



1           (b) A possessory lien upon any vessel in a wrecked,  
2 junked, or substantially dismantled condition, which has been  
3 left abandoned at the marina, for expenses reasonably incurred  
4 in the removal and disposal of the vessel. The possessory lien  
5 shall attach as of the date the vessel arrives at the marina  
6 or as of the date the vessel first occupies rental space at  
7 the marina facility. If the funds recovered from the sale of  
8 the vessel, or from the scrap or salvage value of the vessel,  
9 are insufficient to cover the expenses reasonably incurred by  
10 the marina in removing and disposing of the vessel, all costs  
11 in excess of recovery shall be recoverable against the owner  
12 of the vessel. For a vessel damaged as a result of a named  
13 storm, the provisions of this paragraph shall be suspended for  
14 60 days following the date the vessel is damaged in the named  
15 storm. The operation of the provisions specified in this  
16 paragraph run concurrently with, and do not extend, the 60-day  
17 notice periods provided in subsections (5) and (7).

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

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

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

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

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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.

6           d. Has perfected a lien against the subject vessel by  
7 filing a judgment lien certificate pursuant to ss.  
8 55.201-55.209.

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

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

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

27           b. Obtains an abstract from the United States Coast  
28 Guard for a vessel that is documented as defined in 46 U.S.C.  
29 s. 30101;

30           c. Performs a current Uniform Commercial Code lien  
31 search;

1           d. Performs a current Florida judgment lien  
2 certificate search; and

3           e. Complies with subparagraph 3. with regard to  
4 vessels registered in a foreign country or in a state other  
5 than Florida.

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

13           (b) The notice shall include:

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

17           2. A description of the vessel.

18           3. A demand for payment.

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

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

26           (7) If the fees, ~~and~~ costs, and late payment interest  
27 that give rise to such a lien are due and unpaid 60 ~~120~~ days  
28 after the vessel owner and lienholder are ~~is~~ given written  
29 notice, the marina may sell the vessel, including its  
30 machinery, rigging, and accessories as provided for in  
31 subsection (8) or the marina may remove the vessel from the

1 marina or from the waters of the state at the owner's expense  
2 pursuant to paragraph (4)(b).

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

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

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

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

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

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14 |                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
15 |                   COMMITTEE SUBSTITUTE FOR  
16 |                   Senate Bill 648

17 | The committee substitute changes the underlying bill by:

- 18 | -- Revising the proposed possessory lien for wrecked vessels  
19 |     that are abandoned at a marina, to provide that the lien  
20 |     provisions are suspended for 60 days following the date a  
21 |     vessel is damaged in a named storm.  
22 | -- Making technical and conforming changes.