## Florida Senate - 2005

By Senator Campbell

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32-771-05
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1	A bill to be entitled
2	An act relating to the nonjudicial sale of
3	vessels; amending s. 328.17, F.S.; revising
4	requirements for notice before a nonjudicial
5	sale of a vessel; revising methods for
6	perfecting a marina's possessory lien;
7	providing precedence of certain liens when a
8	vessel is sold to satisfy a lien under s.
9	328.17, F.S.; prescribing a marina's right to
10	satisfy its lien from the sale of a vessel
11	under s. 328.17, F.S.; providing an effective
12	date.
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14	Be It Enacted by the Legislature of the State of Florida:
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16	Section 1. Subsection (4), paragraph (a) of subsection
17	(5), and subsections (11) and (12) of section 328.17, Florida
18	Statutes, are amended to read:
19	328.17 Nonjudicial sale of vessels
20	(4) A marina, as defined in s. 327.02(19), shall have
21	a possessory lien upon any vessel for storage fees, dockage
22	fees, repairs, improvements, or other work-related storage
23	charges, and for expenses necessary for preservation of the
24	vessel or expenses reasonably incurred in the sale or other
25	disposition of the vessel. The possessory lien shall attach as
26	of the date the vessel is brought to the marina, or as of the
27	date the vessel first occupies rental space at the marina
28	facility. However, in the event of default, the marina must
29	give notice to persons who hold perfected security interests
30	against the vessel under the Uniform Commercial Code in which
31	the owner is named as the debtor.
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**Florida Senate - 2005** 32-771-05

(5) A marina's possessory lien may be satisfied as 1 2 follows: 3 (a) The marina shall provide written notice to the vessel's owner, delivered in person or by certified mail to 4 the owner's last known address. The notice shall also be and 5 б conspicuously posted at the marina and on the vessel. In 7 addition, the marina must shall provide written notice to each 8 person or entity that holds a security interest on the vessel as shown in the records of the Department of Highway Safety 9 and Motor Vehicles with respect to state-titled vessels, holds 10 a preferred ship mortgage or has filed a claim of lien with 11 12 the United States Coast Guard Vessel Documentation Center, or 13 is known by the marina to possess a maritime lien against the vessel under 46 U.S.C. ss. 31301-31343 or a judgment lien 14 under ss. 55.201-55.209 or other applicable federal maritime 15 law. In furtherance of these requirements, the marina must 16 17 obtain a copy of the title for the vessel, and trailer if 18 applicable, from the Department of Highway Safety and Motor Vehicles or a similar agency in the jurisdiction where the 19 vessel is registered or an abstract from the United States 20 21 Coast Guard for a vessel that is "documented" as defined in 46 U.S.C. s. 30101. The written notices required by this 22 23 paragraph shall be made by certified mail at least 60 days before any proposed sale under this section. recorded 2.4 25 lienholder of such vessel registered with this state as shown 26 by the records of the Department of Highway Safety and Motor 27 Vehicles, at least 30 days prior to the proposed sale. 2.8 (11) Unless otherwise provided by law, a purchaser in 29 good faith of a vessel sold to satisfy a lien provided for in this section takes the property free of any claims other than 30 a prior lien perfected under state or federal law the Uniform 31

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**Florida Senate - 2005** 32-771-05

SB 902

1 Commercial Code, despite noncompliance by the marina with the 2 requirements of this section. 3 (12) In the event of a sale under this section, the 4 marina may satisfy its lien from the proceeds of the sale, provided the marina's lien has priority over all other liens 5 6 on the vessel other than a prior lien perfected under the 7 Uniform Commercial Code. The lien rights of secured 8 lienholders are automatically transferred to the remaining proceeds of the sale. The balance, if any, shall be held by 9 10 the marina for delivery on demand to the owner. A notice of any balance shall be delivered by the marina to the owner in 11 12 person or by certified mail to the last known address of the 13 owner. If the owner does not claim the balance of the proceeds within 1 year after the date of sale, the proceeds shall be 14 deemed abandoned, and the marina shall have no further 15 obligation with regard to the payment of the balance. In the 16 17 event that the marina's lien does not have priority over all other liens, the sale proceeds shall be held for the benefit 18 of the holders of those liens having priority. A notice of the 19 amount of the sale proceeds shall be delivered by the marina 20 21 to the owner or secured lienholder in person or by certified 22 mail to the owner's or the secured lienholder's last known 23 address. If the owner or the secured lienholder does not claim the sale proceeds within 1 year after the date of sale, the 2.4 proceeds shall be deemed abandoned, and the owner or the 25 26 secured lienholder shall have no further obligation with 27 regard to the payment of the proceeds. Section 2. This act shall take effect July 1, 2005. 2.8 29 30 31

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**Florida Senate - 2005** 32-771-05

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2	SENATE SUMMARY
3	Revises the method by which a person with a security interest in or lien on a vessel must have perfected it in
4	order to be entitled to receive notice of a marina's possessory lien. Revises the types of liens the holders
5	of which have precedence over a purchaser in good faith of a nonjudicially sold vessel.
6	or a nonjudicially sold vessel.
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