

CHAPTER 2014-237

Committee Substitute for House Bill No. 929

An act relating to Little Gasparilla Island, Charlotte County; providing an exception to general law; authorizing future modifications to certain single-family docks, multislip docks, and multifamily docks under certain circumstances; providing that applications filed pursuant to the requirements of the act are full and final settlement of specified claims; limiting the state's liability if a court makes certain determinations relating to such docks; authorizing the Department of Environmental Protection to take enforcement action against docks or owners of riparian parcels or upland interests associated with docks that do not meet specified criteria after a specified date; providing for applicability; providing an effective date.

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

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

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

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

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

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

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

(a) The proposed modification does not meet the side setback requirements of rule 18-21.004(3)(d), Florida Administrative Code. However, the

proposed modification may not encroach into the setback farther than the existing dock.

(b) The existing dock is associated with a riparian easement that does not meet the minimum width requirement of rule 18-21.004(1)(d), Florida Administrative Code.

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

Section 2. Section 1 applies to a private residential single-family dock currently covered by a letter of consent or if, within 2 years after the effective date of this act, the owner of the riparian parcel or upland interest associated with the dock applies for a letter of consent to use sovereignty submerged lands from the Department of Environmental Protection acting on behalf of the Board of Trustees of the Internal Improvement Trust Fund. The application for the letter of consent for an existing dock timely filed under this act shall be in full and final settlement of all claims by the Board of Trustees of the Internal Improvement Trust Fund arising from the applicant's noncompliance with applicable rules.

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

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

(2) The dock is currently fully covered by a submerged lands lease or the incorporated dock association or incorporated homeowners' association has applied to the Department of Environmental Protection for a submerged lands lease covering the existing preempted area. The application for the submerged lands lease for the existing preempted area timely filed under this act shall be in full and final settlement of all claims by the Board of Trustees of the Internal Improvement Trust Fund arising from the applicant's noncompliance with applicable rules.

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

(1) The lease shall be issued if the association has presented documentary evidence of fee simple title to the associated upland parcel or documentary evidence of an associated permanent upland riparian easement created for the exclusive or nonexclusive use of the property owners who are the association members, notwithstanding any provision of rules 18-20 and 18-21, Florida Administrative Code, that may be understood to require other evidence or another form of upland interest.

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

(3) The timely filing under this act of the application for a submerged lands lease shall be in full and final settlement of all claims by the Board of Trustees of the Internal Improvement Trust Fund arising from the applicant's noncompliance with applicable rules, and no lease fees in arrears shall be assessed for submerged lands that may have been preempted by the association's existing dock but not included in any current lease.

Section 5. The state, the Board of Trustees of the Internal Improvement Trust Fund, and the Department of Environmental Protection are not liable to the owner of an upland riparian parcel or the riparian interestholder of a dock for any loss or damage suffered by such owner or party if a court of competent jurisdiction determines that any part of any dock authorized by this act encroaches on or interferes with the riparian rights of others or requires the modification or removal of any dock authorized by this act.

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

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

Approved by the Governor June 13, 2014.

Filed in Office Secretary of State June 13, 2014.