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CS/HB 929

2014 Legislature

1
2 An act relating to Little Gasparilla Island, Charlotte
3 County; providing an exception to general law;
4 authorizing future modifications to certain single-
5 family docks, multislip docks, and multifamily docks
6 under certain circumstances; providing that
7 applications filed pursuant to the requirements of the
8 act are full and final settlement of specified claims;
9 limiting the state's liability if a court makes
10 certain determinations relating to such docks;
11 authorizing the Department of Environmental Protection
12 to take enforcement action against docks or owners of
13 riparian parcels or upland interests associated with
14 docks that do not meet specified criteria after a
15 specified date; providing for applicability; providing
16 an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

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20 Section 1. Notwithstanding chapter 258, Florida Statutes,
21 if the criteria set forth in section 2 or section 3 are met
22 within 2 years after the effective date of this act, the owner
23 of the riparian parcel or upland interest associated with an
24 existing private residential single-family dock constructed
25 before March 1, 2013, on sovereignty submerged lands adjacent to
26 Little Gasparilla Island in the Lemon Bay Aquatic Preserve,

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27 Charlotte County, or the incorporated association holding the
 28 submerged lands lease for an existing private residential
 29 multifamily dock or private residential multislip dock
 30 constructed before March 1, 2013, on sovereignty submerged lands
 31 adjacent to Little Gasparilla Island in the Lemon Bay Aquatic
 32 Preserve, shall be:

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

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

37 (3) Permitted to rebuild the entire structure to the dock
 38 configuration as of March 1, 2013, if more than 50 percent of
 39 the dock falls into a state of disrepair or is destroyed as a
 40 result of a natural or manmade force, notwithstanding rule 18-
 41 20.004(5)(a)6., Florida Administrative Code.

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

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

49 (a) The proposed modification does not meet the side
 50 setback requirements of rule 18-21.004(3)(d), Florida
 51 Administrative Code. However, the proposed modification may not
 52 encroach into the setback farther than the existing dock.

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

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

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

76 Section 3. Section 1 applies to a private residential
77 multifamily dock or private residential multislip dock if the
78 following conditions are met within 2 years after the effective

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79 date of this act:

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

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

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

104 (1) The lease shall be issued if the association has

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105 presented documentary evidence of fee simple title to the
106 associated upland parcel or documentary evidence of an
107 associated permanent upland riparian easement created for the
108 exclusive or nonexclusive use of the property owners who are the
109 association members, notwithstanding any provision of rules 18-
110 20 and 18-21, Florida Administrative Code, that may be
111 understood to require other evidence or another form of upland
112 interest.

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

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

127 Section 5. The state, the Board of Trustees of the
128 Internal Improvement Trust Fund, and the Department of
129 Environmental Protection are not liable to the owner of an
130 upland riparian parcel or the riparian interestholder of a dock

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131 for any loss or damage suffered by such owner or party if a
132 court of competent jurisdiction determines that any part of any
133 dock authorized by this act encroaches on or interferes with the
134 riparian rights of others or requires the modification or
135 removal of any dock authorized by this act.

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

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