

1 requiring the Department of Legal Affairs to
2 represent the Fish and Wildlife Conservation
3 Commission in certain actions; deleting a
4 provision authorizing the commission to
5 delegate certain authority to local governments
6 under certain circumstances; providing an
7 effective date.

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

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11 Section 1. Section 327.59, Florida Statutes, is
12 amended to read:

13 327.59 Marina evacuations.--

14 (1) After June 1, 1994, marinas may not adopt,
15 maintain, or enforce policies pertaining to evacuation of
16 vessels which require vessels to be removed from marinas
17 following the issuance of a hurricane watch or warning, in
18 order to ensure that protecting the lives and safety of vessel
19 owners is placed before interests of protecting property.

20 (2) If, after a hurricane watch or warning is issued,
21 the owner or operator of a vessel fails to remove the vessel
22 from a marina pursuant to subsection (1), the owner shall be
23 liable for any damages to the marina's property caused, or
24 contributed to, by the vessel.

25 ~~(3)(2)~~ Nothing in this section may be construed to
26 restrict the ability of an owner of a vessel or the owner's
27 authorized representative to remove a vessel voluntarily from
28 a marina at any time or to restrict a marina owner from
29 dictating the kind of cleats, ropes, fenders, and other
30 measures that must be used on vessels as a condition of use of
31 a marina. After a tropical storm or hurricane watch has been

1 issued, a marina owner, operator, employee, or agent may take
2 actions to further secure any vessel within the marina to
3 minimize damage to a vessel, the marina property, and the
4 environment. The marina owner, operator, employee, or agent
5 may charge reasonable fees for further securing of a vessel,
6 shall not be held liable for any damage incurred to a vessel
7 from such storms or hurricanes, and are held harmless as a
8 result of such actions.

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

11 328.17 Nonjudicial sale of vessels.--

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

13 (a) A possessory lien upon any vessel for storage
14 fees, dockage fees, repairs, improvements, or other
15 work-related storage charges, and for expenses necessary for
16 preservation of the vessel or expenses reasonably incurred in
17 the sale or other disposition of the vessel. The possessory
18 lien shall attach as of the date the vessel is brought to the
19 marina, or as of the date the vessel first occupies rental
20 space at the marina facility.

21 (b) A possessory lien upon any vessel in a wrecked,
22 junked, or substantially dismantled condition, which has been
23 left docked, grounded, beached, or otherwise abandoned at a
24 marina without consent of the marina owner, for expenses
25 reasonably incurred in the removal and disposal of the vessel.
26 The possessory lien shall attach as of the date the vessel is
27 discovered at the marina facility. If the funds recovered from
28 the sale of such a vessel, or from the scrap or salvage value
29 of such a vessel, are insufficient to cover the expenses
30 reasonably incurred by the marina in removing and disposing of
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1 the vessel, all costs in excess of recovery shall be
2 recoverable against the owner of the vessel.

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4 ~~However,~~ In the event of default, the marina must give notice
5 to persons who hold perfected security interests against the
6 vessel under the Uniform Commercial Code in which the owner is
7 named as the debtor.

8 Section 3. Paragraph (g) of subsection (4) of section
9 376.11, Florida Statutes, is amended to read:

10 376.11 Florida Coastal Protection Trust Fund.--

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

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

18 Section 4. Section 376.15, Florida Statutes, is
19 amended to read:

20 376.15 Derelict vessels; removal from public waters.--

21 (1) It is unlawful for any person, firm, or
22 corporation to store or leave any vessel, as defined in s.
23 327.02(37), in a wrecked, junked, or substantially dismantled
24 condition or abandoned upon any public waters or at any port
25 in this state without the consent of the agency having
26 jurisdiction thereof or docked or grounded at any private
27 property without the consent of the owner of the private
28 property.

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

1 ~~state~~ authorized and empowered to remove any derelict vessel
2 as described in subsection (1) from public waters. All costs
3 incurred by the commission or other law enforcement agency in
4 the removal of any abandoned or derelict vessel shall be
5 recoverable against the owner of the vessel. The Department of
6 Legal Affairs shall represent the commission in such actions.

7 (b) The commission may establish a program to provide
8 grants to ~~coastal~~ local governments for the removal of
9 derelict vessels from the public waters of the state. The
10 program shall be funded from the Florida Coastal Protection
11 Trust Fund. Notwithstanding the provisions in s. 216.181(11),
12 funds available for grants may only be authorized by
13 appropriations acts of the Legislature.

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

18 1. The number of derelict vessels within the
19 jurisdiction of the applicant.

20 2. The threat posed by such vessels to public health
21 or safety, the environment, navigation, or the aesthetic
22 condition of the general vicinity.

23 3. The degree of commitment of the local government to
24 maintain waters free of abandoned and derelict vessels and to
25 seek legal action against those who abandon vessels in the
26 waters of the state.

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

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

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

3 705.101 Definitions.--As used in this chapter:

4 (3) "Abandoned property" means all tangible personal
5 property that does not have an identifiable owner and that has
6 been disposed on public property in a wrecked, inoperative, or
7 partially dismantled condition or has no apparent intrinsic
8 value to the rightful owner. Vessels determined to be derelict
9 by the Fish and Wildlife Conservation Commission or a county
10 or municipality in accordance with the provisions of s. 376.15
11 or s. 823.11 are included within this definition.

12 Section 6. Section 823.11, Florida Statutes, is
13 amended to read:

14 823.11 Abandoned and derelict vessels; removal;
15 penalty.--

16 (1) It is unlawful for any person, firm, or
17 corporation to store or leave any vessel as defined in s.
18 327.02(37) ~~by maritime law~~ in a wrecked, junked, or
19 substantially dismantled condition or abandoned upon or in any
20 public water or at any port in this state without the consent
21 of the agency having jurisdiction thereof, or docked or
22 grounded at any private property without the consent of the
23 owner of the private ~~such~~ property.

24 (2) The Fish and Wildlife Conservation Commission and
25 its officers and all law enforcement officers as specified in
26 s. 327.70 ~~are is designated as the agency of the state~~
27 authorized and empowered to remove or cause to be removed any
28 abandoned or derelict vessel from public waters in any
29 instance when the same obstructs or threatens to obstruct
30 navigation or in any way constitutes a danger to the
31 environment. Removal of vessels pursuant to this section may

1 be funded by grants provided pursuant to s. 376.15. All costs
2 incurred by the commission in the removal of any abandoned or
3 derelict vessel as set out above shall be recoverable against
4 the owner thereof. The Department of Legal Affairs shall
5 represent the commission in such actions. ~~Pursuant to an~~
6 ~~agreement with the governing body of a county or municipality,~~
7 ~~and upon a finding by the commission that the county or~~
8 ~~municipality is competent to undertake said responsibilities,~~
9 ~~the commission may delegate to the county or municipality its~~
10 ~~authority to remove or cause to be removed an abandoned or~~
11 ~~derelict vessel from public waters within the county or~~
12 ~~municipality.~~

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

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

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