

**CONFERENCE COMMITTEE REPORT
House Bill No. 596 By Representative St. Germain**

June 1, 2012

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 596 by Representative St. Germain, recommend the following concerning the Reengrossed bill:

1. That the Senate Floor Amendments Nos. 1 through 6 proposed by the Legislative Bureau and adopted by the Senate on May 7, 2012, be adopted.
2. That the Senate Floor Amendments Nos. 1 through 3 proposed by Senator Claitor and adopted by the Senate on May 8, 2012, be rejected.
3. That the following amendments to the Reengrossed bill be adopted:

AMENDMENT NO. 1

On page 1, line 2, after "reenact" and before "and" change "R.S. 9:4784(D)" to "R.S. 9:4781(8), 4783(B), 4784(B)(1)(c), (D), and (G), and R.S. 39:2181(A)"

AMENDMENT NO. 2

On page 1, line 9, after "Section 1." and before "hereby" change "R.S. 9:4784(D) is" to "R.S. 9:4781(8), 4783(B), and 4784(B)(1)(c), (D), and (G) are"

AMENDMENT NO. 3

On page 1, between lines 11 and 12, insert the following:

"§4781. Definitions

For the purposes of this Part, the following terms shall have the following meanings unless the context clearly requires otherwise:

* * *

(8) "Rental agreement" means any written agreement or lease, entered into between the marina ~~operator~~ owner and a lessee that establishes or modifies the terms, conditions, rules, or any other provisions concerning use of the marina.

* * *

§4783. Notice of privilege

* * *

B. A marina owner who does not have a written rental agreement that includes a notice of the privilege created by this Part may not initiate an enforcement action under ~~R.S. 9:4785~~ R.S. 9:4784 until thirty days after the written notice of a privilege required by Paragraph (A)(2) of this Section is delivered to the property owner."

AMENDMENT NO. 4

On page 1, between lines 12 and 13, insert the following:

"* * *

B. Advertisement; notice of default. Before conducting a sale under this Section, the marina owner shall:

(1) Send a notice of default to the property owner. The marina owner shall provide a copy of the notice to each lienholder of record. The notice must include:

* * *

(c) A demand for payment of the charges due within a specified time not less than thirty days after the date the notice is delivered to the property owner ~~and all marina owners of record.~~"

AMENDMENT NO. 5

On page 1, delete line 18 in its entirety and insert "signed by the buyer and a representative of the marina, clearly identifying the marina as the"

AMENDMENT NO. 6

On page 2, between lines 3 and 4, insert the following:

"G. Notices. Except as otherwise provided, all notices required by this Part must be sent by registered or certified mail, return receipt requested, or by commercial courier as defined by R.S. 13:3204(D). Notices sent to a marina owner must be sent to the owner's business address or to the address of the owner's designated representative. Notices to a property owner must be sent to the property owner at the property owner's last known address. Notices to a lienholder of record must be sent to the address of the lienholder as provided in the public record that ~~serve~~ serves to perfect the lienholder's interest in the property. Notices are considered delivered on ~~the~~ either of the following dates:

(1) The date the recipient of the notice signs the return receipt or, if the notice is undeliverable, the date the post office last attempts to deliver the notice.

(2) The date of delivery as indicated on the signed receipt of delivery obtained by the commercial courier."

AMENDMENT NO. 7

On page 4, line 7, after "statement" and before "the" insert "that"

AMENDMENT NO. 8

On page 5, line 5, after "by" delete the remainder of the line and insert "the buyer and a representative of the licensed storage facility, clearly identifying the"

AMENDMENT NO. 9

On page 5, at the end of line 8, change the period to a comma and insert " "without which the bill of sale shall be null and void."

AMENDMENT NO. 10

On page 6, after line 13, add the following:

"Section 2. R.S. 39:2181(A) is hereby amended and reenacted to read as follows:

§2181. Applicability; definitions

A. This Chapter shall apply to any contract or cooperative endeavor agreement that results from any bid or other award governed under Chapter 16 and Chapter 17 of this Title. However, provided that other applicable provisions of the Procurement Code are followed, this Chapter shall not apply to any purchase by a state agency directly from a vessel manufacturer or an outboard motor manufacturer.

* * *"

Respectfully submitted,

Representative Karen Gaudet St. Germain

Senator Daniel "Danny" Martiny

Representative Neil C. Abramson

Senator Dan Claitor

Representative Ray Garofalo

Senator Rick Ward, III

CONFERENCE COMMITTEE REPORT DIGEST

House Bill No. 596 by Representative St. Germain

Keyword and oneliner of the instrument as it left the House

BOATS/SHIPS/VESSELS: Creates the Towed and Stored Vessel Act

Report adopts Senate amendments to:

1. Add technical Legislative Bureau Amendments.

Report rejects Senate amendments which would have:

1. Deleted the requirement that the bill of sale be signed by both parties and two witnesses and be notarized.
2. Added requirement that the proof of publication be provided to the purchaser instead of being attached to the bill of sale.

Report amends the bill to:

1. Change the definition of "rental agreement" from an agreement between the marina operator and a lessee to an agreement between the marina owner and a lessee.
2. Correct a citation from R.S. 9:4785 to R.S. 9:4784 relative to enforcement actions.
3. Delete the requirement that marina owners deliver notice of payment to all marina owners of record.
4. Add "commercial courier" as an available method of delivering notice.
5. Add a requirement that the bill of sale clearly identify the marina as the seller and that the bill of sale be signed by the buyer and a representative of the marina.
6. Add a requirement that the bill of sale clearly identify the licensed storage facility as the seller and that bill of sale be signed by the buyer and a representative of the licensed storage facility.
7. Add a provision that if proof of notice, publication, and sale requirements for licensed storage facilities are not attached to the bill of sale, the bill of sale shall be null and void.
8. Add an exception from the prohibition from accepting bids from or entering into contracts for the procurement of vehicles with certain unlicensed dealers.

Digest of the bill as proposed by the Conference Committee

Present law defines "rental agreement" as any written agreement or lease, entered into between the marina operator and a lessee that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use of the marina.

Proposed law changes "marina operator" to "marina owner".

Present law requires that notice of default be delivered to the property owner and all marina owners of record.

Proposed law deletes the requirement to deliver notice to all marina owners of record.

Present law requires all notices to be sent by registered or certified mail, return receipt requested.

Proposed law retains present law and authorizes notice by commercial courier.

Present law provides, pursuant to the Marina and Boatyard Storage Act, that a purchaser of property sold pursuant to the Act takes the property free and clear of privileges and liens.

Proposed law retains present law and requires that the bill of sale clearly identify the marina as the seller and that bill of sale be signed by the buyer and a representative of the marina.

Proposed law provides for definitions.

Proposed law creates a privilege on a towed and stored vessel, including the motor, for towing and storage fees. Provides, however, that a privilege is not created on a documented vessel subject to a preferred ship mortgage or other maritime privilege pursuant to federal law.

Proposed law requires the storage facility to provide the Dept. of Wildlife and Fisheries with the vessel's registration, hull identification, and motor serial numbers and any other identifying information requested within three business days of the vessel being towed and stored. The department shall provide the name and address of the last registered owner and lienholders to the storage facility.

Proposed law requires the storage facility to notify the owner and lienholders within 10 business days from the date the department sends notice before the privilege can be enforced. If the owner and lienholder can be identified, the storage facility shall send written notification by certified mail. If they cannot be identified, notification shall be published on two separate occasions in the official newspaper of the parish in which the vessel was towed.

Proposed law provides the contents of the notification shall include a description of the vessel, the date it was found, its present location, a statement that the vessel is subject to privilege and subject to sale unless the claim is paid.

Proposed law provides that after holding the vessel for 30 days, the storage facility may sell the vessel 15 days after publishing a notice of the sale once a week for two weeks.

Proposed law requires the sale to be at or the nearest suitable location to the storage facility.

Proposed law requires the sale to the highest bidder and requires that the bill of sale clearly identify the licensed storage facility as the seller and that bill of sale be signed by the buyer and a representative of the marina, and provides that if proof of notice, publication, and sale requirements for marinas are not attached to the bill of sale, the bill of sale will be null and void.

Proposed law provides for the distribution of the proceeds in the following order:

- (1) To the reasonable expenses of the sale including, to the extent not prohibited by law, reasonable attorney fees and legal expenses.
- (2) To the satisfaction of all superior mortgages.
- (3) To the satisfaction of the privilege.
- (4) To the satisfaction of all other mortgages and privileges.

Proposed law provides that any surplus shall be transferred to the administrator of the Uniform Unclaimed Property Act of 1997 as unclaimed property.

Proposed law provides if proceeds are not sufficient to satisfy the vessel owner's outstanding obligations to the licensed storage facility or any lienholder of record, the vessel owner remains liable to the licensed storage facility for the deficiency.

Proposed law provides that the purchaser of a boat sold pursuant to proposed law takes the vessel free and clear of any rights of persons against whom the privilege was valid and all other lienholders of record.

Proposed law authorizes the department to promulgate rule and regulations.

Present law prohibits a public entity from accepting any bid from or entering into a contract for the procurement of vehicles with a dealer who does not possess a license as required by R.S. 32:2182.

Proposed law provides an exception from the present law prohibition for purchases made directly from a vessel manufacturer or an outboard motor manufacturer, provided that other applicable provisions of the Procurement Code are followed.

(Amends R.S. 9:4781(8), 4783(B), and 4784(B)(1)(c), (D), and (G), and R.S. 39:2181(A); Adds R.S. 9:4791-4798)