

HB 929

2014

1 A bill to be entitled

2 An act relating to Little Gasparilla Island, Charlotte
3 County; providing an exception to general law;
4 authorizing future modifications to certain single-
5 family docks, multislip docks, and multifamily docks
6 under certain circumstances; requiring certain
7 payments by applicants for such dock modifications in
8 settlement of specified claims; limiting the state's
9 liability if a court makes certain determinations
10 relating to such docks; authorizing the Department of
11 Environmental Protection to take enforcement action
12 against docks or owners of riparian parcels or upland
13 interests associated with docks that do not meet
14 specified criteria after a specified date; providing
15 for applicability; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:
18

19 Section 1. Notwithstanding chapter 258, Florida Statutes,
20 if the criteria set forth in section 2 or section 3 are met
21 within 2 years after the effective date of this act, the owner
22 of the riparian parcel or upland interest associated with an
23 existing private residential single-family dock constructed
24 before March 1, 2013, on sovereignty submerged lands adjacent to
25 Little Gasparilla Island in the Lemon Bay Aquatic Preserve,
26 Charlotte County, or the incorporated association holding the

27 submerged lands lease for an existing private residential
28 multifamily dock or private residential multislip dock
29 constructed before March 1, 2013, on sovereignty submerged lands
30 adjacent to Little Gasparilla Island in the Lemon Bay Aquatic
31 Preserve, shall be:

32 (1) Exempt from the need to obtain a permit under part IV
33 of chapter 373, Florida Statutes, for the existing dock.

34 (2) Permitted to maintain and repair the dock as it
35 existed on March 1, 2013.

36 (3) Permitted to rebuild the entire structure to the dock
37 configuration as of March 1, 2013, if more than 50 percent of
38 the dock falls into a state of disrepair or is destroyed as a
39 result of a natural or manmade force, notwithstanding rule 18-
40 20.004(5)(a)6., Florida Administrative Code.

41 (4) Permitted to make future modifications in conformity
42 with applicable rules without reconstructing any existing
43 portion of the dock to meet current rule requirements.

44 (5) Permitted to make future modifications, and obtain an
45 expansion of the submerged lands lease for a private residential
46 multifamily dock or private residential multislip dock, in
47 conformity with other applicable rules, notwithstanding that:

48 (a) The proposed modification does not meet the side
49 setback requirements of rule 18-21.004(3)(d), Florida
50 Administrative Code. However, the proposed modification may not
51 encroach into the setback farther than the existing dock.

52 (b) The existing dock is associated with a riparian

53 easement that does not meet the minimum width requirement of
54 rule 18-21.004(1)(d), Florida Administrative Code.

55 (6) Permitted to obtain a future expansion of the
56 submerged lands lease for a private residential multifamily dock
57 or private residential multislip dock, in conformity with other
58 applicable rules, notwithstanding that the existing dock
59 currently does not, or as modified would not, meet the 10-to-1
60 limit of rule 18-20.004(5)(c)1., Florida Administrative Code, or
61 the 40-to-1 limit of rule 18-21.004(4)(b)2., Florida
62 Administrative Code.

63 Section 2. Section 1 applies to a private residential
64 single-family dock currently covered by a letter of consent or
65 if, within 2 years after the effective date of this act, the
66 owner of the riparian parcel or upland interest associated with
67 the dock applies for a letter of consent to use sovereignty
68 submerged lands from the Department of Environmental Protection
69 acting on behalf of the Board of Trustees of the Internal
70 Improvement Trust Fund. The application for the letter of
71 consent for an existing dock must be accompanied by a payment by
72 the applicant of \$1,000 in settlement of all claims by the Board
73 of Trustees of the Internal Improvement Trust Fund arising from
74 the applicant's noncompliance with applicable rules.

75 Section 3. Section 1 applies to a private residential
76 multifamily dock or private residential multislip dock if the
77 following conditions are met within 2 years after the effective
78 date of this act:

79 (1) Property owners who have an established right to use
80 the existing dock have formed an incorporated dock association
81 or incorporated homeowners' association with bylaws that make
82 membership equally available to all property owners who have an
83 established right to use the existing dock, that provide all
84 members with an equal voice in the governance of the association
85 and an equal obligation to contribute to the maintenance of the
86 dock, and that provide all members with equal access to the
87 dock.

88 (2) The dock is currently fully covered by a submerged
89 lands lease or the incorporated dock association or incorporated
90 homeowners' association has applied to the Department of
91 Environmental Protection for a submerged lands lease covering
92 the existing preempted area. The application for the submerged
93 lands lease for the existing preempted area must be accompanied
94 by a payment by the applicant of \$1,000 in settlement of all
95 claims by the Board of Trustees of the Internal Improvement
96 Trust Fund arising from the applicant's noncompliance with
97 applicable rules.

98 Section 4. If a properly incorporated dock association or
99 homeowners' association applies for an initial submerged lands
100 lease or applies for the expansion of an existing submerged
101 lands lease for an existing dock within 2 years after the
102 effective date of this act:

103 (1) The lease shall be issued if the association has
104 presented documentary evidence of fee simple title to the

105 associated upland parcel or documentary evidence of an
106 associated permanent upland riparian easement created for the
107 exclusive or nonexclusive use of the property owners who are the
108 association members, notwithstanding any provision of rules 18-
109 20 and 18-21, Florida Administrative Code, that may be
110 understood to require other evidence or another form of upland
111 interest.

112 (2) The lease shall be issued, notwithstanding that the
113 historically preempted area extends beyond the side boundaries
114 of the associated upland easement. However, the lease shall
115 contain language invalidating the lease if the lease is found by
116 a court of competent jurisdiction to infringe on the riparian
117 rights of a neighboring parcel.

118 (3) No lease fees in arrears shall be assessed for
119 submerged lands that may have been preempted by the
120 association's existing dock but not included in any current
121 lease, if the application for the submerged lands lease is
122 accompanied by a payment by the applicant of \$1,000 in
123 settlement of all claims by the Board of Trustees of the
124 Internal Improvement Trust Fund arising from the applicant's
125 noncompliance with applicable rules.

126 Section 5. The state, the Board of Trustees of the
127 Internal Improvement Trust Fund, and the Department of
128 Environmental Protection are not liable to the owner of an
129 upland riparian parcel or the riparian interestholder of a dock
130 for any loss or damage suffered by such owner or party if a

131 court of competent jurisdiction determines that any part of any
132 dock authorized by this act encroaches on or interferes with the
133 riparian rights of others or requires the modification or
134 removal of any dock authorized by this act.

135 Section 6. This act does not prevent the Department of
136 Environmental Protection, as staff to the Board of Trustees of
137 the Internal Improvement Trust Fund, from taking enforcement
138 action against a dock, or the owner of a riparian parcel or
139 upland interest associated with a dock, that has not met the
140 criteria of section 2, section 3, or section 4, whichever is
141 applicable, within 2 years after the effective date of this act.

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