

1 Affairs to represent the Fish and Wildlife
2 Conservation Commission in certain actions;
3 expanding eligibility for disbursement of grant
4 funds for the removal of derelict vessels;
5 amending s. 403.813, F.S.; providing exemptions
6 from permitting by the Department of
7 Environmental Protection for certain floating
8 vessel platforms; directing the department to
9 adopt a general permit for certain platforms;
10 revising provisions that prohibit more
11 stringent regulation by a local government;
12 amending s. 705.101, F.S.; defining certain
13 vessels as abandoned property; amending s.
14 823.11, F.S.; revising provisions relating to
15 abandoned and derelict vessels and the removal
16 of such vessels; specifying which officers may
17 remove such vessels; providing that vessel
18 removal may be funded by certain grants;
19 requiring the Department of Legal Affairs to
20 represent the Fish and Wildlife Conservation
21 Commission in certain actions; deleting a
22 provision authorizing the commission to
23 delegate certain authority to local governments
24 under certain circumstances; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Section 327.59, Florida Statutes, is
30 amended to read:

31 327.59 Marina evacuations.--

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

7 (2) Nothing in this section may be construed to
8 restrict the ability of an owner of a vessel or the owner's
9 authorized representative to remove a vessel voluntarily from
10 a marina at any time or to restrict a marina owner from
11 dictating the kind of cleats, ropes, fenders, and other
12 measures that must be used on vessels as a condition of use of
13 a marina. After a tropical storm or hurricane watch has been
14 issued, a marina owner or operator, or an employee or agent of
15 such owner or operator, may take actions to further secure any
16 vessel within the marina to minimize damage to a vessel, the
17 marina property, and the environment. Such a marina owner,
18 operator, employee, or agent may charge reasonable fees for
19 further securing of a vessel, may not be held liable for any
20 damage incurred to a vessel from such storms or hurricanes,
21 and shall be held harmless as a result of such actions.

22 (3) Notwithstanding any other provision of this
23 section, in order to protect marina property a marina owner by
24 contract may provide that if a boat owner fails to promptly
25 remove a vessel from a marina after issuance of a hurricane
26 watch or warning, the marina owner, operator, or an employee
27 or agent of the owner or operator may remove the vessel from
28 its slip or take whatever actions are deemed necessary in
29 order to properly secure the vessel. A marina owner, operator,
30 employee, or agent may charge the vessel owner a reasonable
31 fee for any such services rendered. In order to add such a

1 provision to a contract, the marina owner must include in any
2 such contract, in a font of at least 10-point type, a notice
3 to the vessel owner which is in substantially the following
4 form:

5
6 NOTICE TO BOAT OWNER

7
8 The undersigned hereby informs you that in the
9 event you fail to remove your vessel from the
10 marina promptly after the issuance of a
11 hurricane watch or warning for _____,
12 Florida, under Florida law the undersigned or
13 his or her employees or agents are authorized
14 to remove your vessel from its slip or take any
15 and all other actions deemed appropriate by the
16 undersigned or his or her employees or agents
17 in order to secure your vessel and protect
18 marina property. You are further notified that
19 you may be charged a reasonable fee for any
20 such action.

21
22 Section 2. Subsections (4), (5), (7), (10), (11), and
23 (12) of section 328.17, Florida Statutes, are amended to read:

24 328.17 Nonjudicial sale of vessels.--

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

26 (a) A possessory lien upon any vessel for storage
27 fees, dockage fees, repairs, improvements, or other
28 work-related storage charges, and for expenses necessary for
29 preservation of the vessel or expenses reasonably incurred in
30 the sale or other disposition of the vessel. The possessory
31 lien shall attach as of the date the vessel is brought to the

1 marina, or as of the date the vessel first occupies rental
2 space at the marina facility.

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

19 (5) A marina's possessory lien may be satisfied as
20 follows:

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

25 2. In addition to the notice provided to the vessel
26 owner under subparagraph 1., the marina shall identify and
27 provide written notice to each person or entity that:

28 a. Holds a security interest on the vessel as shown in
29 the records of the Department of Highway Safety and Motor
30 Vehicles with respect to state-titled vessels;
31

1 b. Holds a preferred ship mortgage or has filed a
2 claim of lien with the United States Coast Guard Vessel
3 Documentation Center;

4 c. Holds a security interest against the vessel under
5 the Uniform Commercial Code; or

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

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

20 4. The requirements of subparagraph 2. are satisfied
21 if the marina:

22 a. Obtains a copy of the title for the vessel and
23 trailer, if applicable, from the Department of Highway Safety
24 and Motor Vehicles or other agency where the vessel is
25 registered;

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

29 c. Performs a search of liens for the vessel and
30 trailer, if applicable, as provided under the Uniform
31 Commercial Code;

1 d. Performs a search of current judgment lien
2 certificates for the vessel and trailer, if applicable, as
3 provided under state law; and

4 e. Conducts a reasonable lien search, as specified in
5 subparagraph 3., with regard to vessels registered in a
6 foreign country or in a state other than this state.

7 5. The written notice to the vessel owner and
8 lienholders required by this paragraph must be made at least
9 60 days before any sale of the vessel under this section.
10 ~~recorded lienholder of such vessel registered with this state~~
11 ~~as shown by the records of the Department of Highway Safety~~
12 ~~and Motor Vehicles, at least 30 days prior to the proposed~~
13 ~~sale.~~

14 (b) The notice shall include:

15 1. An itemized statement of the marina's claim,
16 showing the sum due at the time of the notice and the date
17 upon which the sum became due.

18 2. A description of the vessel.

19 3. A demand for payment.

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

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

27 (7) If the fees, ~~and~~ costs, and late-payment interest
28 that give rise to such a lien are due and unpaid 60 ~~120~~ days
29 after the vessel owner and lienholder are ~~is~~ given written
30 notice, the marina may sell the vessel, including its
31 machinery, rigging, and accessories as provided for in

1 subsection (8), or the marina may, at its option, remove the
2 vessel from the marina or from the waters of the state at the
3 owner's expense under paragraph (4)(b).

4 (10) Before any sale or other disposition of the
5 vessel under ~~pursuant to~~ this section, the owner or lienholder
6 may pay the amount necessary to satisfy the lien and the
7 reasonable expenses and late-payment interest incurred under
8 this section and thereby redeem and take possession of the
9 vessel. Upon receipt of the ~~such~~ payment, the marina shall
10 return the property to the owner or lienholder making the
11 payment and thereafter shall have no liability to any person
12 with respect to such vessel.

13 (11) Unless otherwise provided by law, a purchaser in
14 good faith of a vessel sold to satisfy a lien provided for in
15 this section takes the property free of any claims other than
16 a prior lien perfected under state or federal law ~~the Uniform~~
17 ~~Commercial Code, despite noncompliance by the marina with the~~
18 ~~requirements of this section.~~

19 (12) In the event of a sale under this section, the
20 marina may satisfy its lien from the proceeds of the sale,
21 provided the marina's lien has priority over all other liens
22 on the vessel ~~other than a prior lien perfected under the~~
23 ~~Uniform Commercial Code.~~ The lien rights of secured
24 lienholders also are automatically attach ~~transferred~~ to the
25 remaining proceeds of the sale. The balance, if any, shall be
26 held by the marina for delivery on demand to the owner. A
27 notice of any balance shall be delivered by the marina to the
28 owner in person or by certified mail to the last known address
29 of the owner. If the owner does not claim the balance of the
30 proceeds within 1 year after the date of sale, the proceeds
31 shall be deemed abandoned, and the marina shall have no

1 further obligation with regard to the payment of the balance.
2 ~~If in the event that~~ the marina's lien does not have priority
3 over all other liens, the sale proceeds shall be held for the
4 benefit of the holders of those liens having priority. A
5 notice of the amount of the sale proceeds shall be delivered
6 by the marina to the owner or secured lienholder in person or
7 by certified mail to the owner's or the secured lienholder's
8 last known address. If the owner or the secured lienholder
9 does not claim the sale proceeds within 1 year after the date
10 of sale, the proceeds shall be deemed abandoned, and the owner
11 or the secured lienholder shall have no further obligation
12 with regard to the payment of the proceeds.

13 Section 3. Paragraph (g) of subsection (4) of section
14 376.11, Florida Statutes, is amended to read:

15 376.11 Florida Coastal Protection Trust Fund.--

16 (4) Moneys in the Florida Coastal Protection Trust
17 Fund shall be disbursed for the following purposes and no
18 others:

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

23 Section 4. Section 376.15, Florida Statutes, is
24 amended to read:

25 376.15 Derelict vessels; removal from public waters.--

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

1 | property without the consent of the owner of the private
2 | property.

3 | (2)(a) The Fish and Wildlife Conservation Commission
4 | and its officers and all law enforcement officers as specified
5 | in s. 327.70 are ~~is hereby designated as the agency of the~~
6 | ~~state~~ authorized and empowered to remove any derelict vessel
7 | as described in subsection (1) from public waters. All costs
8 | incurred by the commission or other law enforcement agency in
9 | the removal of any abandoned or derelict vessel shall be
10 | recoverable against the owner of the vessel. The Department of
11 | Legal Affairs shall represent the commission in such actions.

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

19 | (c) The commission shall adopt by rule procedures for
20 | submitting a grant application and criteria for allocating
21 | available funds. Such criteria shall include, but not be
22 | limited to, the following:

23 | 1. The number of derelict vessels within the
24 | jurisdiction of the applicant.

25 | 2. The threat posed by such vessels to public health
26 | or safety, the environment, navigation, or the aesthetic
27 | condition of the general vicinity.

28 | 3. The degree of commitment of the local government to
29 | maintain waters free of abandoned and derelict vessels and to
30 | seek legal action against those who abandon vessels in the
31 | waters of the state.

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

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

6 Section 5. Paragraph (s) of subsection (2) of section
7 403.813, Florida Statutes, is amended to read:

8 403.813 Permits issued at district centers;
9 exceptions.--

10 (2) A permit is not required under this chapter,
11 chapter 373, chapter 61-691, Laws of Florida, or chapter 25214
12 or chapter 25270, 1949, Laws of Florida, for activities
13 associated with the following types of projects; however,
14 except as otherwise provided in this subsection, nothing in
15 this subsection relieves an applicant from any requirement to
16 obtain permission to use or occupy lands owned by the Board of
17 Trustees of the Internal Improvement Trust Fund or any water
18 management district in its governmental or proprietary
19 capacity or from complying with applicable local pollution
20 control programs authorized under this chapter or other
21 requirements of county and municipal governments:

22 (s) The construction, installation, operation, or
23 maintenance of floating vessel platforms or floating boat
24 lifts, provided that such structures:

25 1. Float at all times in the water for the sole
26 purpose of supporting a vessel so that the vessel is out of
27 the water when not in use;

28 2. Are wholly contained within a boat slip previously
29 permitted under ss. 403.91-403.929, 1984 Supplement to the
30 Florida Statutes 1983, as amended, or part IV of chapter 373;
31 ~~are, or, when~~ associated with a dock that is exempt under this

1 subsection or a permitted dock with no defined boat slip ~~and~~
2 do not exceed a combined total of 500 square feet, or 200
3 square feet in an Outstanding Florida Water; or are attached
4 to a bulkhead on a parcel of land where there is no other
5 docking structure and do not exceed a combined total of 1,000
6 square feet outside of Outstanding Florida Waters, 500 square
7 feet within an Outstanding Florida Water that is not an
8 aquatic preserve, or 200 square feet within an aquatic
9 preserve;

10 3. Are not used for any commercial purpose or for
11 mooring vessels that remain in the water when not in use, and
12 do not substantially impede the flow of water, create a
13 navigational hazard, or unreasonably infringe upon the
14 riparian rights of adjacent property owners, as defined in s.
15 253.141;

16 4. Are constructed and used so as to minimize adverse
17 impacts to submerged lands, wetlands, shellfish areas, aquatic
18 plant and animal species, and other biological communities,
19 including locating such structures in areas where ~~no~~
20 seagrasses are least dense ~~exist if such areas are present~~
21 adjacent to the dock or bulkhead; and

22 5. Are not constructed in areas specifically
23 prohibited for boat mooring under conditions of a permit
24 issued in accordance with ss. 403.91-403.929, 1984 Supplement
25 to the Florida Statutes 1983, as amended, or part IV of
26 chapter 373, or other form of authorization issued by a local
27 government.

28
29 Structures that qualify for this exemption are relieved from
30 any requirement to obtain permission to use or occupy lands
31 owned by the Board of Trustees of the Internal Improvement

1 Trust Fund and shall not be subject to any permitting
2 requirement, registration requirement, or other more stringent
3 regulation by any local government. The exemption provided in
4 this paragraph ~~is shall be~~ in addition to the exemption
5 provided in paragraph (b). By January 1, ~~2007~~ 2003, the
6 department shall adopt a general permit by rule for the
7 construction, installation, operation, or maintenance of those
8 floating vessel platforms or floating boat lifts that do not
9 qualify for the exemption provided in this paragraph but do
10 not cause significant adverse impacts to occur individually or
11 cumulatively. The issuance of such general permit ~~shall~~ also
12 constitutes ~~constitute~~ permission to use or occupy lands owned
13 by the Board of Trustees of the Internal Improvement Trust
14 Fund. Structures that qualify for ~~Upon the adoption of the~~
15 ~~rule creating~~ such general permit are not subject to any
16 permitting requirement, registration requirement, or other
17 more stringent regulation by any, ~~no~~ local government ~~shall~~
18 ~~impose a more stringent regulation on floating vessel~~
19 ~~platforms or floating boat lifts covered by such general~~
20 ~~permit.~~

21 Section 6. Subsection (3) of section 705.101, Florida
22 Statutes, is amended to read:

23 705.101 Definitions.--As used in this chapter:

24 (3) "Abandoned property" means all tangible personal
25 property that does not have an identifiable owner and that has
26 been disposed on public property in a wrecked, inoperative, or
27 partially dismantled condition or has no apparent intrinsic
28 value to the rightful owner. The term includes vessels
29 determined to be derelict by the Fish and Wildlife
30 Conservation Commission or a county or municipality in
31

1 accordance with s. 376.15 or ~~the provisions of s. 823.11~~ are
2 ~~included within this definition.~~

3 Section 7. Section 823.11, Florida Statutes, is
4 amended to read:

5 823.11 Abandoned and derelict vessels; removal;
6 penalty.--

7 (1) It is unlawful for any person, firm, or
8 corporation to store or leave any vessel as defined in s.
9 327.02(37) ~~by maritime law~~ in a wrecked, junked, or
10 substantially dismantled condition or abandoned upon or in any
11 public water or at any port in this state without the consent
12 of the agency having jurisdiction thereof, or docked or
13 grounded at any private property without the consent of the
14 owner of the private ~~such~~ property.

15 (2) The Fish and Wildlife Conservation Commission and
16 its officers and all law enforcement officers as specified in
17 s. 327.70 ~~are is designated as the agency of the state~~
18 authorized and empowered to remove or cause to be removed any
19 abandoned or derelict vessel from public waters in any
20 instance when the same obstructs or threatens to obstruct
21 navigation or in any way constitutes a danger to the
22 environment. Removal of vessels pursuant to this section may
23 be funded by grants provided under s. 376.15. All costs
24 incurred by the commission in the removal of any abandoned or
25 derelict vessel as set out above shall be recoverable against
26 the owner thereof. The Department of Legal Affairs shall
27 represent the commission in such actions. ~~Pursuant to an~~
28 ~~agreement with the governing body of a county or municipality,~~
29 ~~and upon a finding by the commission that the county or~~
30 ~~municipality is competent to undertake said responsibilities,~~
31 ~~the commission may delegate to the county or municipality its~~

1 ~~authority to remove or cause to be removed an abandoned or~~
2 ~~derelict vessel from public waters within the county or~~
3 ~~municipality.~~

4 (3) Any person, firm, or corporation violating this
5 act commits ~~is guilty of~~ a misdemeanor of the first degree and
6 shall be punished as provided by law.

7 Section 8. This act shall take effect upon becoming a
8 law.

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10 *****

11 SENATE SUMMARY

12 Authorizes marina owners, operators, employees, or agents
13 to secure vessels during severe weather and to charge
14 fees and be held harmless for such service. Specifies
15 contract provisions and notice requirements relating to
16 removing or securing vessels. Provides for possessory
17 liens for marinas on certain abandoned vessels, including
18 attachment of the lien and recovery of certain costs.
19 Provides for satisfaction of such a possessory lien by
20 notification after a good-faith lien search. Authorizes
21 the marina to sell certain vessels if the fees, costs,
22 and interest are not paid after notice to the vessel
23 owner. Authorizes satisfaction of the lien by the owner
24 or lienholder. Revises provisions relating to the Florida
25 Coastal Protection Trust Fund to conform. Revises
26 provisions relating to the removal of abandoned and
27 derelict vessels. Authorizes cost recovery. Requires the
28 Department of Legal Affairs to represent the Fish and
29 Wildlife Conservation Commission in certain actions.
30 Expands eligibility for grant funds to remove derelict
31 vessels. Provides exemptions from permitting and requires
a general permit by the Department of Environmental
Protection for certain floating vessel platforms and
revises provisions that prohibit more stringent
requirements by a local government. Deletes a provision
authorizing the commission to delegate certain authority
to local governments under certain circumstances. (See
bill for details.)