

Florida ADV Legislative and Administrative Review 2015

All costs incurred by the state, including costs owed to a third party, in the relocation or removal of a derelict vessel are recoverable against the vessel owner, and the Department of Legal Affairs has authority to represent the commission in any actions required to recover such costs (Fla. Stat. § 823.11(3)(b)). As provided in Fla. Stat. § 705.103(4), a person who neglects or refuses to pay such costs may not be issued a certificate of registration for such vessel or for any other vessel or motor vehicle until such costs have been paid. The removal and relocation of derelict vessels is also addressed under Fla. Stat. § 376.15, which has the same basic requirements as Fla. Stat. § 823.11.

Any contractor performing the relocation or removal activities at the direction of the State, pursuant to this section must be licensed in accordance with applicable United States Coast Guard regulations where required. They are also required to obtain and carry appropriate insurance to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from the contractor's actions (Fla. Stat. § 823.11(3)(c)).

Pursuant to Fla. Stat. § 823.11(4), when a derelict vessel is found docked, grounded or beached on private property without the consent of the owner, the owner of the property may remove the vessel at the owners' expense 60 days after notification is given under Fla. Stat. § 328.17(5). The private property owner may not hinder any reasonable efforts of the vessel owner to remove the vessel prior to the 60 day notification limit. Under Fla. Stat. § 328.17(5) 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 or lienholder may contact to respond to the notice.

In addition, if a vessel is found to be abandoned by law enforcement officials on public property, they have the right to remove the property or notify the owner that the property is considered abandoned under Fla. Stat. § 705.103:

- 1) Whenever a law enforcement officer ascertains that an article of lost or abandoned property is present on public property and is of such nature that it can be easily removed, the officer shall take such article into custody and shall make a reasonable attempt to ascertain the rightful owner or lienholder pursuant to the provisions of this section.
- 2) Whenever a law enforcement officer ascertains that an article of lost or abandoned property is present on public property and is of such nature that it cannot be easily removed, the officer shall cause a notice to be placed upon such article.



If the owner does not claim the vessel within 90 days after the report is made, title to the vessel may be transferred to the finder using Florida’s abandoned property laws. Vessels that are declared as abandoned by private parties under the lost or abandoned property laws of Florida (Fla. Stat. § 705) are the responsibility of the finder, including all costs associated with the declaration and removal, if they gain title to the abandoned property as set forth under Fla. Stat. § 705.104. These costs are recoverable against the vessel owner if one has been identified (Fla. Stat. § 705.104(4)).

Under Florida Administrative Code authorized disposal sites for derelict vessels in Florida are limited to permitted artificial reef sites and landfill locations. The Division of Law Enforcement must approve any exceptions in writing (Fla. Admin. Code r. 68-1.003). For vessels taken to local landfills, local city health ordinances guide disposal requirements. In addition, the grantee must comply with all environmental permitting requirements from the Florida Department of Environmental Protection the U.S. Army Corps of Engineers in order to dispose of the vessel.

An exemption to derelict vessel removal permitting was written into Florida’s Administrative Code in October of 2013, which makes it no longer necessary for individuals or entities to request and obtain a permit to remove a derelict vessel from state waters, as long as best management practices are observed during removal activities, and no harm comes to the environment as a result of the removal (Fla. Admin. Code r. 62-330.051(5)(g)). If damage to the environment is possible, the project must be reviewed and permitted. Any failure to comply with the “no harm” clause could result in fines and or prosecution.

It is also illegal under Fla. Stat. § 376.16 to discharge pollutants from a derelict or abandoned vessel into state waters. This does not only apply to the removal but to any spill associated with the vessel, including abandonment and dereliction.

Certificate of Title and Vessel Registration

Pursuant to Fla. Stat. § 328.09(4), the Florida Department of Highway Safety and Motor Vehicles may not issue a certificate of title to any applicant for any vessel that has been deemed derelict by a law enforcement officer under Fla. Stat. § 823.11. A law enforcement officer must inform the Florida Department of Highway Safety and Motor Vehicles in writing the vessel’s derelict status and vessel title number or vessel identification number. The Florida Department of Highway Safety and Motor Vehicles may once again issue a certificate of title once a law enforcement officer has verified in writing that the vessel is no longer a derelict vessel.

According to Fla. Stat § 327.73(1)(g), any person cited for the operation of a vessel with an expired registration shall be charged with a noncriminal infraction, sited for the infraction, and will be sited to appear before a county court. A first or subsequent offense of Fla. Stat. § 328.72(13)(a), for a vessel registration expired 6 months or less, is a penalty up to a maximum of \$50. The first offense of Fla. Stat. § 328.72(13)(b), for a vessel registration expired 6 months or more, is a penalty up to a maximum of \$250. A second or subsequent offense of Fla. Stat. § 328.72(13)(b), is a penalty up to a maximum of \$500.

Differences between Commercial and Recreational Vessel Treatment

Fla. Stat. § 327.02(8) defines a “commercial vessel” as a vessel used as a place of business or a professional or other commercial enterprise.



Vessel Size Requirements or Limits

Florida does not impose size requirements or limits on the designation of abandoned or derelict vessels.

Funding Sources

Removal of derelict vessels under Florida Statutes (§ 823.11) may be funded by state grants provided by the Derelict Vessel Removal Grant Program and Fuel Tax Collection Trust Fund. The Fish and Wildlife Conservation Commission must also implement a plan for the procurement of any available federal disaster funds and use such funds for the removal of derelict vessels.

The Derelict Vessel Removal Grant Program, established under Fla. Stat. § 376.15, provides grants to local governments for the removal of derelict vessels from Florida waters. Funding from the state for this program, which is established under Fla. Stat. § 376.15, has been sporadic. Rules governing the program are in Chapter 68-1.003 of Florida Administration Code. Pursuant to Florida Statute § 376.11, the program is funded by the Florida Coastal Protection Trust Fund.

In the event monies are appropriated by the Legislature for the funding of the Derelict Vessel Removal Grant Program, the Commission's Division of Law Enforcement shall award said grants to local governments based on these criteria:

- 1) The degree to which the designated derelict vessels pose a threat to public health or safety, the environment, navigation or the aesthetic condition of the general vicinity within the jurisdiction of the grant applicant.
- 2) The total number of derelict vessels within the jurisdiction of the grant applicant.
- 3) The degree to which the designated derelict vessels will be used in the construction of permitted artificial reef sites.
- 4) The projected cost effectiveness of the grant applicant's proposed derelict vessel removal program.
- 5) The degree of commitment of the grant applicant to maintain coastal waters free of derelict vessels and its record for seeking legal action against those owners who abandon vessels in the waters of the state.
- 6) The timeliness and completeness of the grant application received from the applicant.

Only derelict vessels as defined in Fla. Stat. § 823.11(1) are eligible for removal with grant funds and only local state governments may apply. All derelict vessels must be designated and marked by a law enforcement officer as specified under Fla. Stat. § 327.70. Such designation and marking shall be considered made when the law enforcement officer completes a Derelict or Abandoned Vessel Report.

The Fuel Tax Collection Trust Fund of Florida is also required to provide a minimum of \$1.25 million dollars to fund local projects, which include derelict vessels removal projects (Fla. Stat. § 206.606(b)(1)). The money from this fund is targeted to fund projects in counties with less than 100,000 people and those with high boat activity. In addition, the Florida Boating Improvement Program provides funding through competitive grants for boating access projects and other boating-related activities, such as derelict vessel removal on coastal and/or inland waters of Florida. Eligible program participants include county governments, municipalities and other governmental entities of the State of Florida.



Lead State Agency

The Florida Fish and Wildlife Conservation Commission manages the derelict vessel program for the State of Florida.

Email: through website

Phone: 850-488-4676

Website: <http://myfwc.com/boating/waterway/derelict-vessels/>

Insurance Requirements for Vessels

Vessel/Boat insurance is not required by law in Florida.

Specific Location Factors, Limitations and Additional Information

The Florida Fish and Wildlife Conservation Commission only have the authority to remove derelict vessels from public waters. They do not have jurisdiction over abandoned or derelict vessels found on private property.

Prioritization Scheme

Derelict vessels that are public safety and navigational hazards have removal priority. Derelict vessels that pose an environmental hazard also receive removal priority after vessels that pose a public safety risk.

Legislation and Administrative Codes

The laws and administrative codes referenced in this document can be accessed from:

Florida Statutes (2015):

<http://www.lexisnexis.com/hottopics/gacode/Default.asp>

Florida Administrative Code (2015):

<https://www.flrules.org/>

These Legislative and Administrative Reviews are intended for informational purposes only. They are summaries and not meant to be legal references, and should not be used as such. See the official state statutes and administrative codes for current state laws and rules and regulations for any legal references.