

1999 DRAFTING REQUEST

Bill

Received: 10/26/1999

Received By: gibsom

Wanted: As time permits

Identical to LRB:

For: Brian Rude (608) 266-5490

By/Representing: Ken Machten

This file may be shown to any legislator: NO

Drafter: fasttn

May Contact:

Alt. Drafters:

Subject: Nat. Res. - nav. waters

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Regulation of fixed houseboats

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gibsom 12/29/1999			_____			
/P1	fasttn 02/09/2000	csicilia 02/10/2000		_____			S&L
/1			martykr 02/10/2000	_____	lrb_docadmin 02/10/2000	lrb_docadmin 02/22/2000	

FE Sent For:

<END>

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July 22, 1999

TO: SENATOR BRIAN D. RUDE

FROM: Mark Patronsky, Senior Staff Attorney

SUBJECT: Draft Legislation Regarding the Repair, Maintenance or Reconstruction of Fixed Houseboats

Attached to this memorandum, is a copy of WLCS: 0177/1, a bill draft prepared according to your request for legislation to allow the maintenance of certain fixed houseboats. A "fixed houseboat" is defined in s. 30.01 (1r), Stats., as follows:

"Fixed houseboat" means a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.

The current statutes restrict the construction and maintenance of fixed houseboats and boathouses. A copy of current s. 30.121, Stats., is included as an attachment to this memorandum.

Under the current statute, a boathouse or fixed houseboat may not be constructed or placed below the ordinary high-water mark of any navigable waterway after December 16, 1979 (the date that the statute took effect). The "ordinary high-water mark" is the line along a lakeshore or stream bank where the water leaves some distinct mark. This mark can consist of signs of erosion, destruction of vegetation, the change from aquatic to terrestrial vegetation or other similar characteristics. A boathouse or a fixed houseboat extending below the ordinary high-water mark that was constructed before that time may be repaired or maintained if the cost of the repair or maintenance does not exceed 50% of the equalized assessed value of the boathouse or fixed houseboat. An alternate method of making this calculation is provided in the statute if the boathouse or fixed houseboat is not subject to assessment. Rules promulgated by the Department of Natural Resources (DNR) in ch. NR 325, Wis. Adm. Code, contain procedures for application of the cost-of-repair limits to individual boathouses and fixed houseboats. (A copy of ch. NR 325 is included as an attachment to this memorandum.)

The effect of this statute is that a boathouse or fixed houseboat that requires repair or maintenance beyond the cost threshold may no longer be repaired or maintained. If the boathouse or fixed houseboat falls into disrepair, is abandoned or obstructs navigation DNR may order the owner to remove it or the DNR may, under certain circumstances, provide for the removal.

WLCS: 0177/1 modifies the current statute by limiting it to boathouses. All references to fixed houseboats are deleted. The reason for this change is that the current statute contains a number of provisions that apply only to boathouses, and not to fixed houseboats. The statutes will be substantially easier to understand if boathouses and fixed houseboats are covered by separate sections of the statutes.

The draft replaces "beyond" with "below" in all occurrences of the phrase "below the ordinary high-water mark of any navigable waterway." This clarifies that the statute applies to a boathouse or fixed houseboat that is constructed or placed on the water side of the ordinary high-water mark. The draft also amends the current statute to eliminate the grant of authority for the DNR to promulgate rules. State agencies have a general grant of rule-making authority under s. 227.11, Stats., for programs within their jurisdiction.

WLCS: 0177/1 creates a new statute that establishes regulations for fixed houseboats. The draft retains the December 16, 1979 date after which no fixed houseboat may be constructed or placed below the ordinary high-water mark of a navigable waterway. The proposed statute allows the owner of a fixed houseboat constructed on or before that date to repair, maintain or reconstruct the fixed houseboat. In a nonstatutory provision of the draft, any repair, maintenance or reconstruction of a fixed houseboat since December 16, 1979 is approved, even though it may not have complied with current s. 30.121, Stats. Also, for any reconstruction after the effective date of the legislation (the day after the legislation, as passed by the Legislature and signed by the Governor, is published in the official state newspaper) may only occur within the dimensions of the structure that existed on the effective date of the legislation.

A key difference between the proposed statute for fixed houseboats and the existing statute is deletion of the word "riparian" in the authorization for maintenance. The current statute allows maintenance by a "riparian owner" of a boathouse or a fixed houseboat. The apparent intent of this language is to allow only riparian property owners to maintain a boathouse or fixed houseboat. Some of the fixed houseboats along the Mississippi River are not adjacent to property that is owned by the owner of the fixed houseboat. Therefore, the word "riparian" is omitted from proposed s. 30.1215 (2) (a) and (b), Stats.

A further difference between the proposed statute and the current statute is that the provision in the current statute regarding structures listed on the National or State Register of Historic Places is omitted with respect to fixed houseboats. Under the current statute, this provision appears to have the effect of allowing maintenance of boathouses or fixed houseboats that are listed on the National or State Register of Historic Places. This provision is not necessary in the new statute as it applies to fixed houseboats because maintenance, repair or reconstruction of fixed houseboats is permitted.

If I can provide further information or assistance with redrafting WLCS: 0177/1, please feel free to contact me.

MCP:ksm;tlu
Attachments

Section 30.121, Stats.

30.121 Regulation of boathouses and houseboats. (2) PROHIBITIONS. After December 16, 1979 no boathouse or fixed houseboat may be constructed or placed beyond the ordinary high-water mark of any navigable waterway.

(3) MAINTENANCE. The riparian owner of any boathouse or fixed houseboat extending beyond the ordinary high-water mark of any navigable waterway may repair and maintain the boathouse or fixed houseboat if the cost of the repair or maintenance does not exceed 50% of the equalized assessed value of the boathouse or fixed houseboat. If the boathouse or fixed houseboat is not subject to assessment, the owner may make repairs if the cost of the repair or maintenance does not exceed 50% of the current fair market value of the boathouse or fixed houseboat.

(3m) EXCEPTION; CERTAIN SINGLE STORY BOATHOUSES. Notwithstanding subs. (2) and (3), a person may construct, repair or maintain a single-story boathouse over an authorized waterway enlargement if:

- (a) The boathouse does not extend beyond the ordinary high-water mark as it existed prior to the creation of the enlargement;
- (b) The boathouse covers the entire enlargement; and
- (c) Living quarters or plumbing fixtures are not constructed in the boathouse.

(3r) EXCEPTION; DAMAGES AFTER JANUARY 1, 1984. Subsections (2) and (3) do not apply to the repair or reconstruction of a damaged boathouse if the boathouse was damaged by violent wind, vandalism or fire and if the damage occurs after January 1, 1984.

(4) MAJOR REPAIR, ABANDONED STRUCTURES AND OBSTRUCTIONS TO NAVIGATION. The owner of a boathouse or a fixed houseboat which extends beyond the ordinary high-water mark of any navigable waterway and which is in a major state of disrepair or is a material obstruction to navigation may be ordered by the department to remove the structure from the waterway. The department shall follow the procedures set forth in s. 30.03 (4) (a) for ordering removal of a structure. If such a structure is abandoned and the department, after due diligence, cannot locate the owner, the department shall utilize the procedures set forth in s. 31.187 (1) for removing the abandoned structure.

(5) APPLICABILITY. Boathouses or fixed houseboats owned by the state or by local units of government shall comply with this section. This section does not apply to any structure listed on the national register of historic places in Wisconsin or the state register of historic places.

(6) RULES. The department may promulgate rules deemed necessary to carry out the purposes of this section. The rules may not govern the aesthetic features or color of boathouses.

(7) PENALTIES. Any person who constructs, owns or maintains a boathouse or fixed houseboat in violation of this section or in violation of any order issued under this section shall forfeit not

less than \$10 nor more than \$50 for each offense. Each day a structure exists in violation of this section constitutes a separate offense.

Chapter NR 325

MAINTENANCE, REPAIR AND REMOVAL PROCEDURES FOR BOATHOUSES AND FIXED HOUSEBOATS ON NAVIGABLE WATERWAYS

NR 325.01	Purpose	NR 325.08	Maintenance and repair cost certification information
NR 325.02	Applicability	NR 325.09	Prohibitions
NR 325.03	Definitions	NR 325.10	No permit necessary
NR 325.05	Current value	NR 325.11	Removal procedure for abandoned boathouses or fixed houseboats
NR 325.06	Repair and maintenance cost	NR 325.12	Removal procedure for disrepaired or obstructing boathouses or fixed houseboats
NR 325.065	Exemption from 50% repair limitations	NR 325.13	Other enforcement
NR 325.07	Certification procedure		

NR 325.01 Purpose. These rules are promulgated pursuant to ss. 30.121 and 227.11 (2) (a) and (b), Stats., in order to establish a valuation program for boathouses and fixed houseboats, to define terms used in s. 30.121, Stats., and other terms necessary to the administration of s. 30.121, Stats., and these rules, and to establish procedures for certification of maintenance and repair costs, and procedures for the department to use in obtaining removal of abandoned boathouses and fixed houseboats or boat houses which materially obstruct navigation.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80; correction made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1995, No. 478.

NR 325.02 Applicability. These rules apply to boathouses and fixed houseboats that extend beyond the ordinary highwater mark of navigable waterways.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.

NR 325.03 Definitions. (1) "Abandoned" means the relinquishment of possession of a boathouse or fixed houseboat by the owner with indications of intent to terminate ownership, which may be evidenced by several factors such as the failure to act to maintain or repair boathouses or fixed houseboats that are in a major state of disrepair.

(2) "Boathouse" means a permanent structure used for the storage of watercrafts and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of structural parts. For purposes of this chapter, the term boathouse does not include shore stations or boathouses which are removed from a waterway on an annual basis.

(3) "Constructed or placed" means:

(a) The original erection of a boathouse or the original placement of a fixed houseboat beyond the ordinary highwater mark of any navigable waterway; or

(b) The building of additions to existing boathouses or existing fixed houseboats; or

(c) The relocation of a boathouse or a fixed houseboat beyond the ordinary highwater mark of any navigable waterway at a location different from its location at the date of this act; or

(d) The conversion of a boathouse or fixed houseboat in a manner to allow permanent or temporary human habitation after December 15, 1979.

(4) "Current value" means the equalized assessed value as determined by s. 70.32, Stats., or, if not assessed, its current fair market value as certified by a competent appraiser using standard real estate appraisal techniques. If assessed, but the assessment for the boathouse or fixed houseboat cannot be separately distinguished from the general property assessment, the current value shall be the current fair market value as set forth above.

(5) "Fixed houseboat" means a structure not actually used for navigation which extends beyond the ordinary highwater mark of a navigable waterway and is retained in place either by cables at-

tached to the shoreline or by anchors or spudpoles attached to the bed of the waterway.

(6) "Major state of disrepair" means a state of damage or deterioration, such that the repair or replacement thereof would exceed 50% of its current value.

(7) "National, state or local historical landmark" means a structure listed in or determined eligible for listing in the national registry of historical places or in a local municipal historical preservation ordinance by using procedures prescribed by the Wisconsin state historical society.

(8) "Not actually used for navigation" means that, while possibly floatable and maneuverable, the primary purpose is not navigation.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.

NR 325.04 Severability. **History:** Cr. Register, August, 1980, No. 296, eff. 9-1-80; r. under s. 13.93 (2m) (b) 16., Stats., Register, October, 1995, No. 478.

NR 325.05 Current value. An owner wishing to repair or maintain a boathouse or fixed houseboat shall provide to the department proof of its current value.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.

NR 325.06 Repair and maintenance cost. (1) Owners of boathouses or fixed houseboats shall obtain a certification from the department that all needed repair and maintenance costs total less than 50% of the current valuation of the structure prior to performance of the maintenance of repairs.

(2) If all needed repair and maintenance costs total less than 10% of the current value, the owner does not need to apply to the department for a certification pursuant to this chapter. However, any such owner shall maintain a record of the current value at the time of repair and the costs of all needed repairs and maintenance and shall submit such records to the department upon request.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.

NR 325.065 Exemption from 50% repair limitation. The limitation on repairing only 50% of the current value of a boathouse or fixed houseboat shall not be applicable to any such structure damaged by violent wind, vandalism or fire.

History: Cr. Register, August, 1989, No. 296, eff. 9-1-80.

NR 325.07 Certification procedure. (1) Except as provided for in s. NR 325.06 (2), owners of boathouses or fixed houseboats wishing to perform maintenance or repairs shall request certification that all required maintenance and repairs do not exceed 50% of the current value. The request for certification shall be made to the department district director of the district within which the boathouse or fixed houseboat is located and shall contain the information set forth in ss. NR 325.05 and 325.08.

(2) The department shall review the information submitted by the applicant for certification and shall inspect the boathouse or fixed houseboat.

(3) The department shall within 60 days issue a certification as requested if the department agrees with the estimates of all needed repair or maintenance costs and finds that all needed maintenance or repairs are less than 50% of the current value.

(4) If the department disagrees with either the cost estimate for all needed maintenance or repairs or the current value it may obtain independent estimates of such cost or current value. The department shall issue the requested certification if the independent estimates for costs of all needed maintenance or repairs and current value are less than 50% of the current value.

(5) The department shall deny requested certification if either the independent or applicant's estimates of costs for all needed maintenance or repairs exceeds 50% of the current value and shall declare the boathouse or fixed houseboat to be in a major state of disrepair. Any owner denied certification may review the denial pursuant to s. 227.42, Stats.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80; correction in (5) made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1995, No. 478.

NR 325.08 Maintenance and repair cost certification information. (1) **REQUIRED INFORMATION.** Plans or photographs with a locational sketch shall be prepared by the applicant showing the following information for use by the department.

(a) **Location.** The waterway upon which the boathouse or fixed houseboat is located, the legal description of the adjacent property and directions to the site shall be provided.

(b) **Owner or lessee.** The owner or lessee's name, address, fire number (if available) and telephone number shall be provided.

(c) **Features.** Information about the following features and their state of repair shall be provided as a part of the required certification information:

1. Boathouses
 - a. Foundations
 - b. Structural framework
 - c. Siding
 - d. Roofing
 - e. Presence and description of living quarters, if any
2. Fixed houseboats
 - a. Devices used to secure the fixed houseboat to the bank or bed
 - b. Floatation devices
 - c. Superstructure framework
 - d. Siding
 - e. Roof
 - f. Presence and description of living quarters, if any

(2) **STATEMENT OF MAINTENANCE OR REPAIRS.** The applicant shall provide a statement of all needed maintenance or repair items regardless of whether the maintenance or repair will be done within one year of the statement. An estimate of labor and material cost associated with those items shall be submitted. Estimates may be prepared by the applicant or by a contractor or contractors representing the applicant. Volunteer labor shall be valued at the prevailing minimum wage rate.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.

NR 325.09 Prohibitions. After December 15, 1979 the construction or placement of boathouses or fixed houseboats on the bed of navigable waterways is prohibited.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.

NR 325.10 No permit necessary. No permit is necessary pursuant to s. 30.12, Stats., for the maintenance and repair of boathouses and fixed houseboats.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.

NR 325.11 Removal procedure for abandoned boathouses or fixed houseboats. (1) Upon complaint or upon its own motion the department shall initiate the process set forth in s. 29.04, Stats., for the removal of abandoned boathouses or fixed houseboats.

(2) The department prior to removal shall issue a 60 day notice to the owner of the boathouse or fixed houseboat if the owner can be reasonably ascertained.

(3) If the owner cannot be determined, the department shall publish a class 3 notice pursuant to ch. 985, Stats.

(4) After the 60 day period of notification to the owner or one week after the last insertion pursuant to ch. 985, Stats., has passed, the department shall remove abandoned boathouses or fixed houseboats.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.

NR 325.12 Removal procedure for disrepaired or obstructing boathouses or fixed houseboats. Upon complaint or upon its own motion the department shall order the removal of boathouses or fixed houseboats which materially obstruct navigation or are in a major state of disrepair pursuant to the provisions of s. 30.03 (4) (a), Stats.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.

NR 325.13 Other enforcement. Forfeitures and abatement for violations of s. 30.121, Stats., and this chapter may also be prosecuted by the department pursuant to the provisions of ss. 23.50, 23.79 and 30.03 (1) or (2), Stats.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.

1 **AN ACT** to amend 30.01 (1r) and 30.121 (title), (2), (3), (3m) (a) and (4) to (7); and to
2 **create** 30.1215 of the statutes; relating to: the repair, maintenance or reconstruction
3 of fixed houseboats.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 30.01 (1r) of the statutes is amended to read:

5 30.01 (1r) "Fixed houseboat" means a structure not actually used for navigation which
6 extends beyond is constructed or placed below the ordinary high-water mark of a navigable
7 waterway and is retained in place either by cables to the ~~shoreline~~ shore or by anchors or
8 spudpoles attached to the bed of the waterway.

9 **SECTION 2.** 30.121 (title), (2), (3), (3m) (a) and (4) to (7) of the statutes are amended
10 to read:

11 **30.121 (title) Regulation of boathouses and houseboats.**

12 (2) (title) ~~PROHIBITIONS~~ PROHIBITION. After December 16, 1979 no boathouse or fixed
13 houseboat may be constructed or placed beyond below the ordinary high-water mark of any
14 navigable waterway.

15 (3) MAINTENANCE. The riparian owner of any boathouse or fixed houseboat extending
16 beyond below the ordinary high-water mark of any navigable waterway may repair and
17 maintain the boathouse or fixed houseboat if the cost of the repair or maintenance does not
18 exceed 50% of the equalized assessed value of the boathouse or fixed houseboat. If the
19 boathouse or fixed houseboat is not subject to assessment, the owner may make repairs if the

1 cost of the repair or maintenance does not exceed 50% of the current fair market value of the
2 boathouse ~~or fixed houseboat~~.

3 (3m) (a) The boathouse does not extend ~~beyond~~ below the ordinary high-water mark
4 as it existed prior to the creation of the enlargement;

5 (4) (title) MAJOR REPAIR, ABANDONED ~~STRUCTURES~~ BOATHOUSES AND OBSTRUCTIONS TO
6 NAVIGATION. The owner of a boathouse ~~or a fixed houseboat~~ which extends ~~beyond~~ below the
7 ordinary high-water mark of any navigable waterway and which is in a major state of disrepair
8 or is a material obstruction to navigation may be ordered by the department to remove the
9 ~~structure~~ boathouse from the waterway. The department shall follow the procedures set forth
10 in s. 30.03 (4) (a) for ordering removal of a ~~structure~~ boathouse. If such a ~~structure~~ boathouse
11 is abandoned and the department, after due diligence, cannot locate the owner, the department
12 shall utilize the procedures set forth in s. 31.187 (1) for removing the abandoned ~~structure~~
13 boathouse.

14 (5) APPLICABILITY. Boathouses ~~or fixed houseboats~~ owned by the state or by local units
15 of government shall comply with this section. This section does not apply to any ~~structure~~
16 boathouse listed on the national register of historic places in Wisconsin or the state register
17 of historic places.

18 (6) RULES. ~~The Any rules promulgated by the department may promulgate rules~~
19 ~~deemed necessary to carry out the purposes of~~ under this section. ~~The rules may not govern~~
20 the aesthetic features or color of boathouses.

21 (7) PENALTIES. Any person who constructs, owns or maintains a boathouse ~~or fixed~~
22 ~~houseboat~~ in violation of this section or in violation of any order issued under this section shall
23 forfeit not less than \$10 nor more than \$50 for each offense. Each day a ~~structure~~ boathouse
24 exists in violation of this section constitutes a separate offense.

1 **SECTION 3.** 30.1215 of the statutes is created to read:

2 **30.1215 Regulation of fixed houseboats. (1) PROHIBITION.** After December 16, 1979
3 no fixed houseboat may be constructed or placed below the ordinary high-water mark of any
4 navigable waterway.

5 **(2) MAINTENANCE.** (a) The owner of a fixed houseboat extending below the ordinary
6 high-water mark of any navigable waterway may repair, maintain or reconstruct the fixed
7 houseboat.

8 (b) The owner of a fixed houseboat may only reconstruct the fixed houseboat within
9 the dimensions of the structure that existed on the effective date of this paragraph [revisor
10 inserts date].

11 **(3) MAJOR REPAIR, ABANDONED FIXED HOUSEBOATS AND OBSTRUCTIONS TO NAVIGATION.**
12 The owner of a fixed houseboat which extends below the ordinary high-water mark of any
13 navigable waterway and which is in a major state of disrepair or is a material obstruction to
14 navigation may be ordered by the department to remove the fixed houseboat from the
15 waterway. The department shall follow the procedures set forth in s. 30.03 (4) (a) for ordering
16 removal of a fixed houseboat. If such a fixed houseboat is abandoned and the department, after
17 due diligence, cannot locate the owner, the department shall utilize the procedures set forth
18 in s. 31.187 (1) for removing the abandoned fixed houseboat.

19 **(4) APPLICABILITY.** Fixed houseboats owned by the state or by local units of government
20 shall comply with this section.

21 **(5) PENALTIES.** Any person who constructs, owns or maintains a fixed houseboat in
22 violation of this section or in violation of any order issued under this section shall forfeit not
23 less than \$10 nor more than \$50 for each offense. Each day a fixed houseboat exists in
24 violation of this section constitutes a separate offense.

WANTED SOON
turned in 2/9/00

CJS

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

on navigable waterways, granting rule-making authority and providing a penalty

1 AN ACT to amend 30.01 (1r) and 30.121 (title), (2), (3), (3m) (a) and (4) to (7); and
2 to create 30.1215 of the statutes; relating to: ~~the repair, maintenance or~~
3 ~~reconstruction of~~ fixed houseboats.

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 30.01 (1r) of the statutes is amended to read:

5 30.01 (1r) "Fixed houseboat" means a structure not actually used for
6 navigation ~~which extends beyond~~ is constructed or placed ^{on} ~~by~~ the ordinary
7 ~~high water mark of~~ ^{that} a navigable waterway and is retained in place either by cables
8 to the shoreline shore or by anchors or spudpoles attached to the bed of the waterway.

9 SECTION 2. 30.121 (title), (2), (3) ~~of the statutes are~~
10 amended to read: and

Insert 2-11

1 **30.121 (title) Regulation of boathouses and houseboats.**

2 (2) (title) PROHIBITIONS PROHIBITION. After December 16, 1979, no boathouse or
3 fixed houseboat may be constructed or placed beyond below the ordinary high-water
4 mark of any navigable waterway.

5 (3) MAINTENANCE. The riparian owner of any boathouse or fixed houseboat
6 extending beyond below the ordinary high-water mark of any navigable waterway
7 may repair and maintain the boathouse or fixed houseboat if the cost of the repair
8 or maintenance does not exceed 50% of the equalized assessed value of the boathouse
9 or fixed houseboat. If the boathouse or fixed houseboat is not subject to assessment,
10 the owner may make repairs if the cost of the repair or maintenance does not exceed
11 50% of the current fair market value of the boathouse or fixed houseboat.

12 (a) The boathouse does not extend beyond below the ordinary high-water
13 mark as it existed prior to the creation of the enlargement.

14 30.121 (4) (title) MAJOR REPAIR, ABANDONED STRUCTURES BOATHOUSES AND OBSTRUCTIONS
15 TO NAVIGATION. The owner of a boathouse or a fixed houseboat which extends beyond
16 below the ordinary high-water mark of any navigable waterway and which is in a
17 major state of disrepair or is a material obstruction to navigation may be ordered by
18 the department to remove the structure boathouse from the waterway. The
19 department shall follow the procedures set forth in s. 30.03 (4) (a) for ordering
20 removal of a structure boathouse. If such a structure boathouse is abandoned and
21 the department, after due diligence, cannot locate the owner, the department shall
22 utilize the procedures set forth in s. 31.187 (1) for removing the abandoned structure
23 boathouse.

24 (5) APPLICABILITY. Boathouses or fixed houseboats owned by the state or by local
25 units of government shall comply with this section. This section does not apply to

Insert 2-13

Insert 3-2

1 any structure boathouse listed on the national register of historic places in Wisconsin
 2 or the state register of historic places. ✓

3 (6) RULES. ~~The~~ Any rules promulgated by the department may promulgate
 4 rules deemed necessary to carry out the purposes of under this section. The rules
 5 may not govern the aesthetic features or color of boathouses.

6 (7) PENALTIES. Any person who constructs, owns or maintains a boathouse or
 7 fixed houseboat in violation of this section or in violation of any order issued under
 8 this section shall forfeit not less than \$10 nor more than \$50 for each offense. Each
 9 day a structure boathouse exists in violation of this section constitutes a separate
 10 offense. *unless the fixed houseboat was so constructed or placed before December 17, 1979*

11 SECTION 3. 30.1215 of the statutes is created to read:

12 **30.1215 Regulation of fixed houseboats.** (1) PROHIBITION. *After December*

13 ~~16/1/1979~~ no fixed houseboat may be constructed or placed below the ordinary
 14 high-water mark of any navigable waterway.

15 (2) MAINTENANCE. (a) The owner of a fixed houseboat extending below the
 16 ordinary high-water mark of any navigable waterway may repair, maintain or
 17 reconstruct the fixed houseboat.

18 (b) The owner of a fixed houseboat may only reconstruct the fixed houseboat
 19 within the dimensions of the structure that existed on the effective date of this
 20 paragraph [revisor inserts date]. ✓

21 (3) MAJOR REPAIR, ABANDONED FIXED HOUSEBOATS AND OBSTRUCTIONS TO
 22 NAVIGATION. The owner of a fixed houseboat which extends below the ordinary
 23 high-water mark of any navigable waterway and which is in a major state of
 24 disrepair or is a material obstruction to navigation may be ordered by the
 25 department to remove the fixed houseboat from the waterway. The department shall

1 follow the procedures set forth in s. 30.03 (4) (a) for ordering removal of a fixed
2 houseboat. If such a fixed houseboat is abandoned and the department, after due
3 diligence, cannot locate the owner, the department shall utilize the procedures set
4 forth in s. 31.187 (1) for removing the abandoned fixed houseboat.

5 (4) APPLICABILITY. Fixed houseboats owned by the state or by local units of
6 government shall comply with this section.

7 (5) PENALTIES. Any person who constructs, owns or maintains a fixed houseboat
8 in violation of this section or in violation of any order issued under this section shall
9 forfeit not less than \$10 nor more than \$50 for each offense. Each day a fixed
10 houseboat exists in violation of this section constitutes a separate offense.

11 ~~SECTION 4. Nonstatutory provisions.~~

12 ~~(1) APPLICABILITY. Section 30.1215 (2) (a) of the statutes, as created by this act,~~
13 ~~applies to any repair, maintenance or reconstruction of a fixed houseboat after~~
14 ~~December 16, 1979.~~

15 (END)

Insert 2-11

Section #. 30.121 (3m) (intro.) of the statutes ^{are} amended to read:
, (a) and (b)

30.121 (3m) EXCEPTION; CERTAIN SINGLE-STORY BOATHOUSES. (intro.) Notwithstanding subs. (2) and (3), a person may construct, repair or maintain a single-story boathouse over an authorized waterway enlargement if:

History: 1979 c. 101; 1981 c. 117; 1983 a. 27 s. 2202 (38); 1987 a. 374, 395; 1995 a. 27.

all of the following apply

Insert 2-13

~~Section #. 30.121 (3)(b) of the statutes~~

~~30.121 (3)(b)~~ (b) The boathouse covers the entire enlargement; ~~and~~ .

History: 1979 c. 101; 1981 c. 117; 1983 a. 27 s. 2202 (38); 1987 a. 374, 395; 1995 a. 27.

SECTION #. AM; 30.121 (4) to (7)

Insert 3-2

209
No person may be convicted of a violation of s.
30.121, 1997 stats., or otherwise subject to s. 30.294
after the effective date of this subsection ^{Δ.....Δ} [revisor inserts
date], with respect to the repair, maintenance or
reconstruction of a fixed houseboat.

Insert (A) (page 1 of 3)

- A Current law regulates the repair, maintenance and reconstruction of boathouses and fixed houseboats. No person may construct or place a boathouse or fixed houseboat beyond the ordinary high-water mark of a navigable waterway unless the boathouse or fixed houseboat was constructed or placed on the waterway before December 17, 1979. Such boathouses and fixed houseboats may be repaired and maintained if the cost of repair or maintenance does not exceed 50% of the equalized assessed value or, if not subject to assessment, the current fair market value of the applicable boathouse or fixed houseboat.
- * This bill makes several changes in the laws relating to fixed houseboats. These changes include:

Insert (A) (page 2 of 3)

- ¶ 1. Eliminating the 50% cap on the cost of repair or maintenance of a fixed houseboat. The bill permits an owner of a fixed houseboat extending below the ordinary high-water mark of a navigable waterway to repair, maintain or reconstruct the houseboat.
- ¶ 2. Restricting reconstruction of a fixed houseboat to within the dimensions of the houseboat existing on the effective date of the bill.
- ¶ 3. Prohibiting any convictions or findings of public nuisance with respect to the laws relating to fixed houseboats in effect before the effective date of this bill.
- ¶ 4. Changing certain terminology.

Insert (A) (page 3 of 3)

¶ The bill also changes certain terminology in the laws relating to boathouses.

FE - S/L

(end of insert)

Insert (B)

Section #. 30.01 (1p) of the statutes is amended to read:

30.01 (1p) "Fishing raft" means any raft, float or structure, including a raft or float with a super-structure and including a structure located or extending below or beyond the ordinary high-water mark of a water, which is designed to be used or is normally used for fishing, which is not normally used as a means of transportation on water and which is normally retained in place by means of a permanent or semipermanent attachment to the shore or to the bed of the waterway. "Fishing raft" does not include a boathouse or ~~fixed houseboat~~ regulated under s. 30.121 nor a wharf or pier regulated under s. 30.13.

History: 1983 a. 189; 1985 a. 243, 332; 1987 a. 374 ss. 1 to 9, 25, 34, 35, 46 to 49, 70, 76; 1987 a. 403; 1989 a. 56; 1993 a. 236; 1995 a. 227; 1997 a. 27, 248; 1999 a. 9.

, a fixed houseboat regulated
under s. 30.1215, or

**SUBMITTAL
FORM**

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 02/10/2000

To: Senator Rude

Relating to LRB drafting number: LRB-3819

Topic

Regulation of fixed houseboats

Subject(s)

Nat. Res. - nav. waters

1. **JACKET** the draft for introduction _____

Rude

in the **Senate** ____ or the **Assembly** ____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Timothy N. Fast, Senior Legislative Attorney
Telephone: (608) 266-9739