

State-owned submerged land lease fees

Chapter 18-21, F.A.C., is the rule that guides the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) in fulfilling its responsibility to administer state-owned submerged lands for the citizens of Florida. It establishes the specific requirements under which a riparian land owner may use the state-owned submerged land. The rule addresses many variables associated with that use including the different forms of authorization, management policies and the cost associated with using the land. Each specific type of use must be authorized by the Board of Trustees with certain authorizations delegated to staff of the Department of Environmental Protection (DEP) or water management districts. Lease fees may be required to be paid to the Board of Trustees as landowner. The fees are a rental charge for an individual person or entity to use state-owned submerged land.

Single-family docks are a common use of state-owned submerged land that requires authorization but may or may not require lease fees. The authorization can range from a simple letter of consent to a formal lease issued by DEP staff. Lease fees are based on the entire dock and mooring area that will be leased and considers the dock, number of slips and size of slips. For instance, if a single-family dock is located outside an aquatic preserve and has less than 10 square feet of lease area for every foot of riparian shoreline, lease fees are not required. Larger single-family docks are subject to lease fees and, pursuant to Chapter 18-20, F.A.C., docks located within an aquatic preserve are subject to stricter standards.

Multi-family docks such as those adjacent to condominiums or townhomes require authorization and generally require lease fees because of the size of the dock and number of slips. However, as with single-family docks, if a multi-family dock is located outside of an aquatic preserve and has less than 10 square feet of leased area for every foot of riparian shoreline, a lease is not required. Private multi-family docks developed in conjunction with the upland property may be subject to a one-time premium when a lease is initiated and the premium is calculated at three times the base fee pursuant to section 18-21.011(1)(c), F.A.C.

Commercial marinas require authorization which may include approval by the Board of Trustees at a regularly scheduled Cabinet meeting, depending on the size of the lease area. These types of facilities can be private or public with the public facilities being eligible for a 30 percent discount on the lease fees if they have at least 90 percent of the slips available to the general public. In addition, marinas that receive the Clean Marina designation from DEP can earn another 10 percent discount. These discounts encourage and reward marinas that provide public access to the waters of the state.

The **standard lease term** is five years but is increased to ten years for marinas that are at least 90 percent open to the public. Extended term leases of up to 25 years may be obtained if certain rule conditions are met and an additional fee is paid for the extended term. All leases require a non-refundable processing fee and a lease may be modified and/or assigned to another party if the lessee is complying with statutes and rules and has no outstanding lease fees.

Lease fees are paid annually and are calculated using two components – a base fee and the amount of revenue generated. The base fee is computed by multiplying the amount of leased square footage by a base fee rate. The current base fee rate is approximately 15¢ per square foot of lease area and is adjusted annually based on the Consumer Price Index. There is a minimum base fee of approximately \$460 which is also adjusted annually based on the Consumer Price Index. This translates into an annual minimum lease fee for leases of approximately 3,000 square feet or less. For all new leases, there is a one-time initial surcharge of 25 percent of the base fee due when the lease is executed.

The second component used to determine lease fees is whether any revenue is generated from the use of the state-owned submerged land. Lessees must complete the Annual Wet Slip Revenue Report declaring any income generated within the lease area. Examples of this would be any money earned from a lessee renting slips to other individuals, any money associated with the value of a slip that someone receives when selling the exclusive use of the slip along with a condominium unit, and rental or sales income an individual condominium owner receives when selling their rights to use a slip to a neighbor or other party. If there is revenue generated from the leased area and 6 percent of this revenue is greater than the base fee (15¢ per square foot of lease area), then the lease fee owed to the Board of Trustees would be 6 percent of the income generated.

Chapter 18-21, F.A.C., outlines the complete requirements for the use of state-owned submerged land; see <https://www.flrules.org/gateway/chapterhome.asp?chapter=18-21>. Additional information is available on the DEP website at <http://www.dep.state.fl.us/lands/submerged.htm> .