

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           including expenses for the removal and disposal of certain  
 7           vessels in a wrecked, junked, or substantially dismantled  
 8           condition; reducing the time allowed to pay the fees,  
 9           charges, and costs giving rise to the lien prior to sale  
 10          of the vessel; revising requirements with respect to  
 11          perfection of and priority over prior or other liens;  
 12          providing an effective date.

13  
 14   Be It Enacted by the Legislature of the State of Florida:

15  
 16          Section 1. Subsections (4), (5), (7), (10), (11), and (12)  
 17          of section 328.17, Florida Statutes, are amended to read:

18          328.17 Nonjudicial sale of vessels.--  
 19          (4) A marina, as defined in s. 327.02(19), shall have:  
 20          (a) A possessory lien upon any vessel for storage fees,  
 21          dockage fees, repairs, improvements, or other work-related  
 22          storage charges, and for expenses necessary for preservation of  
 23          the vessel or expenses reasonably incurred in the sale or other  
 24          disposition of the vessel. The possessory lien shall attach as  
 25          of the date the vessel is brought to the marina, or as of the  
 26          date the vessel first occupies rental space at the marina  
 27          facility. ~~However, in the event of default, the marina must give~~  
 28          ~~notice to persons who hold perfected security interests against~~

29 ~~the vessel under the Uniform Commercial Code in which the owner~~  
 30 ~~is named as the debtor.~~

31 (b) A possessory lien upon any vessel in a wrecked,  
 32 junked, or substantially dismantled condition, which has been  
 33 left docked, grounded, beached, or otherwise abandoned at a  
 34 marina without consent of the marina owner, for expenses  
 35 reasonably incurred in the removal and disposal of the vessel.  
 36 The possessory lien shall attach as of the date the vessel is  
 37 discovered at the marina facility. If the funds recovered from  
 38 the sale of such a vessel, or from the scrap or salvage value of  
 39 such a vessel, are insufficient to cover the expenses reasonably  
 40 incurred by the marina in removing and disposing of the vessel,  
 41 all costs in excess of recovery shall be recoverable against the  
 42 owner of the vessel.

43 (5) A marina's possessory lien may be satisfied as  
 44 follows:

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

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

52 a. Holds a security interest on the vessel as shown in the  
 53 records of the Department of Highway Safety and Motor Vehicles  
 54 with respect to state-titled vessels.

55 b. Holds a preferred ship mortgage or has filed a claim of  
 56 lien with the United States Coast Guard Vessel Documentation

57 Center.

58 c. Holds a security interest against the vessel under the  
59 Uniform Commercial Code.

60 d. Has perfected a lien against the subject vessel by  
61 filing a judgment lien certificate pursuant to ss. 55.201-  
62 55.209.

63 3. When a vessel displays a foreign country identification  
64 or displays registration numbers from a state other than  
65 Florida, the marina shall conduct a reasonable lien search of  
66 the vessel registration records in the jurisdiction of registry  
67 to determine if there is a lienholder who is entitled to notice  
68 pursuant to subparagraph 2. Failure to discover a foreign  
69 national or non-Florida United States lienholder after a good  
70 faith effort to conduct such a lien search shall not prevent the  
71 sale or removal of a vessel from the marina to satisfy the  
72 marina's possessory lien or a purchaser, in good faith, from  
73 taking title of the vessel, pursuant to subsections (7) and  
74 (11).

75 4. The requirements of subparagraph 2. shall be satisfied  
76 if the marina:

77 a. Obtains ownership documentation for the vessel and  
78 trailer, if applicable, from the Department of Highway Safety  
79 and Motor Vehicles or other agency with which the vessel is  
80 registered;

81 b. Obtains an abstract from the United States Coast Guard  
82 for a vessel that is documented as defined in 46 U.S.C. s.  
83 301.01;

84 c. Performs a current Uniform Commercial Code lien search;

85 d. Performs a current Florida judgment lien certificate  
 86 search; and

87 e. Complies with subparagraph 3. with regard to vessels  
 88 registered in a foreign country or in a state other than  
 89 Florida.

90 5. The written notice to the vessel owner and lienholders  
 91 required by this paragraph shall be made at least 60 days prior  
 92 to any sale of the vessel under this section ~~recorded lienholder~~  
 93 ~~of such vessel registered with this state as shown by the~~  
 94 ~~records of the Department of Highway Safety and Motor Vehicles,~~  
 95 ~~at least 30 days prior to the proposed sale.~~

96 (b) The notice shall include:

97 1. An itemized statement of the marina's claim, showing  
 98 the sum due at the time of the notice and the date upon which  
 99 the sum became due.

100 2. A description of the vessel.

101 3. A demand for payment.

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

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

108 (7) If the fees, ~~and costs,~~ and late payment interest that  
 109 give rise to such a lien are due and unpaid 60 ~~120~~ days after  
 110 the vessel owner and lienholder are ~~is~~ given written notice, the  
 111 marina may sell the vessel, including its machinery, rigging,  
 112 and accessories as provided for in subsection (8); or the marina

113 may, at its option, remove the vessel from the marina or from  
 114 the waters of the state at the owner's expense pursuant to  
 115 paragraph (4)(b).

116 (10) Before any sale or other disposition of the vessel  
 117 pursuant to this section, the owner or the lienholder may pay  
 118 the amount necessary to satisfy the lien and the reasonable  
 119 expenses and late payment interest incurred under this section  
 120 and thereby redeem and take possession of the vessel. Upon  
 121 receipt of such payment, the marina shall return the property to  
 122 the owner or lienholder making such payment and thereafter shall  
 123 have no liability to any person with respect to such vessel.

124 (11) Unless otherwise provided by law, a purchaser in good  
 125 faith of a vessel sold to satisfy a lien provided for in this  
 126 section takes the property free of any claims other than a prior  
 127 lien perfected under state or federal law ~~the Uniform Commercial~~  
 128 ~~Code, despite noncompliance by the marina with the requirements~~  
 129 ~~of this section.~~

130 (12) In the event of a sale under this section, the marina  
 131 may satisfy its lien from the proceeds of the sale, provided the  
 132 marina's lien has priority over all other liens on the vessel  
 133 ~~other than a prior lien perfected under the Uniform Commercial~~  
 134 ~~Code.~~ The lien rights of secured lienholders ~~are~~ automatically  
 135 also attach ~~transferred~~ to the remaining proceeds of the sale.  
 136 The balance, if any, shall be held by the marina for delivery on  
 137 demand to the owner. A notice of any balance shall be delivered  
 138 by the marina to the owner in person or by certified mail to the  
 139 last known address of the owner. If the owner does not claim the  
 140 balance of the proceeds within 1 year after the date of sale,

141 the proceeds shall be deemed abandoned, and the marina shall  
142 have no further obligation with regard to the payment of the  
143 balance. In the event that the marina's lien does not have  
144 priority over all other liens, the sale proceeds shall be held  
145 for the benefit of the holders of those liens having priority. A  
146 notice of the amount of the sale proceeds shall be delivered by  
147 the marina to the owner or secured lienholder in person or by  
148 certified mail to the owner's or the secured lienholder's last  
149 known address. If the owner or the secured lienholder does not  
150 claim the sale proceeds within 1 year after the date of sale,  
151 the proceeds shall be deemed abandoned, and the owner or the  
152 secured lienholder shall have no further obligation with regard  
153 to the payment of the proceeds.

154 Section 2. This act shall take effect July 1, 2006.