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Florida Brokers Seek Change to Foreign-Flagged Law

June 24, 2015

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The Florida Yacht Brokers Association hired a law firm to help change a more than century-old federal law that the group says is costing them billions in lost sales.

“We have a law on the books that says any yacht coming from a foreign port has to pay 1.5 percent customs duties” if it is going to be offered for sale to Americans, said Jennifer Diaz of Becker & Poliakoff.

There are a couple of exceptions, such as at a boat show for yachts over 79 feet, Diaz said. But if someone even offers a foreign-flagged yacht for sale, it is subject to seizure. That is costing Florida billions in lost revenue from hundreds of boats, Diaz said.

FYBA said it is like paying taxes on a house before showing it, Diaz told Trade Only Today. Because they are paid prior to the sale, the duties are paid on the boat’s estimated value.

“You have 300 to 400 non-U.S. foreign vessels valued in excess of $2 billion that want to come to the United States to be sold to U.S. residents that cannot unless they come pay U.S. customs prior to offering their boats for sale,” Diaz said. “All we’re trying to do is defer the duty the exact same way that is done in a boat show so that if they sell the boat to an American, then they have to pay customs duties.”

The lost sales aren’t the only revenues lost, Diaz said. Owners typically spend 10 percent of the value of yachts on labor, goods, services and maintenance, which amounts to an additional loss of $200 million.

Another 13 percent of the selling price, on average, goes to improvements, generating another $260 million.

“South Florida is really hit the hardest,” Diaz said.

The original legislation was passed in 1908, said Omar Franco, a government consultant with the firm. He has not been able to determine the original intent of the law.

Florida lawmakers have been receptive to the change but are trying to figure out the mechanics of changing the law.

“Everybody agrees it makes sense to change the law. Everyone just wants to have comfort that there are no unintended consequences of changing the law,” Franco said. “That’s the process we’re going through now.”

“We want to make sure perfect is not the enemy of good, but when we come out with legislative language we want it to be vetted and we want stakeholders to be familiar and comfortable with the language so there is a good comfort level and there are no unintended consequences.”

The firm hopes the change will be made by the end of this year, or at least by the end of the congressional session that ends in 2016.

“This is a jobs bill. It’s not just about the sale of the boat,” Franco said. “It’s about, once sold in U.S. waters, all the ancillary business it would generate in marinas, especially — welders, painters, maintenance crews, gas — it all could be up to billions of dollars that we’re leaving on the table just because we haven’t made it easy enough to sell foreign-flagged boats.”

