

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Transportation &
2 Infrastructure Subcommittee
3 Representative Williamson offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

7 Section 1. Section 328.001, Florida Statutes, is created
8 to read:

9 328.001 Short title.—This part may be cited as the
10 "Uniform Certificate of Title for Vessels Act."

11 Section 2. Section 328.0015, Florida Statutes, is created
12 to read:

13 328.0015 Definitions.—

14 (1) As used in this part, the term:

15 (a) "Barge" means a vessel that is not self-propelled or
16 fitted for propulsion by sail, paddle, oar, or similar device.

Amendment No.

17 (b) "Builder's certificate" means a certificate of the
18 facts of build of a vessel described in 46 C.F.R. s. 67.99.

19 (c) "Buyer" means a person who buys or contracts to buy a
20 vessel.

21 (d) "Cancel," with respect to a certificate of title,
22 means to make the certificate ineffective.

23 (e) "Certificate of origin" means a record created by a
24 manufacturer or importer as the manufacturer's or importer's
25 proof of identity of a vessel. The term includes a
26 manufacturer's certificate or statement of origin and an
27 importer's certificate or statement of origin. The term does not
28 include a builder's certificate.

29 (f) "Certificate of title" means a record, created by the
30 department or by a governmental agency of another jurisdiction
31 under the law of that jurisdiction, that is designated as a
32 certificate of title by the department or agency and is evidence
33 of ownership of a vessel.

34 (g) "Dealer" means a person, including a manufacturer, in
35 the business of selling vessels.

36 (h) "Department" means the Department of Highway Safety
37 and Motor Vehicles.

38 (i) "Documented vessel" means a vessel covered by a
39 certificate of documentation issued pursuant to 46 U.S.C. s.
40 12105. The term does not include a foreign-documented vessel.

41 (j) "Electronic" means relating to technology having

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

42 electrical, digital, magnetic, wireless, optical,
43 electromagnetic, or similar capabilities.

44 (k) "Electronic certificate of title" means a certificate
45 of title consisting of information that is stored solely in an
46 electronic medium and is retrievable in perceivable form.

47 (l) "Foreign-documented vessel" means a vessel the
48 ownership of which is recorded in a registry maintained by a
49 country other than the United States which identifies each
50 person who has an ownership interest in a vessel and includes a
51 unique alphanumeric designation for the vessel.

52 (m) "Good faith" means honesty in fact and the observance
53 of reasonable commercial standards of fair dealing.

54 (n) "Hull damaged" means compromised with respect to the
55 integrity of a vessel's hull by a collision, allision, lightning
56 strike, fire, explosion, running aground, or similar occurrence,
57 or the sinking of a vessel in a manner that creates a
58 significant risk to the integrity of the vessel's hull.

59 (o) "Hull identification number" means the alphanumeric
60 designation assigned to a vessel pursuant to 33 C.F.R. part 181.

61 (p) "Lien creditor," with respect to a vessel, means:

62 1. A creditor that has acquired a lien on the vessel by
63 attachment, levy, or the like;

64 2. An assignee for benefit of creditors from the time of
65 assignment;

66 3. A trustee in bankruptcy from the date of the filing of

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

67 the petition; or

68 4. A receiver in equity from the time of appointment.

69 (q) "Owner" means a person who has legal title to a
70 vessel.

71 (r) "Owner of record" means the owner indicated in the
72 files of the department or, if the files indicate more than one
73 owner, the one first indicated.

74 (s) "Person" means an individual, corporation, business
75 trust, estate, trust, statutory trust, partnership, limited
76 liability company, association, joint venture, public
77 corporation, government or governmental subdivision, agency, or
78 instrumentality, or any other legal or commercial entity.

79 (t) "Purchase" means to take by sale, lease, mortgage,
80 pledge, consensual lien, security interest, gift, or any other
81 voluntary transaction that creates an interest in a vessel.

82 (u) "Purchaser" means a person who takes by purchase.

83 (v) "Record" means information that is inscribed on a
84 tangible medium or that is stored in an electronic or other
85 medium and is retrievable in perceivable form.

86 (w) "Secured party," with respect to a vessel, means a
87 person:

88 1. In whose favor a security interest is created or
89 provided for under a security agreement, regardless of whether
90 any obligation to be secured is outstanding;

91 2. Who is a consignor as defined under chapter 679; or

Amendment No.

92 3. Who holds a security interest arising under s. 672.401,
93 s. 672.505, s. 672.711(3), or s. 680.508(5).

94 (x) "Secured party of record" means the secured party
95 whose name is indicated as the name of the secured party in the
96 files of the department or, if the files indicate more than one
97 secured party, the one first indicated.

98 (y) "Security interest" means an interest in a vessel
99 which secures payment or performance of an obligation if the
100 interest is created by contract or arises under s. 672.401, s.
101 672.505, s. 672.711(3), or s. 680.508(5). The term includes any
102 interest of a consignor in a vessel in a transaction that is
103 subject to chapter 679. The term does not include the special
104 property interest of a buyer of a vessel on identification of
105 that vessel to a contract for sale under s. 672.501, but a buyer
106 also may acquire a security interest by complying with chapter
107 679. Except as otherwise provided in s. 672.505, the right of a
108 seller or lessor of a vessel under chapter 672 or chapter 680 to
109 retain or acquire possession of the vessel is not a security
110 interest, but a seller or lessor also may acquire a security
111 interest by complying with chapter 679. The retention or
112 reservation of title by a seller of a vessel notwithstanding
113 shipment or delivery to the buyer under s. 672.401 is limited in
114 effect to a reservation of a security interest. Whether a
115 transaction in the form of a lease creates a security interest
116 is determined as provided in part II of chapter 671.

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

117 (z) "Sign" means, with present intent to authenticate or
118 adopt a record, to:

119 1. Make or adopt a tangible symbol; or

120 2. Attach to or logically associate with the record an
121 electronic symbol, sound, or process.

122 (aa) "State" means a state of the United States, the
123 District of Columbia, Puerto Rico, the United States Virgin
124 Islands, or any territory or insular possession subject to the
125 jurisdiction of the United States.

126 (bb) "State of principal use" means the state on the
127 waters of which a vessel is or will be used, operated,
128 navigated, or employed more than on the waters of any other
129 state during a calendar year.

130 (cc) "Title brand" means a designation of previous damage,
131 use, or condition that must be indicated on a certificate of
132 title.

133 (dd) "Transfer of ownership" means a voluntary or
134 involuntary conveyance of an interest in a vessel.

135 (ee) "Vessel" means a watercraft used or capable of being
136 used as a means of transportation on water, except:

137 1. A seaplane;

138 2. An amphibious vehicle for which a certificate of title
139 is issued pursuant to chapter 319 or a similar statute of
140 another state;

141 3. Watercraft less than 16 feet in length and propelled

Amendment No.

142 solely by sail, paddle, oar, or an engine of less than 10
143 horsepower;

144 4. Watercraft that operate only on a permanently fixed,
145 manufactured course and the movement of which is restricted to
146 or guided by means of a mechanical device to which the
147 watercraft is attached or by which the watercraft is controlled;

148 5. A stationary floating structure that:

149 a. Does not have and is not designed to have a mode of
150 propulsion of its own;

151 b. Is dependent for utilities upon a continuous utility
152 hookup to a source originating on shore; and

153 c. Has a permanent, continuous hookup to a shoreside
154 sewage system;

155 6. Watercraft owned by the United States, a state, or a
156 foreign government or a political subdivision of any of them;
157 and

158 7. Watercraft used solely as a lifeboat on another
159 watercraft.

160 (ff) "Vessel number" means the alphanumeric designation
161 for a vessel issued pursuant to 46 U.S.C. s. 12301.

162 (gg) "Written certificate of title" means a certificate of
163 title consisting of information inscribed on a tangible medium.

164 (2) The following definitions and terms also apply to this
165 part:

166 (a) "Agreement" as defined in s. 671.201(3).

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

167 (b) "Buyer in ordinary course of business" as defined in
168 s. 671.201(9).

169 (c) "Conspicuous" as defined in s. 671.201(10).

170 (d) "Consumer goods" as defined in s. 679.1021(1)(w).

171 (e) "Debtor" as defined in s. 679.1021(1)(bb).

172 (f) "Knowledge" as defined in s. 671.209.

173 (g) "Lease" as defined in s. 680.1031(1)(j).

174 (h) "Lessor" as defined in 680.1031(1)(p).

175 (i) "Notice" as defined s. 671.209.

176 (j) "Representative" as defined in s. 671.201(36).

177 (k) "Sale" as defined in s. 672.106(1).

178 (l) "Security agreement" as defined in s.
179 679.1021(1)(uuu).

180 (m) "Seller" as defined in s. 672.103(1)(d).

181 (n) "Send" as defined in s. 671.201(39).

182 (o) "Value" as defined in s. 671.211.

183 Section 3. Section 328.01, Florida Statutes, is amended to
184 read:

185 328.01 Application for certificate of title.—

186 (1)~~(a)~~ The owner of a vessel which is required to be
187 titled shall apply to the county tax collector for a certificate
188 of title. Except as otherwise provided in ss. 328.045, 328.11,
189 328.12, 328.215, 328.23, and 328.24, only an owner may apply for
190 a certificate of title.

191 (2) An application for a certificate of title must be

Amendment No.

192 signed by the applicant and contain:

193 (a) The applicant's name, the street address of the
194 applicant's principal residence, and, if different, the
195 applicant's mailing address;

196 (b) The name and mailing address of each other owner of
197 the vessel;

198 (c) The hull identification number for the vessel or, if
199 none, an application for the issuance of a hull identification
200 number for the vessel;

201 (d) The vessel number for the vessel or, if none issued by
202 the department, an application for a vessel number;

203 (e) A description of the vessel as required by the
204 department, which must include:

205 1. The official number for the vessel, if any, assigned by
206 the United States Coast Guard;

207 2. The name of the manufacturer, builder, or maker;

208 3. The model year or the year in which the manufacture or
209 build of the vessel was completed;

210 4. The overall length of the vessel;

211 5. The vessel type;

212 6. The hull material;

213 7. The propulsion type;

214 8. The engine drive type, if any; and

215 9. The fuel type, if any;

216 (f) An indication of all security interests in the vessel

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

217 known to the applicant and the name and mailing address of each
218 secured party;

219 (g) A statement that the vessel is not a documented vessel
220 or a foreign-documented vessel;

221 (h) Any title brand known to the applicant and, if known,
222 the jurisdiction under whose law the title brand was created;

223 (i) If the applicant knows that the vessel is hull
224 damaged, a statement that the vessel is hull damaged;

225 (j) If the application is made in connection with a
226 transfer of ownership, the transferor's name, street address,
227 and, if different, mailing address, the sales price, if any, and
228 the date of the transfer; and

229 (k) If the vessel was previously registered or titled in
230 another jurisdiction, a statement identifying each jurisdiction
231 known to the applicant in which the vessel was registered or
232 titled.

233 (3) In addition to the information required by subsection
234 (2), an application for a certificate of title may contain an
235 electronic communication address of the owner, transferor, or
236 secured party.

237 (4) Except as otherwise provided in s. 328.11, s. 328.215,
238 s. 328.23, or s. 328.24, an application for a certificate of
239 title must be accompanied by:

240 (a) A certificate of title signed by the owner shown on
241 the certificate and which:

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

242 1. Identifies the applicant as the owner of the vessel; or

243 2. Is accompanied by a record that identifies the

244 applicant as the owner; or

245 (b) If there is no certificate of title:

246 1. If the vessel was a documented vessel, a record issued
247 by the United States Coast Guard which shows the vessel is no
248 longer a documented vessel and identifies the applicant as the
249 owner;

250 2. If the vessel was a foreign-documented vessel, a record
251 issued by the foreign country which shows the vessel is no
252 longer a foreign-documented vessel and identifies the applicant
253 as the owner; or

254 3. In all other cases, a certificate of origin, bill of
255 sale, or other record that to the satisfaction of the department
256 identifies the applicant as the owner.

257 (5) A record submitted in connection with an application
258 is part of the application. The department shall maintain the
259 record in its files.

260 (6) The department may require that an application for a
261 certificate of title be accompanied by payment or evidence of
262 payment of all fees and taxes payable by the applicant under the
263 laws of this state other than this part in connection with the
264 application or the acquisition or use of the vessel ~~The~~
265 ~~application shall include the true name of the owner, the~~
266 ~~residence or business address of the owner, and the complete~~

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

267 ~~description of the vessel, including the hull identification~~
268 ~~number, except that an application for a certificate of title~~
269 ~~for a homemade vessel shall state all the foregoing information~~
270 ~~except the hull identification number.~~

271 (7) (a) The application shall be signed by the owner and
272 shall be accompanied by personal or business identification and
273 the prescribed fee. An individual applicant must provide a valid
274 driver license or identification card issued by this state or
275 another state or a valid passport. A business applicant must
276 provide a federal employer identification number, if applicable,
277 verification that the business is authorized to conduct business
278 in the state, or a Florida city or county business license or
279 number.

280 (b) The owner of an undocumented vessel that is exempt
281 from titling may apply to the county tax collector for a
282 certificate of title by filing an application accompanied by the
283 prescribed fee.

284 ~~(2) (a) The owner of a manufactured vessel that was~~
285 ~~initially sold in this state for which vessel an application for~~
286 ~~an initial title is made shall establish proof of ownership by~~
287 ~~submitting with the application the original copy of the~~
288 ~~manufacturer's statement of origin for that vessel.~~

289 ~~(b) The owner of a manufactured vessel that was initially~~
290 ~~sold in another state or country for which vessel an application~~
291 ~~for an initial title is made shall establish proof of ownership~~

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

292 ~~by submitting with the application:~~

293 ~~1. The original copy of the manufacturer's statement of~~
294 ~~origin if the vessel was initially sold or manufactured in a~~
295 ~~state or country requiring the issuance of such a statement or~~
296 ~~the original copy of the executed bill of sale if the vessel was~~
297 ~~initially sold or manufactured in a state or country not~~
298 ~~requiring the issuance of a manufacturer's statement of origin;~~
299 ~~and~~

300 ~~2. The most recent certificate of registration for the~~
301 ~~vessel, if such a certificate was issued.~~

302 ~~(c) In making application for an initial title, the owner~~
303 ~~of a homemade vessel shall establish proof of ownership by~~
304 ~~submitting with the application:~~

305 ~~1. A notarized statement of the builder or its equivalent,~~
306 ~~whichever is acceptable to the Department of Highway Safety and~~
307 ~~Motor Vehicles, if the vessel is less than 16 feet in length; or~~

308 ~~2. A certificate of inspection from the Fish and Wildlife~~
309 ~~Conservation Commission and a notarized statement of the builder~~
310 ~~or its equivalent, whichever is acceptable to the Department of~~
311 ~~Highway Safety and Motor Vehicles, if the vessel is 16 feet or~~
312 ~~more in length.~~

313 ~~(d) The owner of a nontitled vessel registered or~~
314 ~~previously registered in another state or country for which an~~
315 ~~application for title is made in this state shall establish~~
316 ~~proof of ownership by surrendering, with the submission of the~~

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

317 ~~application, the original copy of the most current certificate~~
318 ~~of registration issued by the other state or country.~~

319 ~~(c) The owner of a vessel titled in another state or~~
320 ~~country for which an application for title is made in this state~~
321 ~~shall not be issued a title unless and until all existing titles~~
322 ~~to the vessel are surrendered to the Department of Highway~~
323 ~~Safety and Motor Vehicles. The department shall retain the~~
324 ~~evidence of title which is presented by the applicant and on the~~
325 ~~basis of which the certificate of title is issued. The~~
326 ~~department shall use reasonable diligence in ascertaining~~
327 ~~whether the facts in the application are true; and, if satisfied~~
328 ~~that the applicant is the owner of the vessel and that the~~
329 ~~application is in the proper form, the department shall issue a~~
330 ~~certificate of title.~~

331 ~~(f) In making application for the titling of a vessel~~
332 ~~previously documented by the Federal Government, the current~~
333 ~~owner shall establish proof of ownership by submitting with the~~
334 ~~application a copy of the canceled documentation papers or a~~
335 ~~properly executed release from documentation certificate~~
336 ~~provided by the United States Coast Guard. In the event such~~
337 ~~documentation papers or certification are in the name of a~~
338 ~~person other than the current owner, the current owner shall~~
339 ~~provide the original copy of all subsequently executed bills of~~
340 ~~sale applicable to the vessel.~~

341 ~~(3) (a) In making application for a title upon transfer of~~

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

342 ~~ownership of a vessel, the new owner shall surrender to the~~
343 ~~Department of Highway Safety and Motor Vehicles the last title~~
344 ~~document issued for that vessel. The document shall be properly~~
345 ~~executed. Proper execution includes, but is not limited to, the~~
346 ~~previous owner's signature and certification that the vessel to~~
347 ~~be transferred is debt-free or is subject to a lien. If a lien~~
348 ~~exists, the previous owner shall furnish the new owner, on forms~~
349 ~~supplied by the Department of Highway Safety and Motor Vehicles,~~
350 ~~the names and addresses of all lienholders and the dates of all~~
351 ~~liens, together with a statement from each lienholder that the~~
352 ~~lienholder has knowledge of and consents to the transfer of~~
353 ~~title to the new owner.~~

354 ~~(b) If the application for transfer of title is based upon~~
355 ~~a contractual default, the recorded lienholder shall establish~~
356 ~~proof of right to ownership by submitting with the application~~
357 ~~the original certificate of title and a copy of the applicable~~
358 ~~contract upon which the claim of ownership is made. If the claim~~
359 ~~is based upon a court order or judgment, a copy of such document~~
360 ~~shall accompany the application for transfer of title. If, on~~
361 ~~the basis of departmental records, there appears to be any other~~
362 ~~lien on the vessel, the certificate of title must contain a~~
363 ~~statement of such a lien, unless the application for a~~
364 ~~certificate of title is either accompanied by proper evidence of~~
365 ~~the satisfaction or extinction of the lien or contains a~~
366 ~~statement certifying that any lienholder named on the last-~~

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

367 ~~issued certificate of title has been sent notice by certified~~
368 ~~mail, at least 5 days before the application was filed, of the~~
369 ~~applicant's intention to seek a repossessed title. If such~~
370 ~~notice is given and no written protest to the department is~~
371 ~~presented by a subsequent lienholder within 15 days after the~~
372 ~~date on which the notice was mailed, the certificate of title~~
373 ~~shall be issued showing no liens. If the former owner or any~~
374 ~~subsequent lienholder files a written protest under oath within~~
375 ~~the 15-day period, the department shall not issue the~~
376 ~~repossessed certificate for 10 days thereafter. If, within the~~
377 ~~10-day period, no injunction or other order of a court of~~
378 ~~competent jurisdiction has been served on the department~~
379 ~~commanding it not to deliver the certificate, the department~~
380 ~~shall deliver the repossessed certificate to the applicant, or~~
381 ~~as is otherwise directed in the application, showing no other~~
382 ~~liens than those shown in the application.~~

383 ~~(c) In making application for transfer of title from a~~
384 ~~deceased titled owner, the new owner or surviving coowner shall~~
385 ~~establish proof of ownership by submitting with the application~~
386 ~~the original certificate of title and the decedent's probated~~
387 ~~last will and testament or letters of administration appointing~~
388 ~~the personal representative of the decedent. In lieu of a~~
389 ~~probated last will and testament or letters of administration, a~~
390 ~~copy of the decedent's death certificate, a copy of the~~
391 ~~decedent's last will and testament, and an affidavit by the~~

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

392 ~~decedent's surviving spouse or heirs affirming rights of~~
393 ~~ownership may be accepted by the department. If the decedent~~
394 ~~died intestate, a court order awarding the ownership of the~~
395 ~~vessel or an affidavit by the decedent's surviving spouse or~~
396 ~~heirs establishing or releasing all rights of ownership and a~~
397 ~~copy of the decedent's death certificate shall be submitted to~~
398 ~~the department.~~

399 (c) ~~(d)~~ An owner or coowner who has made a bona fide sale
400 or transfer of a vessel and has delivered possession thereof to
401 a purchaser shall not, by reason of any of the provisions of
402 this chapter, be considered the owner or coowner of the vessel
403 so as to be subject to civil liability for the operation of the
404 vessel thereafter by another if the owner or coowner has
405 fulfilled either of the following requirements:

406 1. The owner or coowner has delivered to the department,
407 or has placed in the United States mail, addressed to the
408 department, either the certificate of title, properly endorsed,
409 or a notice in the form prescribed by the department; or

410 2. The owner or coowner has made proper endorsement and
411 delivery of the certificate of title as provided by this
412 chapter. As used in this subparagraph, the term "proper
413 endorsement" means:

414 a. The signature of one coowner if the vessel is held in
415 joint tenancy, signified by the vessel's being registered in the
416 names of two or more persons as coowners in the alternative by

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

417 the use of the word "or." In a joint tenancy, each coowner is
418 considered to have granted to each of the other coowners the
419 absolute right to dispose of the title and interest in the
420 vessel, and, upon the death of a coowner, the interest of the
421 decedent in the jointly held vessel passes to the surviving
422 coowner or coowners. This sub-subparagraph is applicable even if
423 the coowners are husband and wife; or

424 b. The signatures of every coowner or of the respective
425 personal representatives of the coowners if the vessel is
426 registered in the names of two or more persons as coowners in
427 the conjunctive by the use of the word "and."

428

429 The department shall adopt suitable language that must appear
430 upon the certificate of title to effectuate the manner in which
431 the interest in or title to the vessel is held.

432 (8)~~(4)~~ If the owner cannot furnish the department ~~of~~
433 ~~Highway Safety and Motor Vehicles~~ with all the required
434 ownership documentation, the department may, at its discretion,
435 issue a title conditioned on the owner's agreement to indemnify
436 the department and its agents and defend the title against all
437 claims or actions arising out of such issuance.

438 (9)~~(5)~~(a) An application for an initial title or a title
439 transfer shall include payment of the applicable state sales tax
440 or proof of payment of such tax.

441 (b) An application for a title transfer between

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

442 individuals, which transfer is not exempt from the payment of
443 sales tax, shall include payment of the appropriate sales tax
444 payable on the selling price for the complete vessel rig, which
445 includes the vessel and its motor, trailer, and accessories, if
446 any. If the applicant submits with his or her application an
447 itemized, properly executed bill of sale which separately
448 describes and itemizes the prices paid for each component of the
449 rig, only the vessel and trailer will be subject to the sales
450 tax.

451 ~~(10)(6)~~ The department of ~~Highway Safety and Motor~~
452 ~~Vehicles~~ shall prescribe and provide suitable forms for
453 applications, certificates of title, notices of security
454 interests, and other notices and forms necessary to carry out
455 the provisions of this chapter.

456 Section 4. Section 328.015, Florida Statutes, is created
457 to read:

458 328.015 Duties and operation of the department.-

459 (1) The department shall retain the evidence used to
460 establish the accuracy of the information in its files relating
461 to the current ownership of a vessel and the information on the
462 certificate of title.

463 (2) The department shall retain in its files all
464 information regarding a security interest in a vessel for at
465 least 10 years after the department receives a termination
466 statement regarding the security interest. The information must

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

467 be accessible by the hull identification number for the vessel
468 and any other methods provided by the department.

469 (3) If a person submits a record to the department, or
470 submits information that is accepted by the department, and
471 requests an acknowledgment of the filing or submission, the
472 department shall send to the person an acknowledgment showing
473 the hull identification number of the vessel to which the record
474 or submission relates, the information in the filed record or
475 submission, and the date and time the record was received or the
476 submission was accepted. A request under this section must
477 contain the hull identification number and be delivered by means
478 authorized by the department.

479 (4) The department shall send or otherwise make available
480 in a record the following information to any person who requests
481 it and pays the applicable fee:

482 (a) Whether the files of the department indicate, as of a
483 date and time specified by the department, but not a date
484 earlier than 3 days before the department received the request,
485 any certificate of title, security interest, termination
486 statement, or title brand that relates to a vessel:

487 1. Identified by a hull identification number designated
488 in the request;

489 2. Identified by a vessel number designated in the
490 request; or

491 3. Owned by a person designated in the request;

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

492 (b) With respect to the vessel:

493 1. The name and address of any owner as indicated in the
494 files of the department or on the certificate of title;

495 2. The name and address of any secured party as indicated
496 in the files of the department or on the certificate, and the
497 effective date of the information; and

498 3. A copy of any termination statement indicated in the
499 files of the department and the effective date of the
500 termination statement; and

501 (c) With respect to the vessel, a copy of any certificate
502 of origin, secured party transfer statement, transfer-by-law
503 statement under s. 328.24, and other evidence of previous or
504 current transfers of ownership.

505 (5) In responding to a request under this section, the
506 department may provide the requested information in any medium.
507 On request, the department shall send the requested information
508 in a record that is self-authenticating.

509 Section 5. Section 328.02, Florida Statutes, is created to
510 read:

511 328.02 Law governing vessel covered by certificate of
512 title.—

513 (1) The law of the state under which a vessel's
514 certificate of title is covered governs all issues relating to
515 the certificate from the time the vessel becomes covered by the
516 certificate until the vessel becomes covered by another

Amendment No.

517 certificate or becomes a documented vessel, even if no other
518 relationship exists between the jurisdiction and the vessel or
519 its owner.

520 (2) A vessel becomes covered by a certificate of title
521 when an application for the certificate and the applicable fee
522 are delivered to the department in accordance with this part or
523 to the governmental agency that creates a certificate in another
524 jurisdiction in accordance with the law of that jurisdiction.

525 Section 6. Section 328.03, Florida Statutes, is amended to
526 read:

527 328.03 Certificate of title required.—

528 (1) Except as otherwise provided in subsections (2) and
529 (3), each vessel that is operated, used, or stored on the waters
530 of this state must be titled by this state pursuant to this
531 part, and the owner of a vessel for which this state is the
532 state of principal use shall deliver to the department an
533 application for a certificate of title for the vessel, with the
534 applicable fee, not later than 30 days after the later of:

535 (a) The date of a transfer of ownership; or

536 (b) The date this state becomes the state of principal
537 use.

538 (2) An application for a certificate of title is not
539 required for ~~chapter~~, unless it is:

540 (a) A documented vessel;

541 (b) A foreign-documented vessel;

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

- 542 (c) A barge;
- 543 (d) A vessel before delivery if the vessel is under
544 construction or completed pursuant to contract;
- 545 (e) A vessel held by a dealer for sale or lease;
- 546 (f) A vessel used solely for demonstration, testing, or
547 sales promotional purposes by the manufacturer or dealer;
- 548 (g)~~(a)~~ A vessel operated, used, or stored exclusively on
549 private lakes and ponds;
- 550 (h)~~(b)~~ A vessel owned by the United States Government;
- 551 ~~(c) A non-motor powered vessel less than 16 feet in~~
552 ~~length;~~
- 553 ~~(d) A federally documented vessel;~~
- 554 (i)~~(e)~~ A vessel already covered by a registration number
555 in full force and effect which was awarded to it pursuant to a
556 federally approved numbering system of another state or by the
557 United States Coast Guard in a state without a federally
558 approved numbering system, if the vessel is not located in this
559 state for a period in excess of 90 consecutive days; or
- 560 (j)~~(f)~~ A vessel from a country other than the United
561 States temporarily used, operated, or stored on the waters of
562 this state for a period that is not in excess of 90 days;
- 563 ~~(g) An amphibious vessel for which a vehicle title is~~
564 ~~issued by the Department of Highway Safety and Motor Vehicles;~~
- 565 ~~(h) A vessel used solely for demonstration, testing, or~~
566 ~~sales promotional purposes by the manufacturer or dealer; or~~

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

567 ~~(i) A vessel owned and operated by the state or a~~
568 ~~political subdivision thereof.~~

569 (3) The department may not issue, transfer, or renew any
570 number issued to a vessel pursuant to the requirements of 46
571 U.S.C. s. 12301, unless the department has created a certificate
572 of title for the vessel or an application for a certificate for
573 the vessel and the applicable fee have been delivered to the
574 department.

575 ~~(2) A person shall not operate, use, or store a vessel for~~
576 ~~which a certificate of title is required unless the owner has~~
577 ~~received from the Department of Highway Safety and Motor~~
578 ~~Vehicles a valid certificate of title for such vessel. However,~~
579 ~~such vessel may be operated, used, or stored for a period of up~~
580 ~~to 180 days after the date of application for a certificate of~~
581 ~~title while the application is pending.~~

582 ~~(3) A person shall not sell, assign, or transfer a vessel~~
583 ~~titled by the state without delivering to the purchaser or~~
584 ~~transferee a valid certificate of title with an assignment on it~~
585 ~~showing the transfer of title to the purchaser or transferee. A~~
586 ~~person shall not purchase or otherwise acquire a vessel required~~
587 ~~to be titled by the state without obtaining a certificate of~~
588 ~~title for the vessel in his or her name. The purchaser or~~
589 ~~transferee shall, within 30 days after a change in vessel~~
590 ~~ownership, file an application for a title transfer with the~~
591 ~~county tax collector.~~

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

592 (4) An additional \$10 fee shall be charged against the
593 purchaser or transferee if he or she files a title transfer
594 application after the 30-day period. The county tax collector
595 shall be entitled to retain \$5 of the additional amount.

596 (5)~~(4)~~ A certificate of title is prima facie evidence of
597 the accuracy of the information in the record that constitutes
598 the certificate and of the ownership of the vessel. A
599 certificate of title is good for the life of the vessel so long
600 as the certificate is owned or held by the legal holder. If a
601 titled vessel is destroyed or abandoned, the owner, with the
602 consent of any recorded lienholders, shall, within 30 days after
603 the destruction or abandonment, surrender to the department for
604 cancellation any and all title documents. If a titled vessel is
605 insured and the insurer has paid the owner for the total loss of
606 the vessel, the insurer shall obtain the title to the vessel
607 and, within 30 days after receiving the title, forward the title
608 to the department ~~of Highway Safety and Motor Vehicles~~ for
609 cancellation. The insurer may retain the certificate of title
610 when payment for the loss was made because of the theft of the
611 vessel.

612 (6)~~(5)~~ The department ~~of Highway Safety and Motor Vehicles~~
613 shall provide labeled places on the title where the seller's
614 price shall be indicated when a vessel is sold and where a
615 selling dealer shall record his or her valid sales tax
616 certificate of registration number.

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

617 ~~(7)(6)~~ (a) The department ~~of Highway Safety and Motor~~
618 ~~Vehicles~~ shall charge a fee of \$5.25 for issuing each
619 certificate of title. The tax collector shall be entitled to
620 retain \$3.75 of the fee.

621 ~~(b) Beginning July 1, 1996,~~ The department ~~of Highway~~
622 ~~Safety and Motor Vehicles~~ shall use security procedures,
623 processes, and materials in the preparation and issuance of each
624 certificate of title to prohibit, to the extent possible, a
625 person's ability to alter, counterfeit, duplicate, or modify the
626 certificate.

627 ~~(8)(7)~~ The department ~~of Highway Safety and Motor Vehicles~~
628 shall charge a fee of \$4 in addition to that charged in
629 subsection ~~(7) (6)~~ for each initial certificate of title issued
630 for a vessel previously registered outside this state.

631 ~~(9)(8)~~ The department ~~of Highway Safety and Motor Vehicles~~
632 shall make regulations necessary and convenient to carry out the
633 provisions of this chapter.

634 Section 7. Section 328.04, Florida Statutes, is created to
635 read:

636 328.04 Content of certificate of title.-

637 (1) A certificate of title must contain:

638 (a) The date the certificate was created;

639 (b) The name of the owner of record and, if not all owners
640 are listed, an indication that there are additional owners
641 indicated in the files of the department;

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

642 (c) The mailing address of the owner of record;

643 (d) The hull identification number;

644 (e) The information listed in s. 328.01(2)(e);

645 (f) Except as otherwise provided in s. 328.12(2), the name
646 and mailing address of the secured party of record, if any, and
647 if not all secured parties are listed, an indication that there
648 are other security interests indicated in the files of the
649 department; and

650 (g) All title brands indicated in the files of the
651 department covering the vessel, including brands indicated on a
652 certificate created by a governmental agency of another
653 jurisdiction and delivered to the department.

654 (2) This part does not preclude the department from noting
655 on a certificate of title the name and mailing address of a
656 secured party that is not a secured party of record.

657 (3) For each title brand indicated on a certificate of
658 title, the certificate must identify the jurisdiction under
659 whose law the title brand was created or the jurisdiction that
660 created the certificate on which the title brand was indicated.
661 If the meaning of a title brand is not easily ascertainable or
662 cannot be accommodated on the certificate, the certificate may
663 state: "Previously branded in (insert the jurisdiction under
664 whose law the title brand was created or whose certificate of
665 title previously indicated the title brand)."

666 (4) If the files of the department indicate that a vessel

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

667 was previously registered or titled in a foreign country, the
668 department shall indicate on the certificate of title that the
669 vessel was registered or titled in that country.

670 (5) A written certificate of title must contain a form
671 that all owners indicated on the certificate may sign to
672 evidence consent to a transfer of an ownership interest to
673 another person. The form must include a certification, signed
674 under penalty of perjury, that the statements made are true and
675 correct to the best of each owner's knowledge, information, and
676 belief.

677 (6) A written certificate of title must contain a form for
678 the owner of record to indicate, in connection with a transfer
679 of an ownership interest, that the vessel is hull damaged.

680 Section 8. Section 328.045, Florida Statutes, is created
681 to read:

682 328.045 Title brands.—

683 (1) Unless subsection (3) applies, at or before the time
684 the owner of record transfers an ownership interest in a hull-
685 damaged vessel that is covered by a certificate of title created
686 by the department, if the damage occurred while that person was
687 an owner of the vessel and the person has notice of the damage
688 at the time of the transfer, the owner shall:

689 (a) Deliver to the department an application for a new
690 certificate that complies with s. 328.01 and includes the title
691 brand designation "Hull Damaged"; or

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

692 (b) Indicate on the certificate in the place designated
693 for that purpose that the vessel is hull damaged and deliver the
694 certificate to the transferee.

695 (2) Not later than 30 days after delivery of the
696 application under paragraph (1)(a) or the certificate of title
697 under paragraph (1)(b), the department shall create a new
698 certificate that indicates that the vessel is branded "Hull
699 Damaged."

700 (3) Before an insurer transfers an ownership interest in a
701 hull-damaged vessel that is covered by a certificate of title
702 created by the department, the insurer shall deliver to the
703 department an application for a new certificate that complies
704 with s. 328.01 and includes the title brand designation "Hull
705 Damaged." Not later than 30 days after delivery of the
706 application to the department, the department shall create a new
707 certificate that indicates that the vessel is branded "Hull
708 Damaged."

709 (4) An owner of record who fails to comply with subsection
710 (1), a person who solicits or colludes in a failure by an owner
711 of record to comply with subsection (1), or an insurer that
712 fails to comply with subsection (3) is subject to a noncriminal
713 infraction under s. 327.73(1) for which the penalty is \$5,000
714 for the first offense, \$15,000 for a second offense, and \$25,000
715 per offense for any subsequent offenses.

716 Section 9. Section 328.055, Florida Statutes, is created

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

717 to read:

718 328.055 Maintenance of and access to files.—

719 (1) For each record relating to a certificate of title
720 submitted to the department, the department shall:

721 (a) Ascertain or assign the hull identification number for
722 the vessel;

723 (b) Maintain the hull identification number and all the
724 information submitted with the application pursuant to s.
725 328.01(2) to which the record relates, including the date and
726 time the record was delivered to the department;

727 (c) Maintain the files for public inspection subject to
728 subsection (5); and

729 (d) Index the files of the department as required by
730 subsection (2).

731 (2) The department shall maintain in its files the
732 information contained in all certificates of title created under
733 this part. The information in the files of the department must
734 be searchable by the hull identification number of the vessel,
735 the vessel number, the name of the owner of record, and any
736 other method used by the department.

737 (3) The department shall maintain in its files, for each
738 vessel for which it has created a certificate of title, all
739 title brands known to the department, the name of each secured
740 party known to the department, the name of each person known to
741 the department to be claiming an ownership interest, and all

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

742 stolen property reports the department has received.

743 (4) Upon request, for safety, security, or law enforcement
744 purposes, the department shall provide to federal, state, or
745 local government the information in its files relating to any
746 vessel for which the department has issued a certificate of
747 title.

748 (5) Except as otherwise provided by the laws of this state
749 other than this part, the information required under s. 328.04
750 is a public record.

751 Section 10. Section 328.06, Florida Statutes, is created
752 to read:

753 328.06 Action required on creation of certificate of
754 title.-

755 (1) On creation of a written certificate of title, the
756 department shall promptly send the certificate to the secured
757 party of record or, if none, to the owner of record at the
758 address indicated for that person in the files of the
759 department. On creation of an electronic certificate of title,
760 the department shall promptly send a record evidencing the
761 certificate to the owner of record and, if there is one, to the
762 secured party of record at the address indicated for each person
763 in the files of the department. The department may send the
764 record to the person's mailing address or, if indicated in the
765 files of the department, an electronic address.

766 (2) If the department creates a written certificate of

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

767 title, any electronic certificate of title for the vessel is
768 canceled and replaced by the written certificate. The department
769 shall maintain in the files of the department the date and time
770 of cancellation.

771 (3) Before the department creates an electronic
772 certificate of title, any written certificate for the vessel
773 must be surrendered to the department. If the department creates
774 an electronic certificate, the department shall destroy or
775 otherwise cancel the written certificate for the vessel which
776 has been surrendered to the department and maintain in the files
777 of the department the date and time of destruction or other
778 cancellation. If a written certificate being canceled is not
779 destroyed, the department shall indicate on the face of the
780 certificate that it has been canceled.

781 Section 11. Section 328.065, Florida Statutes, is created
782 to read:

783 328.065 Effect of possession of certificate of title;
784 judicial process.—Possession of a certificate of title does not
785 by itself provide a right to obtain possession of a vessel.
786 Garnishment, attachment, levy, replevin, or other judicial
787 process against the certificate is not effective to determine
788 possessory rights to the vessel. This part does not prohibit
789 enforcement under the laws of this state of a security interest
790 in, levy on, or foreclosure of a statutory or common-law lien on
791 a vessel. Absence of an indication of a statutory or common-law

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

792 lien on a certificate does not invalidate the lien.

793 Section 12. Section 328.09, Florida Statutes, is amended
794 to read:

795 (Substantial rewording of section. See
796 s. 328.09, F.S., for present text.)

797 328.09 Refusal to issue and authority to cancel a
798 certificate of title or registration.—

799 (1) Unless an application for a certificate of title is
800 rejected under subsection (3) or subsection (4), the department
801 shall create a certificate for the vessel in accordance with
802 subsection (2) not later than 30 days after delivery to the
803 department of an application that complies with s. 328.01.

804 (2) If the department creates electronic certificates of
805 title, the department shall create an electronic certificate
806 unless in the application the secured party of record or, if
807 none, the owner of record requests that the department create a
808 written certificate.

809 (3) Except as otherwise provided in subsection (4), the
810 department may reject an application for a certificate of title
811 only if:

812 (a) The application does not comply with s. 328.01;

813 (b) The application does not contain documentation
814 sufficient for the department to determine whether the applicant
815 is entitled to a certificate;

816 (c) There is a reasonable basis for concluding that the

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

817 application is fraudulent or issuance of a certificate would
818 facilitate a fraudulent or illegal act; or

819 (d) The application does not comply with the laws of this
820 state other than this part.

821 (4) The department shall reject an application for a
822 certificate of title for a vessel that is a documented vessel or
823 a foreign-documented vessel.

824 (5) The department may cancel a certificate of title
825 created by it only if the department:

826 (a) Could have rejected the application for the
827 certificate under subsection (3);

828 (b) Is required to cancel the certificate under another
829 provision of this part; or

830 (c) Receives satisfactory evidence that the vessel is a
831 documented vessel or a foreign-documented vessel.

832 (6) The decision by the department to reject an
833 application for a certificate of title or cancel a certificate
834 of title pursuant to this section is subject to a hearing
835 pursuant to ss. 120.569 and 120.57 at which the owner and any
836 other interested party may present evidence in support of or
837 opposition to the cancellation of the certificate of title or
838 rejection of the application for certificate of title.

839 Section 13. Section 328.101, Florida Statutes, is created
840 to read:

841 328.101 Effect of missing or incorrect information.—Except

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

842 as otherwise provided in s. 679.337, a certificate of title or
843 other record required or authorized by this part is effective
844 even if it contains unintended or incorrect scrivener's errors or
845 does not contain certain required information if such missing
846 information is determined by the department to be
847 inconsequential to the issuing of a certificate of title.

848 Section 14. Section 328.11, Florida Statutes, is amended
849 to read:

850 328.11 Duplicate certificate of title.—

851 (1) If a written certificate of title is lost, stolen,
852 mutilated, destroyed, or otherwise becomes unavailable or
853 illegible, the secured party of record or, if no secured party
854 is indicated in the files of the department, the owner of record
855 may apply for and, by furnishing information satisfactory to the
856 department, obtain a duplicate certificate in the name of the
857 owner of record.

858 (2) An applicant for a duplicate certificate of title must
859 sign the application, and, except as otherwise permitted by the
860 department, the application must comply with s. 328.01. The
861 application must include the existing certificate unless the
862 certificate is lost, stolen, mutilated, destroyed, or otherwise
863 unavailable.

864 (3) A duplicate certificate of title created by the
865 department must comply with s. 328.04 and indicate on the face
866 of the certificate that it is a duplicate certificate.

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

867 (4) If a person receiving a duplicate certificate of title
868 subsequently obtains possession of the original written
869 certificate, the person shall promptly destroy the original
870 certificate of title.

871 ~~(5)(1) The Department of Highway Safety and Motor Vehicles~~
872 ~~may issue a duplicate certificate of title upon application by~~
873 ~~the person entitled to hold such a certificate if the department~~
874 ~~is satisfied that the original certificate has been lost,~~
875 ~~destroyed, or mutilated.~~ The department shall charge a fee of \$6
876 for issuing a duplicate certificate.

877 ~~(6)(2)~~ In addition to the fee imposed by subsection (5)
878 ~~(1)~~, the department of Highway Safety and Motor Vehicles shall
879 charge a fee of \$5 for expedited service in issuing a duplicate
880 certificate of title. Application for such expedited service may
881 be made by mail or in person. The department shall issue each
882 certificate of title applied for under this subsection within 5
883 working days after receipt of a proper application or shall
884 refund the additional \$5 fee upon written request by the
885 applicant.

886 ~~(3) If, following the issuance of an original, duplicate,~~
887 ~~or corrected certificate of title by the department, the~~
888 ~~certificate is lost in transit and is not delivered to the~~
889 ~~addressee, the owner of the vessel or the holder of a lien~~
890 ~~thereon may, within 180 days after the date of issuance of the~~
891 ~~title, apply to the department for reissuance of the certificate~~

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

892 ~~of title. An additional fee may not be charged for reissuance~~
893 ~~under this subsection.~~

894 (7)-(4) The department shall implement a system to verify
895 that the application is signed by a person authorized to receive
896 a duplicate title certificate under this section if the address
897 shown on the application is different from the address shown for
898 the applicant on the records of the department.

899 Section 15. Section 328.12, Florida Statutes, is created
900 to read:

901 328.12 Perfection of security interest.-

902 (1) Except as otherwise provided in this section, a
903 security interest in a vessel may be perfected only by delivery
904 to the department of an application for a certificate of title
905 that identifies the secured party and otherwise complies with s.
906 328.01. The security interest is perfected on the later of
907 delivery to the department of the application and the applicable
908 fee or attachment of the security interest under s. 679.2031.

909 (2) If the interest of a person named as owner, lessor,
910 consignor, or bailor in an application for a certificate of
911 title delivered to the department is a security interest, the
912 application sufficiently identifies the person as a secured
913 party. Identification on the application for a certificate of a
914 person as owner, lessor, consignor, or bailor is not by itself a
915 factor in determining whether the person's interest is a
916 security interest.

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

917 (3) If the department has created a certificate of title
918 for a vessel, a security interest in the vessel may be perfected
919 by delivery to the department of an application, on a form the
920 department may require, to have the security interest added to
921 the certificate. The application must be signed by an owner of
922 the vessel or by the secured party and must include:

923 (a) The name of the owner of record;

924 (b) The name and mailing address of the secured party;

925 (c) The hull identification number for the vessel; and

926 (d) If the department has created a written certificate of
927 title for the vessel, the certificate.

928 (4) A security interest perfected under subsection (3) is
929 perfected on the later of delivery to the department of the
930 application and all applicable fees or attachment of the
931 security interest under s. 679.2031.

932 (5) On delivery of an application that complies with
933 subsection (3) and payment of all applicable fees, the
934 department shall create a new certificate of title pursuant to
935 s. 328.09 and deliver the new certificate or a record evidencing
936 an electronic certificate pursuant to s. 328.06. The department
937 shall maintain in the files of the department the date and time
938 of delivery of the application to the department.

939 (6) If a secured party assigns a perfected security
940 interest in a vessel, the receipt by the department of a
941 statement providing the name of the assignee as secured party is

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

942 not required to continue the perfected status of the security
943 interest against creditors of and transferees from the original
944 debtor. A purchaser of a vessel subject to a security interest
945 who obtains a release from the secured party indicated in the
946 files of the department or on the certificate takes free of the
947 security interest and of the rights of a transferee unless the
948 transfer is indicated in the files of the department or on the
949 certificate.

950 (7) This section does not apply to a security interest:

951 (a) Created in a vessel by a person during any period in
952 which the vessel is inventory held for sale or lease by the
953 person or is leased by the person as lessor if the person is in
954 the business of selling vessels;

955 (b) In a barge for which no application for a certificate
956 of title has been delivered to the department; or

957 (c) In a vessel before delivery if the vessel is under
958 construction, or completed, pursuant to contract and for which
959 no application for a certificate has been delivered to the
960 department.

961 (8) This subsection applies if a certificate of
962 documentation for a documented vessel is deleted or canceled. If
963 a security interest in the vessel was valid immediately before
964 deletion or cancellation against a third party as a result of
965 compliance with 46 U.S.C. s. 31321, the security interest is and
966 remains perfected until the earlier of 4 months after

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

967 cancellation of the certificate or the time the security
968 interest becomes perfected under this part.

969 (9) A security interest in a vessel arising under s.
970 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is
971 perfected when it attaches but becomes unperfected when the
972 debtor obtains possession of the vessel, unless the security
973 interest is perfected pursuant to subsection (1) or subsection
974 (3) before the debtor obtains possession.

975 (10) A security interest in a vessel as proceeds of other
976 collateral is perfected to the extent provided in s. 679.3151.

977 (11) A security interest in a vessel perfected under the
978 law of another jurisdiction is perfected to the extent provided
979 in s. 679.3161(4).

980 Section 16. Section 328.125, Florida Statutes, is created
981 to read:

982 328.125 Termination statement.—

983 (1) A secured party indicated in the files of the
984 department as having a security interest in a vessel shall
985 deliver a termination statement to the department and, on the
986 debtor's request, to the debtor, by the earlier of:

987 (a) Twenty days after the secured party receives a signed
988 demand from an owner for a termination statement and there is no
989 obligation secured by the vessel subject to the security
990 interest and no commitment to make an advance, incur an
991 obligation, or otherwise give value secured by the vessel; or

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

992 (b) If the vessel is consumer goods, 30 days after there
993 is no obligation secured by the vessel and no commitment to make
994 an advance, incur an obligation, or otherwise give value secured
995 by the vessel.

996 (2) If a written certificate of title has been created and
997 delivered to a secured party and a termination statement is
998 required under subsection (1), the secured party, not later than
999 the date required by subsection (1), shall deliver the
1000 certificate to the debtor or to the department with the
1001 statement. If the certificate is lost, stolen, mutilated,
1002 destroyed, or is otherwise unavailable or illegible, the secured
1003 party shall deliver with the statement, not later than the date
1004 required by subsection (1), an application for a duplicate
1005 certificate meeting the requirements of s. 328.11.

1006 (3) On delivery to the department of a termination
1007 statement authorized by the secured party, the security interest
1008 to which the statement relates ceases to be perfected. If the
1009 security interest to which the statement relates was indicated
1010 on the certificate of title, the department shall create a new
1011 certificate and deliver the new certificate or a record
1012 evidencing an electronic certificate. The department shall
1013 maintain in its files the date and time of delivery to the
1014 department of the statement.

1015 (4) A secured party that fails to comply with this section
1016 is liable for any loss that the secured party had reason to know

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1017 might result from its failure to comply and which could not
1018 reasonably have been prevented and for the cost of an
1019 application for a certificate of title under s. 328.01 or s.
1020 328.11.

1021 Section 17. Section 328.14, Florida Statutes, is created
1022 to read:

1023 328.14 Rights of purchaser other than secured party.—

1024 (1) A buyer in ordinary course of business has the
1025 protections afforded by ss. 672.403(2) and 679.320(1) even if an
1026 existing certificate of title was not signed and delivered to
1027 the buyer or a new certificate listing the buyer as owner of
1028 record was not created.

1029 (2) Except as otherwise provided in ss. 328.145 and
1030 328.22, the rights of a purchaser of a vessel who is not a buyer
1031 in ordinary course of business or a lien creditor are governed
1032 by the Uniform Commercial Code.

1033 Section 18. Section 328.145, Florida Statutes, is created
1034 to read:

1035 328.145 Rights of secured party.—

1036 (1) Subject to subsection (2), the effect of perfection
1037 and nonperfection of a security interest and the priority of a
1038 perfected or unperfected security interest with respect to the
1039 rights of a purchaser or creditor, including a lien creditor, is
1040 governed by the Uniform Commercial Code.

1041 (2) If, while a security interest in a vessel is perfected

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1042 by any method under this part, the department creates a
1043 certificate of title that does not indicate that the vessel is
1044 subject to the security interest or contain a statement that it
1045 may be subject to security interests not indicated on the
1046 certificate:

1047 (a) A buyer of the vessel, other than a person in the
1048 business of selling or leasing vessels of that kind, takes free
1049 of the security interest if the buyer, acting in good faith and
1050 without knowledge of the security interest, gives value and
1051 receives possession of the vessel; and

1052 (b) The security interest is subordinate to a conflicting
1053 security interest in the vessel that is perfected under s.
1054 328.12 after creation of the certificate and without the
1055 conflicting secured party's knowledge of the security interest.

1056 Section 19. Section 328.15, Florida Statutes, is amended
1057 to read:

1058 328.15 Notice of lien on vessel; recording.—

1059 ~~(1) No lien for purchase money or as security for a debt~~
1060 ~~in the form of retain title contract, conditional bill of sale,~~
1061 ~~chattel mortgage, or otherwise on a vessel shall be enforceable~~
1062 ~~in any of the courts of this state against creditors or~~
1063 ~~subsequent purchasers for a valuable consideration and without~~
1064 ~~notice unless a sworn notice of such lien is recorded. The lien~~
1065 ~~certificate shall contain the following information:~~

1066 ~~(a) Name and address of the registered owner;~~

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

- 1067 ~~(b) Date of lien;~~
1068 ~~(c) Description of the vessel to include make, type, motor~~
1069 ~~and serial number; and~~
1070 ~~(d) Name and address of lienholder.~~

1071
1072 ~~The lien shall be recorded by the Department of Highway Safety~~
1073 ~~and Motor Vehicles and shall be effective as constructive notice~~
1074 ~~when filed. The date of filing of the notice of lien is the date~~
1075 ~~of its receipt by the department's central office in~~
1076 ~~Tallahassee, if first filed there, or otherwise by the office of~~
1077 ~~a county tax collector or of the tax collector's agent.~~

1078 ~~(2) (a) The Department of Highway Safety and Motor Vehicles~~
1079 ~~shall not enter any lien upon its lien records, whether it is a~~
1080 ~~first lien or a subordinate lien, unless the official~~
1081 ~~certificate of title issued for the vessel is furnished with the~~
1082 ~~notice of lien, so that the record of lien, whether original or~~
1083 ~~subordinate, may be noted upon the face thereof. After the~~
1084 ~~department records the lien, it shall send the certificate of~~
1085 ~~title to the holder of the first lien who shall hold such~~
1086 ~~certificate until the lien is satisfied in full.~~

1087 ~~(b) When a vessel is registered in the names of two or~~
1088 ~~more persons as coowners in the alternative by the use of the~~
1089 ~~word "or," whether or not the coowners are husband and wife,~~
1090 ~~each coowner is considered to have granted to any other coowner~~
1091 ~~the absolute right to place a lien or encumbrance on the vessel,~~

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1092 ~~and the signature of one coowner constitutes proper execution of~~
1093 ~~the notice of lien. When a vessel is registered in the names of~~
1094 ~~two or more persons as coowners in the conjunctive by the use of~~
1095 ~~the word "and," the signature of each coowner is required in~~
1096 ~~order to place a lien or encumbrance on the vessel.~~

1097 ~~(c) If the owner of the vessel as shown on the title~~
1098 ~~certificate or the director of the state child support~~
1099 ~~enforcement program desires to place a second or subsequent lien~~
1100 ~~or encumbrance against the vessel when the title certificate is~~
1101 ~~in the possession of the first lienholder, the owner shall send~~
1102 ~~a written request to the first lienholder by certified mail and~~
1103 ~~such first lienholder shall forward the certificate to the~~
1104 ~~department for endorsement. The department shall return the~~
1105 ~~certificate to the first lienholder, as indicated in the notice~~
1106 ~~of lien filed by the first lienholder, after endorsing the~~
1107 ~~second or subsequent lien on the certificate and on the~~
1108 ~~duplicate. If the first lienholder fails, neglects, or refuses~~
1109 ~~to forward the certificate of title to the department within 10~~
1110 ~~days after the date of the owner's or the director's request,~~
1111 ~~the department, on written request of the subsequent lienholder~~
1112 ~~or an assignee thereof, shall demand of the first lienholder the~~
1113 ~~return of such certificate for the notation of the second or~~
1114 ~~subsequent lien or encumbrance.~~

1115 ~~(1)-(3)~~ Upon the payment of a ~~any such~~ lien, the debtor or
1116 the registered owner of the motorboat shall be entitled to

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1117 demand and receive from the lienholder a satisfaction of the
1118 lien which shall likewise be filed with the Department of
1119 Highway Safety and Motor Vehicles.

1120 ~~(2)-(4)~~ The Department of Highway Safety and Motor Vehicles
1121 under precautionary rules and regulations to be promulgated by
1122 it may permit the use, in substitution of the formal
1123 satisfaction of lien, of other methods of satisfaction, such as
1124 perforation, appropriate stamp, or otherwise, as it deems
1125 reasonable and adequate.

1126 ~~(3)-(5)~~(a) The Department of Highway Safety and Motor
1127 Vehicles shall adopt rules to administer this section. The
1128 department may by rule require that a notice of satisfaction of
1129 a lien be notarized. The department shall prepare the forms of
1130 the notice of lien and the satisfaction of lien to be supplied,
1131 at a charge not to exceed 50 percent more than cost, to
1132 applicants for recording the liens or satisfactions and shall
1133 keep a record of such notices of lien and satisfactions
1134 available for inspection by the public at all reasonable times.
1135 The division may furnish certified copies of such satisfactions
1136 for a fee of \$1, which are admissible in evidence in all courts
1137 of this state under the same conditions and to the same effect
1138 as certified copies of other public records.

1139 (b) The department shall establish and administer an
1140 electronic titling program that requires the recording of vessel
1141 title information for new, transferred, and corrected

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1142 certificates of title. Lienholders shall electronically transmit
1143 liens and lien satisfactions to the department in a format
1144 determined by the department. Individuals and lienholders who
1145 the department determines are not normally engaged in the
1146 business or practice of financing vessels are not required to
1147 participate in the electronic titling program.

1148 ~~(6) The Department of Highway Safety and Motor Vehicles is~~
1149 ~~entitled to a fee of \$1 for the recording of each notice of~~
1150 ~~lien. No fee shall be charged for recording the satisfaction of~~
1151 ~~a lien. All of the fees collected shall be paid into the Marine~~
1152 ~~Resources Conservation Trust Fund.~~

1153 (4)~~(7)~~(a) Should any person, firm, or corporation holding
1154 such lien, which has been recorded by the Department of Highway
1155 Safety and Motor Vehicles, upon payment of such lien and on
1156 demand, fail or refuse, within 30 days after such payment and
1157 demand, to furnish the debtor or the registered owner of such
1158 vessel a satisfaction of the lien, then, in that event, such
1159 person, firm, or corporation shall be held liable for all costs,
1160 damages, and expenses, including reasonable attorney ~~attorney's~~
1161 fees, lawfully incurred by the debtor or the registered owner of
1162 such vessel in any suit which may be brought in the courts of
1163 this state for the cancellation of such lien.

1164 (b) Following satisfaction of a lien, the lienholder shall
1165 enter a satisfaction thereof in the space provided on the face
1166 of the certificate of title. If there are no subsequent liens

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1167 shown thereon, the certificate shall be delivered by the
1168 lienholder to the person satisfying the lien or encumbrance and
1169 an executed satisfaction on a form provided by the department
1170 shall be forwarded to the department by the lienholder within 10
1171 days after satisfaction of the lien.

1172 (c) If the certificate of title shows a subsequent lien
1173 not then being discharged, an executed satisfaction of the first
1174 lien shall be delivered by the lienholder to the person
1175 satisfying the lien and the certificate of title showing
1176 satisfaction of the first lien shall be forwarded by the
1177 lienholder to the department within 10 days after satisfaction
1178 of the lien.

1179 (d) If, upon receipt of a title certificate showing
1180 satisfaction of the first lien, the department determines from
1181 its records that there are no subsequent liens or encumbrances
1182 upon the vessel, the department shall forward to the owner, as
1183 shown on the face of the title, a corrected certificate showing
1184 no liens or encumbrances. If there is a subsequent lien not
1185 being discharged, the certificate of title shall be reissued
1186 showing the second or subsequent lienholder as the first
1187 lienholder and shall be delivered to the new first lienholder.
1188 The first lienholder shall be entitled to retain the certificate
1189 of title until his or her lien is satisfied. Upon satisfaction
1190 of the lien, the lienholder shall be subject to the procedures
1191 required of a first lienholder in this subsection ~~and in~~

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1192 ~~subsection (2).~~

1193 ~~(5)(8)~~ When the original certificate of title cannot be
1194 returned to the department by the lienholder and evidence
1195 satisfactory to the department is produced that all liens or
1196 encumbrances have been satisfied, upon application by the owner
1197 for a duplicate copy of the certificate of title, upon the form
1198 prescribed by the department, accompanied by the fee prescribed
1199 in this chapter, a duplicate copy of the certificate of title
1200 without statement of liens or encumbrances shall be issued by
1201 the department and delivered to the owner.

1202 ~~(6)(9)~~ Any person who fails, within 10 days after receipt
1203 of a demand by the department by certified mail, to return a
1204 certificate of title to the department ~~as required by paragraph~~
1205 ~~(2)(e)~~ or who, upon satisfaction of a lien, fails within 10 days
1206 after receipt of such demand to forward the appropriate document
1207 to the department as required by paragraph (4)(b) ~~(7)(b)~~ or
1208 paragraph (4)(c) ~~(7)(e)~~ commits a misdemeanor of the second
1209 degree, punishable as provided in s. 775.082 or s. 775.083.

1210 ~~(7)(10)~~ The department shall use the last known address as
1211 shown by its records when sending any notice required by this
1212 section.

1213 ~~(8)(11)~~ If the original lienholder sells and assigns his
1214 or her lien to some other person, and if the assignee desires to
1215 have his or her name substituted on the certificate of title as
1216 the holder of the lien, he or she may, after delivering the

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1217 original certificate of title to the department and providing a
1218 sworn statement of the assignment, have his or her name
1219 substituted as a lienholder. Upon substitution of the assignee's
1220 name as lienholder, the department shall deliver the certificate
1221 of title to the assignee as the first lienholder.

1222 (9) Subsections (1), (2), and (4)-(8) shall expire October
1223 1, 2025.

1224 Section 20. Section 328.16, Florida Statutes, is amended
1225 to read:

1226 328.16 Issuance in duplicate; delivery; liens, security
1227 interests, and encumbrances.-

1228 (1) The department shall assign a number to each
1229 certificate of title and shall issue each certificate of title
1230 and each corrected certificate in duplicate. The database record
1231 shall serve as the duplicate title certificate.

1232 (2) An authorized person must sign the original
1233 certificate of title and each corrected certificate and, if
1234 there are no liens, security interests, or encumbrances on the
1235 vessel, as shown in the records of the department or as shown in
1236 the application, must deliver the certificate to the applicant
1237 or to another person as directed by the applicant or person,
1238 agent, or attorney submitting the application. If there are one
1239 or more liens, security interests, or encumbrances on the
1240 vessel, the department must deliver the certificate to the first
1241 lienholder or secured party as shown by department records. The

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1242 department shall deliver to the first lienholder or secured
1243 party, along with the certificate, a form to be subsequently
1244 used by the lienholder or secured party as a satisfaction. If
1245 the application for certificate of title shows the name of a
1246 first lienholder or secured party which is different from the
1247 name of the first lienholder or secured party as shown by the
1248 records of the department, the certificate shall not be issued
1249 to any person until after the department notifies all parties
1250 who appear to hold a lien or a security interest and the
1251 applicant for the certificate, in writing by certified mail. If
1252 the parties do not amicably resolve the conflict within 10 days
1253 after the date the notice was mailed, the department shall serve
1254 notice in writing by certified mail on all persons that appear
1255 to hold liens or security interests on that particular vessel,
1256 including the applicant for the certificate, to show cause
1257 within 15 days after the date the notice is mailed why it should
1258 not issue and deliver the certificate to the secured party of
1259 record or person indicated in the notice of lien filed by the
1260 lienholder whose name appears in the application as the first
1261 lienholder without showing any lien or liens as outstanding
1262 other than those appearing in the application or those filed
1263 subsequent to the filing of the application for the certificate
1264 of title. If, within the 15-day period, any person other than
1265 the lienholder or secured party of record shown in the
1266 application or a party filing a subsequent lien or security

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1267 interest, in answer to the notice to show cause, appears in
1268 person or by a representative, or responds in writing, and files
1269 a written statement under oath that his or her lien or security
1270 interest on that particular vessel is still outstanding, the
1271 department shall not issue the certificate to anyone until after
1272 the conflict has been settled by the lien or security interest
1273 claimants involved or by a court of competent jurisdiction. If
1274 the conflict is not settled amicably within 10 days after the
1275 final date for filing an answer to the notice to show cause, the
1276 complaining party shall have 10 days to obtain a ruling, or a
1277 stay order, from a court of competent jurisdiction. If a ruling
1278 or stay order is not issued and served on the department within
1279 the 10-day period, the department shall issue the certificate
1280 showing no liens or security interests, except those shown in
1281 the application or thereafter filed, to the original applicant
1282 if there are no liens or security interests shown in the
1283 application and none are thereafter filed, or to the person
1284 indicated as the secured party of record or in the notice of
1285 lien filed by the lienholder whose name appears in the
1286 application as the first lienholder if there are liens shown in
1287 the application or thereafter filed. A duplicate certificate or
1288 corrected certificate must show only such security interest or
1289 interests or lien or liens as were shown in the application and
1290 subsequently filed liens or security interests that may be
1291 outstanding.

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1292 (3) ~~Except as provided in s. 328.15(11),~~ The certificate
1293 of title shall be retained by the first lienholder or secured
1294 party of record. The first lienholder or secured party of record
1295 is entitled to retain the certificate until the first lien or
1296 security interest is satisfied.

1297 (4) Notwithstanding any requirements in this section ~~or in~~
1298 ~~s. 328.15~~ indicating that a lien or security interest on a
1299 vessel shall be noted on the face of the Florida certificate of
1300 title, if there are one or more liens, security interests, or
1301 encumbrances on a vessel, the department shall electronically
1302 transmit the lien or security interest to the first lienholder
1303 or secured party and notify the first lienholder or secured
1304 party of any additional liens or security interests. Subsequent
1305 lien or security interest satisfactions shall be electronically
1306 transmitted to the department and must include the name and
1307 address of the person or entity satisfying the lien or security
1308 interest. When electronic transmission of liens or security
1309 interest and lien satisfactions or security interest are used,
1310 the issuance of a certificate of title may be waived until the
1311 last lien or security interest is satisfied and a clear
1312 certificate of title is issued to the owner of the vessel.

1313 (5) The owner of a vessel, upon which a lien or security
1314 interest has been filed with the department or noted upon a
1315 certificate of title for a period of 5 years, may apply to the
1316 department in writing for such lien or security interest to be

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1317 removed from the department files or from the certificate of
1318 title. The application must be accompanied by evidence
1319 satisfactory to the department that the applicant has notified
1320 the lienholder or secured party by certified mail, not less than
1321 20 days before ~~prior to~~ the date of the application, of his or
1322 her intention to apply to the department for removal of the lien
1323 or security interest. Ten days after receipt of the application,
1324 the department may remove the lien or security interest from its
1325 files or from the certificate of title, as the case may be, if
1326 no statement in writing protesting removal of the lien or
1327 security interest is received by the department from the
1328 lienholder or secured party within the 10-day period. However,
1329 if the lienholder or secured party files with the department,
1330 within the 10-day period, a written statement that the lien or
1331 security interest is still outstanding, the department may not
1332 remove the lien or security interest until the lienholder or
1333 secured party presents a satisfaction of lien or satisfaction of
1334 security interest to the department.

1335 Section 21. Subsection (1) of section 328.165, Florida
1336 Statutes, is amended to read:

1337 328.165 Cancellation of certificates.—

1338 (1) If it appears that a certificate of title has been
1339 improperly issued, the department shall cancel the certificate.
1340 Upon cancellation of any certificate of title, the department
1341 shall notify the person to whom the certificate of title was

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1342 issued, and any lienholders or secured parties appearing
1343 thereon, of the cancellation and shall demand the surrender of
1344 the certificate of title; however, the cancellation does not
1345 affect the validity of any lien or security interest noted
1346 thereon. The holder of the certificate of title shall
1347 immediately return it to the department. If a certificate of
1348 registration has been issued to the holder of a certificate of
1349 title so canceled, the department shall immediately cancel the
1350 certificate of registration and demand the return of the
1351 certificate of registration, and the holder of such certificate
1352 of registration shall immediately return it to the department.

1353 Section 22. Section 328.215, Florida Statutes, is created
1354 to read:

1355 328.215 Application for transfer of ownership or
1356 termination of security interest without certificate of title.-

1357 (1) Except as otherwise provided in s. 328.23 or s.
1358 328.24, if the department receives, unaccompanied by a signed
1359 certificate of title, an application for a new certificate that
1360 includes an indication of a transfer of ownership or a
1361 termination statement, the department may create a new
1362 certificate under this section only if:

1363 (a) All other requirements under ss. 328.01 and 328.09 are
1364 met;

1365 (b) The applicant provides an affidavit stating facts
1366 showing the applicant is entitled to a transfer of ownership or

Amendment No.

1367 termination statement;

1368 (c) The applicant provides the department with
1369 satisfactory evidence that notification of the application has
1370 been sent to the owner of record and all persons indicated in
1371 the files of the department as having an interest, including a
1372 security interest, in the vessel; at least 45 days have passed
1373 since the notification was sent; and the department has not
1374 received an objection from any of those persons; and

1375 (d) The applicant submits any other information required
1376 by the department as evidence of the applicant's ownership or
1377 right to terminate the security interest, and the department has
1378 no credible information indicating theft, fraud, or an
1379 undisclosed or unsatisfied security interest, lien, or other
1380 claim to an interest in the vessel.

1381 (2) The department may indicate in a certificate of title
1382 created under subsection (1) that the certificate was created
1383 without submission of a signed certificate or termination
1384 statement. Unless credible information indicating theft, fraud,
1385 or an undisclosed or unsatisfied security interest, lien, or
1386 other claim to an interest in the vessel is delivered to the
1387 department not later than 1 year after creation of the
1388 certificate, on request in a form and manner required by the
1389 department, the department shall remove the indication from the
1390 certificate.

1391 (3) Before the department creates a certificate of title

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1392 under subsection (1), the department may require the applicant
1393 to post a reasonable bond or provide an equivalent source of
1394 indemnity or security. The bond, indemnity, or other security
1395 must be in a form required by the department and provide for
1396 indemnification of any owner, purchaser, or other claimant for
1397 any expense, loss, delay, or damage, including reasonable
1398 attorney fees and costs, but not including incidental or
1399 consequential damages, resulting from creation or amendment of
1400 the certificate.

1401 (4) Unless the department receives a claim for indemnity
1402 not later than 1 year after creation of a certificate of title
1403 under subsection (1), on request in a form and manner required
1404 by the department, the department shall release any bond,
1405 indemnity, or other security. The department shall not be liable
1406 to any person or entity for creating a certificate of title
1407 under this section where the department issues the certificate
1408 of title in good faith based on the information provided by an
1409 applicant. Any applicant that submits erroneous or fraudulent
1410 information with the intent to mislead the department into
1411 issuing a certificate of title under this section shall be
1412 subject to the penalties established in s. 328.045(4) in
1413 addition to any other criminal or civil penalties provided by
1414 law.

1415 Section 23. Section 328.22, Florida Statutes, is created
1416 to read:

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1417 328.22 Transfer of ownership.—

1418 (1) On voluntary transfer of an ownership interest in a
1419 vessel covered by a certificate of title, the following shall
1420 apply:

1421 (a) If the certificate is a written certificate of title
1422 and the transferor's interest is noted on the certificate, the
1423 transferor shall promptly sign the certificate and deliver it to
1424 the transferee. If the transferor does not have possession of
1425 the certificate, the person in possession of the certificate has
1426 a duty to facilitate the transferor's compliance with this
1427 paragraph. A secured party does not have a duty to facilitate
1428 the transferor's compliance with this paragraph if the proposed
1429 transfer is prohibited by the security agreement.

1430 (b) If the certificate of title is an electronic
1431 certificate of title, the transferor shall promptly hand sign or
1432 sign electronically, if available, and deliver to the transferee
1433 a record evidencing the transfer of ownership to the transferee.

1434 (c) The transferee has a right enforceable by specific
1435 performance to require the transferor to comply with paragraph
1436 (a) or paragraph (b).

1437 (2) The creation of a certificate of title identifying the
1438 transferee as owner of record satisfies subsection (1).

1439 (3) A failure to comply with subsection (1) or to apply
1440 for a new certificate of title does not render a transfer of
1441 ownership of a vessel ineffective between the parties. Except as

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1442 otherwise provided in s. 328.101, s. 328.14(1), s. 328.145, or
1443 s. 328.23, a transfer of ownership without compliance with
1444 subsection (1) is not effective against another person claiming
1445 an interest in the vessel.

1446 (4) A transferor that complies with subsection (1) is not
1447 liable as owner of the vessel for an event occurring after the
1448 transfer, regardless of whether the transferee applies for a new
1449 certificate of title.

1450 Section 24. Section 328.23, Florida Statutes, is created
1451 to read:

1452 328.23 Transfer of ownership by secured party's transfer
1453 statement.—

1454 (1) In this section, "secured party's transfer statement"
1455 means a record signed by the secured party of record stating:

1456 (a) That there has been a default on an obligation secured
1457 by the vessel;

1458 (b) That the secured party of record is exercising or has
1459 exercised post-default remedies with respect to the vessel;

1460 (c) That by reason of the exercise, the secured party of
1461 record has the right to transfer the ownership interest of an
1462 owner, and the name of the owner;

1463 (d) The name and last known mailing address of the owner
1464 of record and the secured party of record;

1465 (e) The name of the transferee;

1466 (f) Other information required by s. 328.01(2); and

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

- 1467 (g) One of the following:
- 1468 1. The certificate of title is an electronic certificate;
- 1469 2. The secured party does not have possession of the
1470 written certificate of title created in the name of the owner of
1471 record; or
- 1472 3. The secured party is delivering the written certificate
1473 of title to the department with the secured party's transfer
1474 statement.
- 1475 (2) Unless the department rejects a secured party's
1476 transfer statement for a reason stated in s. 328.09(3), not
1477 later than 30 days after delivery to the department of the
1478 statement and payment of fees and taxes payable under the laws
1479 of this state other than this part in connection with the
1480 statement or the acquisition or use of the vessel, the
1481 department shall:
- 1482 (a) Accept the statement;
- 1483 (b) Amend the files of the department to reflect the
1484 transfer; and
- 1485 (c) If the name of the owner whose ownership interest is
1486 being transferred is indicated on the certificate of title:
- 1487 1. Cancel the certificate even if the certificate has not
1488 been delivered to the department;
- 1489 2. Create a new certificate indicating the transferee as
1490 owner; and
- 1491 3. Deliver the new certificate or a record evidencing an

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1492 electronic certificate.

1493 (3) An application under subsection (1) or the creation of
1494 a certificate of title under subsection (2) is not by itself a
1495 disposition of the vessel and does not by itself relieve the
1496 secured party of its duties under chapter 679.

1497 Section 25. Section 328.24, Florida Statutes, is created
1498 to read:

1499 328.24 Transfer by operation of law.-

1500 (1) In this section, "by operation of law" means pursuant
1501 to a law or judicial order affecting ownership of a vessel:

1502 (a) Because of death, divorce, or other family law
1503 proceeding, merger, consolidation, dissolution, or bankruptcy;

1504 (b) Through the exercise of the rights of a lien creditor
1505 or a person having a lien created by statute or rule of law; or

1506 (c) Through other legal process.

1507 (2) A transfer-by-law statement must contain:

1508 (a) The name and last known mailing address of the owner
1509 of record and the transferee and the other information required
1510 by s. 328.01;

1511 (b) Documentation sufficient to establish the transferee's
1512 ownership interest or right to acquire the ownership interest;

1513 (c) A statement that:

1514 1. The certificate of title is an electronic certificate
1515 of title;

1516 2. The transferee does not have possession of the written

Amendment No.

1517 certificate of title created in the name of the owner of record;
1518 or

1519 3. The transferee is delivering the written certificate to
1520 the department with the transfer-by-law statement; and

1521 (d) Except for a transfer described in paragraph (1)(a),
1522 evidence that notification of the transfer and the intent to
1523 file the transfer-by-law statement has been sent to all persons
1524 indicated in the files of the department as having an interest,
1525 including a security interest, in the vessel.

1526 (3) Unless the department rejects a transfer-by-law
1527 statement for a reason stated in s. 328.09(3) or because the
1528 statement does not include documentation satisfactory to the
1529 department as to the transferee's ownership interest or right to
1530 acquire the ownership interest, not later than 30 days after
1531 delivery to the department of the statement and payment of fees
1532 and taxes payable under the law of this state other than this
1533 part in connection with the statement or with the acquisition or
1534 use of the vessel, the department shall:

1535 (a) Accept the statement;

1536 (b) Amend the files of the department to reflect the
1537 transfer; and

1538 (c) If the name of the owner whose ownership interest is
1539 being transferred is indicated on the certificate of title:

1540 1. Cancel the certificate even if the certificate has not
1541 been delivered to the department;

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1542 2. Create a new certificate indicating the transferee as
1543 owner;

1544 3. Indicate on the new certificate any security interest
1545 indicated on the canceled certificate, unless a court order
1546 provides otherwise; and

1547 4. Deliver the new certificate or a record evidencing an
1548 electronic certificate.

1549 (4) This section does not apply to a transfer of an
1550 interest in a vessel by a secured party under part VI of chapter
1551 679.

1552 Section 26. Section 328.25, Florida Statutes, is created
1553 to read:

1554 328.25 Supplemental principles of law and equity.—Unless
1555 displaced by a provision of this part, the principles of law and
1556 equity supplement its provisions.

1557 Section 27. Section 328.41, Florida Statutes, is created
1558 to read:

1559 328.41 Rules.—The department has the authority to adopt
1560 rules pursuant to ss. 120.536(1) and 120.54 to implement the
1561 provisions of this part.

1562 Section 28. Section 409.2575, Florida Statutes, is amended
1563 to read:

1564 409.2575 Liens on motor vehicles and vessels.—

1565 (1) The director of the state IV-D program, or the
1566 director's designee, may cause a lien for unpaid and delinquent

Amendment No.

1567 support to be placed upon motor vehicles, as defined in chapter
1568 320, and upon vessels, as defined in chapter 327, that are
1569 registered in the name of an obligor who is delinquent in
1570 support payments, if the title to the property is held by a
1571 lienholder, in the manner provided in chapter 319 or, if
1572 applicable in accordance with s. 328.15(9), chapter 328. Notice
1573 of lien shall not be mailed unless the delinquency in support
1574 exceeds \$600.

1575 (2) If the first lienholder fails, neglects, or refuses to
1576 forward the certificate of title to the appropriate department
1577 as requested pursuant to s. 319.24 or, if applicable in
1578 accordance with s. 328.15(9), s. 328.15, the director of the IV-
1579 D program, or the director's designee, may apply to the circuit
1580 court for an order to enforce the requirements of s. 319.24 or
1581 s. 328.15, whichever applies.

1582 Section 29. Subsection (2) of section 705.103, Florida
1583 Statutes, is amended to read:

1584 705.103 Procedure for abandoned or lost property.—

1585 (2) Whenever a law enforcement officer ascertains that an
1586 article of lost or abandoned property is present on public
1587 property and is of such nature that it cannot be easily removed,
1588 the officer shall cause a notice to be placed upon such article
1589 in substantially the following form:

1590 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
1591 PROPERTY. This property, to wit: ...(setting forth brief

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1592 description)... is unlawfully upon public property known as
1593 ...(setting forth brief description of location)... and must be
1594 removed within 5 days; otherwise, it will be removed and
1595 disposed of pursuant to chapter 705, Florida Statutes. The owner
1596 will be liable for the costs of removal, storage, and
1597 publication of notice. Dated this: ...(setting forth the date of
1598 posting of notice)..., signed: ...(setting forth name, title,
1599 address, and telephone number of law enforcement officer)....
1600 Such notice shall be not less than 8 inches by 10 inches and
1601 shall be sufficiently weatherproof to withstand normal exposure
1602 to the elements. In addition to posting, the law enforcement
1603 officer shall make a reasonable effort to ascertain the name and
1604 address of the owner. If such is reasonably available to the
1605 officer, she or he shall mail a copy of such notice to the owner
1606 on or before the date of posting. If the property is a motor
1607 vehicle as defined in s. 320.01(1) or a vessel as defined in s.
1608 327.02, the law enforcement agency shall contact the Department
1609 of Highway Safety and Motor Vehicles in order to determine the
1610 name and address of the owner and any person who has filed a
1611 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)
1612 ~~or s. 328.15(1)~~. On receipt of this information, the law
1613 enforcement agency shall mail a copy of the notice by certified
1614 mail, return receipt requested, to the owner and to the
1615 lienholder, if any, except that a law enforcement officer who
1616 has issued a citation for a violation of s. 823.11 to the owner

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1617 of a derelict vessel is not required to mail a copy of the
1618 notice by certified mail, return receipt requested, to the
1619 owner. If, at the end of 5 days after posting the notice and
1620 mailing such notice, if required, the owner or any person
1621 interested in the lost or abandoned article or articles
1622 described has not removed the article or articles from public
1623 property or shown reasonable cause for failure to do so, the
1624 following shall apply:

1625 (a) For abandoned property, the law enforcement agency may
1626 retain any or all of the property for its own use or for use by
1627 the state or unit of local government, trade such property to
1628 another unit of local government or state agency, donate the
1629 property to a charitable organization, sell the property, or
1630 notify the appropriate refuse removal service.

1631 (b) For lost property, the officer shall take custody and
1632 the agency shall retain custody of the property for 90 days. The
1633 agency shall publish notice of the intended disposition of the
1634 property, as provided in this section, during the first 45 days
1635 of this time period.

1636 1. If the agency elects to retain the property for use by
1637 the unit of government, donate the property to a charitable
1638 organization, surrender such property to the finder, sell the
1639 property, or trade the property to another unit of local
1640 government or state agency, notice of such election shall be
1641 given by an advertisement published once a week for 2

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1642 consecutive weeks in a newspaper of general circulation in the
1643 county where the property was found if the value of the property
1644 is more than \$100. If the value of the property is \$100 or less,
1645 notice shall be given by posting a description of the property
1646 at the law enforcement agency where the property was turned in.
1647 The notice must be posted for not less than 2 consecutive weeks
1648 in a public place designated by the law enforcement agency. The
1649 notice must describe the property in a manner reasonably
1650 adequate to permit the rightful owner of the property to claim
1651 it.

1652 2. If the agency elects to sell the property, it must do
1653 so at public sale by competitive bidding. Notice of the time and
1654 place of the sale shall be given by an advertisement of the sale
1655 published once a week for 2 consecutive weeks in a newspaper of
1656 general circulation in the county where the sale is to be held.
1657 The notice shall include a statement that the sale shall be
1658 subject to any and all liens. The sale must be held at the
1659 nearest suitable place to that where the lost or abandoned
1660 property is held or stored. The advertisement must include a
1661 description of the goods and the time and place of the sale. The
1662 sale may take place no earlier than 10 days after the final
1663 publication. If there is no newspaper of general circulation in
1664 the county where the sale is to be held, the advertisement shall
1665 be posted at the door of the courthouse and at three other
1666 public places in the county at least 10 days prior to sale.

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1667 Notice of the agency's intended disposition shall describe the
1668 property in a manner reasonably adequate to permit the rightful
1669 owner of the property to identify it.

1670 Section 30. Paragraph (c) of subsection (2) of section
1671 721.08, Florida Statutes, is amended to read:

1672 721.08 Escrow accounts; nondisturbance instruments;
1673 alternate security arrangements; transfer of legal title.—

1674 (2) One hundred percent of all funds or other property
1675 which is received from or on behalf of purchasers of the
1676 timeshare plan or timeshare interest prior to the occurrence of
1677 events required in this subsection shall be deposited pursuant
1678 to an escrow agreement approved by the division. The funds or
1679 other property may be released from escrow only as follows:

1680 (c) Compliance with conditions.—

1681 1. Timeshare licenses.—If the timeshare plan is one in
1682 which timeshare licenses are to be sold and no cancellation or
1683 default has occurred, the escrow agent may release the escrowed
1684 funds or other property to or on the order of the developer upon
1685 presentation of:

1686 a. An affidavit by the developer that all of the following
1687 conditions have been met:

1688 (I) Expiration of the cancellation period.

1689 (II) Completion of construction.

1690 (III) Closing.

1691 (IV) Either:

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1692 (A) Execution, delivery, and recordation by each
1693 interestholder of the nondisturbance and notice to creditors
1694 instrument, as described in this section; or

1695 (B) Transfer by the developer of legal title to the
1696 subject accommodations and facilities, or all use rights
1697 therein, into a trust satisfying the requirements of
1698 subparagraph 4. and the execution, delivery, and recordation by
1699 each other interestholder of the nondisturbance and notice to
1700 creditors instrument, as described in this section.

1701 b. A certified copy of each recorded nondisturbance and
1702 notice to creditors instrument.

1703 c. One of the following:

1704 (I) A copy of a memorandum of agreement, as defined in s.
1705 721.05, together with satisfactory evidence that the original
1706 memorandum of agreement has been irretrievably delivered for
1707 recording to the appropriate official responsible for
1708 maintaining the public records in the county in which the
1709 subject accommodations and facilities are located. The original
1710 memorandum of agreement must be recorded within 180 days after
1711 the date on which the purchaser executed her or his purchase
1712 agreement.

1713 (II) A notice delivered for recording to the appropriate
1714 official responsible for maintaining the public records in each
1715 county in which the subject accommodations and facilities are
1716 located notifying all persons of the identity of an independent

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1717 escrow agent or trustee satisfying the requirements of
1718 subparagraph 4. that shall maintain separate books and records,
1719 in accordance with good accounting practices, for the timeshare
1720 plan in which timeshare licenses are to be sold. The books and
1721 records shall indicate each accommodation and facility that is
1722 subject to such a timeshare plan and each purchaser of a
1723 timeshare license in the timeshare plan.

1724 2. Timeshare estates.—If the timeshare plan is one in
1725 which timeshare estates are to be sold and no cancellation or
1726 default has occurred, the escrow agent may release the escrowed
1727 funds or other property to or on the order of the developer upon
1728 presentation of:

1729 a. An affidavit by the developer that all of the following
1730 conditions have been met:

1731 (I) Expiration of the cancellation period.

1732 (II) Completion of construction.

1733 (III) Closing.

1734 b. If the timeshare estate is sold by agreement for deed,
1735 a certified copy of the recorded nondisturbance and notice to
1736 creditors instrument, as described in this section.

1737 c. Evidence that each accommodation and facility:

1738 (I) Is free and clear of the claims of any
1739 interestholders, other than the claims of interestholders that,
1740 through a recorded instrument, are irrevocably made subject to
1741 the timeshare instrument and the use rights of purchasers made

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1742 available through the timeshare instrument;

1743 (II) Is the subject of a recorded nondisturbance and

1744 notice to creditors instrument that complies with subsection (3)

1745 and s. 721.17; or

1746 (III) Has been transferred into a trust satisfying the

1747 requirements of subparagraph 4.

1748 d. Evidence that the timeshare estate:

1749 (I) Is free and clear of the claims of any

1750 interestholders, other than the claims of interestholders that,

1751 through a recorded instrument, are irrevocably made subject to

1752 the timeshare instrument and the use rights of purchasers made

1753 available through the timeshare instrument; or

1754 (II) Is the subject of a recorded nondisturbance and

1755 notice to creditors instrument that complies with subsection (3)

1756 and s. 721.17.

1757 3. Personal property timeshare interests.—If the timeshare

1758 plan is one in which personal property timeshare interests are

1759 to be sold and no cancellation or default has occurred, the

1760 escrow agent may release the escrowed funds or other property to

1761 or on the order of the developer upon presentation of:

1762 a. An affidavit by the developer that all of the following

1763 conditions have been met:

1764 (I) Expiration of the cancellation period.

1765 (II) Completion of construction.

1766 (III) Closing.

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1767 b. If the personal property timeshare interest is sold by
1768 agreement for transfer, evidence that the agreement for transfer
1769 complies fully with s. 721.06 and this section.

1770 c. Evidence that one of the following has occurred:

1771 (I) Transfer by the owner of the underlying personal
1772 property of legal title to the subject accommodations and
1773 facilities or all use rights therein into a trust satisfying the
1774 requirements of subparagraph 4.; or

1775 (II) Transfer by the owner of the underlying personal
1776 property of legal title to the subject accommodations and
1777 facilities or all use rights therein into an owners' association
1778 satisfying the requirements of subparagraph 5.

1779 d. Evidence of compliance with the provisions of
1780 subparagraph 6., if required.

1781 e. If a personal property timeshare plan is created with
1782 respect to accommodations and facilities that are located on or
1783 in an oceangoing vessel, including a "documented vessel" or a
1784 "foreign vessel," as defined and governed by 46 U.S.C. chapter
1785 301:

1786 (I) In making the transfer required in sub-subparagraph
1787 c., the developer shall use as its transfer instrument a
1788 document that establishes and protects the continuance of the
1789 use rights in the subject accommodations and facilities in a
1790 manner that is enforceable by the trust or owners' association.

1791 (II) The transfer instrument shall comply fully with the

Amendment No.

1792 provisions of this chapter, shall be part of the timeshare
1793 instrument, and shall contain specific provisions that:

1794 (A) Prohibit the vessel owner, the developer, any manager
1795 or operator of the vessel, the owners' association or the
1796 trustee, the managing entity, or any other person from incurring
1797 any liens against the vessel except for liens that are required
1798 for the operation and upkeep of the vessel, including liens for
1799 fuel expenditures, repairs, crews' wages, and salvage, and
1800 except as provided in sub-sub-subparagraphs 4.b.(III) and
1801 5.b.(III). All expenses, fees, and taxes properly incurred in
1802 connection with the creation, satisfaction, and discharge of any
1803 such permitted lien, or a prorated portion thereof if less than
1804 all of the accommodations on the vessel are subject to the
1805 timeshare plan, shall be common expenses of the timeshare plan.

1806 (B) Grant a lien against the vessel in favor of the
1807 owners' association or trustee to secure the full and faithful
1808 performance of the vessel owner and developer of all of their
1809 obligations to the purchasers.

1810 (C) Establish governing law in a jurisdiction that
1811 recognizes and will enforce the timeshare instrument and the
1812 laws of the jurisdiction of registry of the vessel.

1813 (D) Require that a description of the use rights of
1814 purchasers be posted and displayed on the vessel in a manner
1815 that will give notice of such rights to any party examining the
1816 vessel. This notice must identify the owners' association or

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1817 trustee and include a statement disclosing the limitation on
1818 incurring liens against the vessel described in sub-sub-sub-
1819 subparagraph (A).

1820 (E) Include the nondisturbance and notice to creditors
1821 instrument for the vessel owner and any other interestholders.

1822 (F) The owners' association created under subparagraph 5.
1823 or trustee created under subparagraph 4. shall have access to
1824 any certificates of classification in accordance with the
1825 timeshare instrument.

1826 (III) If the vessel is a foreign vessel, the vessel must
1827 be registered in a jurisdiction that permits a filing evidencing
1828 the use rights of purchasers in the subject accommodations and
1829 facilities, offers protection for such use rights against
1830 unfiled and inferior claims, and recognizes the document or
1831 instrument creating such use rights as a lien against the
1832 vessel.

1833 (IV) In addition to the disclosures required by s.
1834 721.07(5), the public offering statement and purchase contract
1835 must contain a disclosure in conspicuous type in substantially
1836 the following form:

1837 The laws of the State of Florida govern the offering of this
1838 timeshare plan in this state. There are inherent risks in
1839 purchasing a timeshare interest in this timeshare plan because
1840 the accommodations and facilities of the timeshare plan are
1841 located on a vessel that will sail into international waters and

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1842 into waters governed by many different jurisdictions. Therefore,
1843 the laws of the State of Florida cannot fully protect your
1844 purchase of an interest in this timeshare plan. Specifically,
1845 management and operational issues may need to be addressed in
1846 the jurisdiction in which the vessel is registered, which is
1847 (insert jurisdiction in which vessel is registered). Concerns of
1848 purchasers may be sent to (insert name of applicable regulatory
1849 agency and address).

1850 4. Trust.—

1851 a. If the subject accommodations or facilities, or all use
1852 rights therein, are to be transferred into a trust in order to
1853 comply with this paragraph, such transfer shall take place
1854 pursuant to this subparagraph. If the accommodations or
1855 facilities included in such transfer are subject to a lease, the
1856 unexpired term of the lease must be disclosed as the term of the
1857 timeshare plan pursuant to s. 721.07(5)(f)4.

1858 b. Prior to the transfer of the subject accommodations and
1859 facilities, or all use rights therein, to a trust, any lien or
1860 other encumbrance against such accommodations and facilities, or
1861 use rights therein, shall be made subject to a nondisturbance
1862 and notice to creditors instrument pursuant to subsection (3).
1863 No transfer pursuant to this subparagraph shall become effective
1864 until the trustee accepts such transfer and the responsibilities
1865 set forth herein. A trust established pursuant to this
1866 subparagraph shall comply with the following provisions:

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1867 (I) The trustee shall be an individual or a business
1868 entity authorized and qualified to conduct trust business in
1869 this state. Any corporation authorized to do business in this
1870 state may act as trustee in connection with a timeshare plan
1871 pursuant to this chapter. The trustee must be independent from
1872 any developer or managing entity of the timeshare plan or any
1873 interestholder of any accommodation or facility of such plan.

1874 (II) The trust shall be irrevocable so long as any
1875 purchaser has a right to occupy any portion of the timeshare
1876 property pursuant to the timeshare plan.

1877 (III) The trustee shall not convey, hypothecate, mortgage,
1878 assign, lease, or otherwise transfer or encumber in any fashion
1879 any interest in or portion of the timeshare property with
1880 respect to which any purchaser has a right of use or occupancy
1881 unless the timeshare plan is terminated pursuant to the
1882 timeshare instrument, or such conveyance, hypothecation,
1883 mortgage, assignment, lease, transfer, or encumbrance is
1884 approved by a vote of two-thirds of all voting interests of the
1885 timeshare plan. Subject to s. 721.552, a vote of the voting
1886 interests of the timeshare plan is not required for substitution
1887 or automatic deletion of accommodations or facilities.

1888 (IV) All purchasers of the timeshare plan or the owners'
1889 association of the timeshare plan shall be the express
1890 beneficiaries of the trust. The trustee shall act as a fiduciary
1891 to the beneficiaries of the trust. The personal liability of the

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1892 trustee shall be governed by ss. 736.08125, 736.08163, 736.1013,
1893 and 736.1015. The agreement establishing the trust shall set
1894 forth the duties of the trustee. The trustee shall be required
1895 to furnish promptly to the division upon request a copy of the
1896 complete list of the names and addresses of the owners in the
1897 timeshare plan and a copy of any other books and records of the
1898 timeshare plan required to be maintained pursuant to s. 721.13
1899 that are in the possession, custody, or control of the trustee.
1900 All expenses reasonably incurred by the trustee in the
1901 performance of its duties, together with any reasonable
1902 compensation of the trustee, shall be common expenses of the
1903 timeshare plan.

1904 (V) The trustee shall not resign upon less than 90 days'
1905 prior written notice to the managing entity and the division. No
1906 resignation shall become effective until a substitute trustee,
1907 approved by the division, is appointed by the managing entity
1908 and accepts the appointment.

1909 (VI) The documents establishing the trust arrangement
1910 shall constitute a part of the timeshare instrument.

1911 (VII) For trusts holding property in a timeshare plan
1912 located outside this state, the trust and trustee holding such
1913 property shall be deemed in compliance with the requirements of
1914 this subparagraph if such trust and trustee are authorized and
1915 qualified to conduct trust business under the laws of such
1916 jurisdiction and the agreement or law governing such trust

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1917 arrangement provides substantially similar protections for the
1918 purchaser as are required in this subparagraph for trusts
1919 holding property in a timeshare plan in this state.

1920 (VIII) The trustee shall have appointed a registered agent
1921 in this state for service of process. In the event such a
1922 registered agent is not appointed, service of process may be
1923 served pursuant to s. 721.265.

1924 5. Owners' association.—

1925 a. If the subject accommodations or facilities, or all use
1926 rights therein, are to be transferred into an owners'
1927 association in order to comply with this paragraph, such
1928 transfer shall take place pursuant to this subparagraph.

1929 b. Before the transfer of the subject accommodations and
1930 facilities, or all use rights therein, to an owners'
1931 association, any lien or other encumbrance against such
1932 accommodations and facilities, or use rights therein, shall be
1933 made subject to a nondisturbance and notice to creditors
1934 instrument pursuant to subsection (3). No transfer pursuant to
1935 this subparagraph shall become effective until the owners'
1936 association accepts such transfer and the responsibilities set
1937 forth herein. An owners' association established pursuant to
1938 this subparagraph shall comply with the following provisions:

1939 (I) The owners' association shall be a business entity
1940 authorized and qualified to conduct business in this state.
1941 Control of the board of directors of the owners' association

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1942 must be independent from any developer or managing entity of the
1943 timeshare plan or any interestholder.

1944 (II) The bylaws of the owners' association shall provide
1945 that the corporation may not be voluntarily dissolved without
1946 the unanimous vote of all owners of personal property timeshare
1947 interests so long as any purchaser has a right to occupy any
1948 portion of the timeshare property pursuant to the timeshare
1949 plan.

1950 (III) The owners' association shall not convey,
1951 hypothecate, mortgage, assign, lease, or otherwise transfer or
1952 encumber in any fashion any interest in or portion of the
1953 timeshare property with respect to which any purchaser has a
1954 right of use or occupancy, unless the timeshare plan is
1955 terminated pursuant to the timeshare instrument, or unless such
1956 conveyance, hypothecation, mortgage, assignment, lease,
1957 transfer, or encumbrance is approved by a vote of two-thirds of
1958 all voting interests of the association and such decision is
1959 declared by a court of competent jurisdiction to be in the best
1960 interests of the purchasers of the timeshare plan. The owners'
1961 association shall notify the division in writing within 10 days
1962 after receiving notice of the filing of any petition relating to
1963 obtaining such a court order. The division shall have standing
1964 to advise the court of the division's interpretation of the
1965 statute as it relates to the petition.

1966 (IV) All purchasers of the timeshare plan shall be members

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1967 of the owners' association and shall be entitled to vote on
1968 matters requiring a vote of the owners' association as provided
1969 in this chapter or the timeshare instrument. The owners'
1970 association shall act as a fiduciary to the purchasers of the
1971 timeshare plan. The articles of incorporation establishing the
1972 owners' association shall set forth the duties of the owners'
1973 association. All expenses reasonably incurred by the owners'
1974 association in the performance of its duties, together with any
1975 reasonable compensation of the officers or directors of the
1976 owners' association, shall be common expenses of the timeshare
1977 plan.

1978 (V) The documents establishing the owners' association
1979 shall constitute a part of the timeshare instrument.

1980 (VI) For owners' associations holding property in a
1981 timeshare plan located outside this state, the owners'
1982 association holding such property shall be deemed in compliance
1983 with the requirements of this subparagraph if such owners'
1984 association is authorized and qualified to conduct owners'
1985 association business under the laws of such jurisdiction and the
1986 agreement or law governing such arrangement provides
1987 substantially similar protections for the purchaser as are
1988 required in this subparagraph for owners' associations holding
1989 property in a timeshare plan in this state.

1990 (VII) The owners' association shall have appointed a
1991 registered agent in this state for service of process. In the

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

1992 event such a registered agent cannot be located, service of
1993 process may be made pursuant to s. 721.265.

1994 6. Personal property subject to certificate of title.—If
1995 any personal property that is an accommodation or facility of a
1996 timeshare plan is subject to a certificate of title in this
1997 state pursuant to chapter 319 or chapter 328, the following
1998 notation must be made on such certificate of title pursuant to
1999 s. 319.27(1) or s. 328.15 ~~s. 328.15(1)~~:

2000 The further transfer or encumbrance of the property subject to
2001 this certificate of title, or any lien or encumbrance thereon,
2002 is subject to the requirements of section 721.17, Florida
2003 Statutes, and the transferee or lienor agrees to be bound by all
2004 of the obligations set forth therein.

2005 7. If the developer has previously provided a certified
2006 copy of any document required by this paragraph, she or he may
2007 for all subsequent disbursements substitute a true and correct
2008 copy of the certified copy, provided no changes to the document
2009 have been made or are required to be made.

2010 8. In the event that use rights relating to an
2011 accommodation or facility are transferred into a trust pursuant
2012 to subparagraph 4. or into an owners' association pursuant to
2013 subparagraph 5., all other interestholders, including the owner
2014 of the underlying fee or underlying personal property, must
2015 execute a nondisturbance and notice to creditors instrument
2016 pursuant to subsection (3).

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

2017 Section 31. (1) The rights, duties, and interests flowing
2018 from a transaction, certificate of title, or record relating to
2019 a vessel which was validly entered into or created before the
2020 effective date of this act and would be subject to this act if
2021 it had been entered into or created on or after the effective
2022 date of this act remain valid on and after the effective date of
2023 this act.

2024 (2) This act does not affect an action or proceeding
2025 commenced before the effective date of this act.

2026 (3) Except as otherwise provided in subsection (4), a
2027 security interest that is enforceable immediately before the
2028 effective date of this act and would have priority over the
2029 rights of a person who becomes a lien creditor at that time is a
2030 perfected security interest under this act.

2031 (4) A security interest perfected immediately before the
2032 effective date of this act remains perfected until the earlier
2033 of:

2034 (a) The time perfection would have ceased under the law
2035 under which the security interest was perfected; or

2036 (b) Three years after the effective date of this act.

2037 (5) This act does not affect the priority of a security
2038 interest in a vessel if immediately before the effective date of
2039 this act the security interest is enforceable and perfected, and
2040 that priority is established.

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

2041 Section 32. Subject to section 25, this act applies to any
2042 transaction, certificate of title, or record relating to a
2043 vessel, even if the transaction, certificate of title, or record
2044 was entered into or created before the effective date of this
2045 act.

2046 Section 33. This act shall take effect July 1, 2022.

2047
2048 -----
2049 **T I T L E A M E N D M E N T**

2050 Remove everything before the enacting clause and insert:
2051 An act relating to certificates of title for vessels; creating
2052 s. 328.001, F.S.; providing a short title; creating s. 328.0015,
2053 F.S.; providing definitions; amending s. 328.01, F.S.; revising
2054 requirements for application for, and information to be included
2055 in, a certificate of title for a vessel; creating s. 328.015,
2056 F.S.; requiring the Department of Highway Safety and Motor
2057 Vehicles to retain certain information relating to ownership and
2058 titling of vessels; requiring the department to furnish certain
2059 information upon request; creating s. 328.02, F.S.; providing
2060 that law of the state where vessel is titled governs all issues
2061 relating to a certificate of title; specifying when a vessel
2062 becomes covered by such certificate; amending s. 328.03, F.S.;
2063 requiring a vessel owner to deliver an application for
2064 certificate of title to the department by a specified time;
2065 revising circumstances under which a vessel must be titled by

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

2066 | this state; providing requirements for issuing, transferring, or
2067 | renewing the number of an undocumented vessel issued under
2068 | certain federal provisions; deleting provisions relating to
2069 | operation, use, or storage of a vessel; deleting provisions
2070 | relating to selling, assigning, or transferring a vessel;
2071 | specifying that a certificate of title is prima facie evidence
2072 | of the accuracy of the information in the record that
2073 | constitutes the certificate; creating s. 328.04, F.S.; providing
2074 | requirements for the contents of a certificate of title;
2075 | creating s. 328.045, F.S.; providing responsibilities of an
2076 | owner and insurer of a hull-damaged vessel when transferring an
2077 | ownership interest in the vessel; requiring the department to
2078 | create a new certificate indicating such damage; providing a
2079 | civil penalty; creating s. 328.055, F.S.; requiring the
2080 | department to maintain certain information in its files and to
2081 | provide certain information to governmental entities; specifying
2082 | that certain information is a public record; creating s. 328.06,
2083 | F.S.; providing responsibilities of the department when creating
2084 | a certificate of title; creating s. 328.065, F.S.; specifying
2085 | effect of possession of a certificate of title; providing
2086 | construction; amending s. 328.09, F.S.; providing duties of the
2087 | department relating to creation, issuance, refusal to issue, or
2088 | cancellation of a certificate of title; providing for a hearing;
2089 | creating s. 328.101, F.S.; specifying that a certificate of
2090 | title and certain other records are effective despite missing or

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

2091 incorrect information; amending s. 328.11, F.S.; providing
2092 requirements for obtaining a duplicate certificate of title;
2093 creating s. 328.12, F.S.; providing requirements for
2094 determination and perfection of a security interest in a vessel;
2095 providing applicability; creating s. 328.125, F.S.; providing
2096 requirements for the delivery of a statement of termination of a
2097 security interest; providing duties of the department; providing
2098 liability for noncompliance; creating s. 328.14, F.S.; providing
2099 for the rights of a purchaser of a vessel who is not a secured
2100 party; creating s. 328.145, F.S.; providing for the rights of a
2101 secured party; amending s. 328.15, F.S.; deleting certain
2102 provisions relating to notice of a lien; providing for future
2103 repeal of certain provisions; amending ss. 328.16 and 328.165,
2104 F.S.; conforming provisions to changes made by the act; creating
2105 s. 328.215, F.S.; specifying circumstances under which the
2106 department may create a new certificate of title after receipt
2107 of an application for a transfer of ownership or termination of
2108 a security interest unaccompanied by a certificate of title;
2109 authorizing the department to indicate certain information on
2110 the new certificate; authorizing the department to require a
2111 bond, indemnity, or other security under certain circumstances;
2112 providing for the release of such bond, indemnity, or other
2113 security; creating s. 328.22, F.S.; providing requirements for
2114 the transfer of ownership in a vessel; providing effect of
2115 noncompliance; creating s. 328.23, F.S.; providing a definition;

078237 - h0475-strike.docx

Published On: 3/5/2019 6:58:56 PM

Amendment No.

2116 providing duties of the department upon receipt of a secured
2117 party's transfer statement; providing construction; creating s.
2118 328.24, F.S.; providing a definition; providing requirements for
2119 a transfer of ownership by operation of law; providing duties of
2120 the department; providing applicability; creating s. 328.25,
2121 F.S.; providing that the principles and law of equity supplement
2122 the provisions of the act; creating s. 328.41, F.S.; providing
2123 rulemaking authority to the Department of Highway Safety and
2124 Motor Vehicles; amending ss. 409.2575, 705.103, and 721.08,
2125 F.S.; conforming provisions and cross-references to changes made
2126 by the act; providing construction and applicability regarding
2127 transactions, certificates of title, and records entered into or
2128 created, actions or proceedings commenced, and security
2129 interests perfected before the effective date of the act;
2130 providing applicability; providing an effective date.