

House Bill No. 1453

An act relating to vessels; amending s. 328.17, F.S.; revising language with respect to the nonjudicial sale of vessels; providing an effective date.

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

Section 1. Section 328.17, Florida Statutes, is amended to read:

(Substantial rewording of section.  
See s. 328.17, F.S., for present text.)

328.17 Nonjudicial sale of vessels.—

(1) It is the intent of the Legislature that any nonjudicial sale of any vessel held for unpaid costs, storage charges, or dockage fees, or any vessel held for failure to pay removal costs pursuant to s. 327.53(7), be disposed of pursuant to the provisions of this section.

(2) The Department of Highway Safety and Motor Vehicles shall provide certification forms for the nonjudicial sale of vessels as authorized by this section.

(3) For purposes of this section, “owner” shall mean the person holding title to the vessel, or any person the marina reasonably believes to be authorized to act for the vessel.

(4) A marina, as defined in s. 327.02(19), shall have a possessory lien upon any vessel for storage fees, dockage fees, repairs, improvements, or other work-related storage charges, and for expenses necessary for preservation of the vessel or expenses reasonably incurred in the sale or other disposition of the vessel. The possessory lien shall attach as of the date the vessel is brought to the marina, or as of the date the vessel first occupies rental space at the marina facility. However, in the event of default, the marina must give notice to persons who hold perfected security interests against the vessel under the Uniform Commercial Code in which the owner is named as the debtor.

(5) A marina’s possessory lien may be satisfied as follows:

(a) The marina shall provide written notice to the vessel’s owner, delivered in person or by certified mail to the owner’s last known address and conspicuously posted at the marina and on the vessel. In addition, the marina shall provide written notice to each recorded lienholder of such vessel registered with this state as shown by the records of the Department of Highway Safety and Motor Vehicles, at least 30 days prior to the proposed sale.

(b) The notice shall include:

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

2. A description of the vessel.

3. A demand for payment.

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

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

(6) Any notice given pursuant to this section shall be presumed delivered when it is deposited with the United States Postal Service, certified, and properly addressed with postage prepaid.

(7) If the fees and costs that give rise to such a lien are due and unpaid 120 days after the vessel owner is given written notice, the marina may sell the vessel, including its machinery, rigging, and accessories as provided for in subsection (8).

(8) The marina shall first publish an advertisement of the sale or other disposition once a week for 2 consecutive weeks in a newspaper of general circulation in the area in which the marina is located. Inasmuch as any sale may involve more than one vessel, a single advertisement may be used to dispose of more than one vessel at any one sale.

(a) The advertisement shall include:

1. A brief and general description of the vessel.

2. The address of the marina facility or the address where the marina is located and the name of the owner of the vessel.

3. The time, place, and manner of the sale or other disposition. The sale or other disposition shall take place no sooner than 15 days after the first publication.

(b) If there is no newspaper of general circulation in the area in which the marina is located, the advertisement shall be posted at least 10 days before the date of the sale or other disposition in no fewer than three conspicuous places in the neighborhood in which the marina is located.

(9) Any sale or other disposition of the vessel shall conform to the terms of the notification as provided for in this section and shall be conducted in a commercially reasonable manner, as that term is used in s. 679.610.

(10) Before any sale or other disposition of the vessel pursuant to this section, the owner may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section and thereby redeem the vessel. Upon receipt of such payment, the marina shall return the property to the owner and thereafter shall have no liability to any person with respect to such vessel.

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

(12) In the event of a sale under this section, the marina may satisfy its lien from the proceeds of the sale, provided the marina's lien has priority over all other liens on the vessel other than a prior lien perfected under the Uniform Commercial Code. The lien rights of secured lienholders are automatically transferred to the remaining proceeds of the sale. The balance, if any, shall be held by the marina for delivery on demand to the owner. A notice of any balance shall be delivered by the marina to the owner in person or by certified mail to the last known address of the owner. If the owner does not claim the balance of the proceeds within 1 year after the date of sale, the proceeds shall be deemed abandoned, and the marina shall have no further obligation with regard to the payment of the balance. In the event that the marina's lien does not have priority over all other liens, the sale proceeds shall be held for the benefit of the holders of those liens having priority. A notice of the amount of the sale proceeds shall be delivered by the marina to the owner or secured lienholder in person or by certified mail to the owner's or the secured lienholder's last known address. If the owner or the secured lienholder does not claim the sale proceeds within 1 year after the date of sale, the proceeds shall be deemed abandoned, and the owner or the secured lienholder shall have no further obligation with regard to the payment of the proceeds.

(13) In making application for transfer of title of a vessel sold pursuant to this section, the new owner shall establish proof of ownership by submitting with the application, which includes the applicable fees and the original bill of sale executed by the marina, a copy of each registered or certified letter sent by the marina to the previous owner and lienholder and a certified copy of the public notice of intent to sell published in a newspaper of general circulation in the county in which the marina is located. At the time the purchase price is paid, the marina shall provide the documentation required by this subsection to the purchaser.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor June 20, 2003.

Filed in Office Secretary of State June 20, 2003.