing and  
10 disposing of the vessel, all costs in excess of funds  
11 recovered shall be recoverable from the owner of the vessel.  
12 ~~However, in the event of default, the marina must give notice~~  
13 ~~to persons who hold perfected security interests against the~~  
14 ~~vessel under the Uniform Commercial Code in which the owner is~~  
15 ~~named as the debtor.~~

16 (5) A marina's possessory lien may be satisfied as  
17 follows:

18 (a)1. The marina shall provide written notice to the  
19 vessel's owner, delivered in person or by certified mail to  
20 the owner's last known address. The notice shall also be and  
21 conspicuously posted at the marina and on the vessel.

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

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

28 b. Holds a preferred ship mortgage or has filed a  
29 claim of lien with the United States Coast Guard Vessel  
30 Documentation Center;

31 c. Holds a security interest against the vessel under

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1 the Uniform Commercial Code; or

2 d. Has perfected a lien against the vessel by filing a  
3 judgment lien certificate under ss. 55.201-55.209.

4 3. When a vessel displays a foreign country  
5 identification or displays registration numbers from a state  
6 other than this state, the marina shall conduct a reasonable  
7 lien search of the vessel registration records in the  
8 jurisdiction of registry to determine if there is a lienholder  
9 who is entitled to notice under subparagraph 2. Failure to  
10 discover a foreign national or non-Florida United States  
11 lienholder after making a good-faith effort to conduct a lien  
12 search does not prevent the sale or removal of a vessel from  
13 the marina to satisfy the possessory lien of the marina or a  
14 purchaser, in good faith, from taking title of the vessel,  
15 under subsections (7) or (11).

16 4. The requirements of subparagraph 2. are satisfied  
17 if the marina:

18 a. Obtains a copy of the title for the vessel and  
19 trailer, if applicable, from the Department of Highway Safety  
20 and Motor Vehicles or other agency where the vessel is  
21 registered;

22 b. Obtains an abstract from the United States Coast  
23 Guard for a vessel that is documented as defined in 46 U.S.C.  
24 s. 301.01;

25 c. Performs a search of liens as provided under the  
26 Uniform Commercial Code;

27 d. Performs a search of current judgment lien  
28 certificates as provided under state law; and

29 e. Complies with subparagraph (5)(a)3. with regard to  
30 vessels registered in a foreign country or in a state other  
31 than this state.

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1           5. The written notice to the vessel owner and  
 2 lienholders required by this paragraph must be made at least  
 3 60 days before any sale of the vessel under this section.  
 4 ~~recorded lienholder of such vessel registered with this state~~  
 5 ~~as shown by the records of the Department of Highway Safety~~  
 6 ~~and Motor Vehicles, at least 30 days prior to the proposed~~  
 7 ~~sale.~~

8           (b) The notice shall include:

9           1. An itemized statement of the marina's claim,  
 10 showing the sum due at the time of the notice and the date  
 11 upon which the sum became due.

12           2. A description of the vessel.

13           3. A demand for payment.

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

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

21           (7) If the fees, ~~and~~ costs, and late-payment interest  
 22 that give rise to ~~such~~ a lien are due and unpaid 60 ~~120~~ days  
 23 after the vessel owner and lienholder are ~~is~~ given written  
 24 notice, the marina may sell the vessel, including its  
 25 machinery, rigging, and accessories as provided for in  
 26 subsection (8), or the marina may, at its option, remove the  
 27 vessel from the marina or from the waters of the state at the  
 28 owner's expense under paragraph (4)(b).

29           (10) Before any sale or other disposition of the  
 30 vessel under ~~pursuant to~~ this section, the owner or lienholder  
 31 may pay the amount necessary to satisfy the lien and the

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1 reasonable expenses and late-payment interest incurred under  
2 this section and thereby redeem and take possession of the  
3 vessel. Upon receipt of the ~~such~~ payment, the marina shall  
4 return the property to the owner or lienholder making the  
5 payment and thereafter shall have no liability to any person  
6 with respect to such vessel.

7 (11) Unless otherwise provided by law, a purchaser in  
8 good faith of a vessel sold to satisfy a lien provided for in  
9 this section takes the property free of any claims other than  
10 a prior lien perfected under state or federal law ~~the Uniform~~  
11 ~~Commercial Code, despite noncompliance by the marina with the~~  
12 ~~requirements of this 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 ~~other than a prior lien perfected under the~~  
17 ~~Uniform Commercial Code.~~ The lien rights of secured  
18 lienholders ~~are~~ automatically also attach ~~transferred~~ to the  
19 remaining proceeds of the sale. The balance, if any, shall be  
20 held by the marina for delivery on demand to the owner. A  
21 notice of any balance shall be delivered by the marina to the  
22 owner in person or by certified mail to the last known address  
23 of the owner. If the owner does not claim the balance of the  
24 proceeds within 1 year after the date of sale, the proceeds  
25 shall be deemed abandoned, and the marina shall have no  
26 further obligation with regard to the payment of the balance.  
27 In the event that the marina's lien does not have priority  
28 over all other liens, the sale proceeds shall be held for the  
29 benefit of the holders of those liens having priority. A  
30 notice of the amount of the sale proceeds shall be delivered  
31 by the marina to the owner or secured lienholder in person or

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

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9 ===== T I T L E   A M E N D M E N T =====

10 And the title is amended as follows:

11           On page 1, line 12, after the semicolon,

12

13 insert:

14           providing that a marina may satisfy its  
 15           possessory lien by giving notice to certain  
 16           individuals; requiring the marina to conduct a  
 17           good-faith lien search of vessel registration  
 18           records for vessels registered outside this  
 19           state; authorizing the marina to sell the  
 20           vessel if the fees, costs, and interest are not  
 21           paid within a specified time after the marina  
 22           gives notice to the vessel owner; authorizing  
 23           the owner or the lienholder to satisfy the  
 24           lien;

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