

1 A bill to be entitled
2 An act relating to certificates of title for vessels;
3 creating s. 328.001, F.S.; providing a short title;
4 creating s. 328.0015, F.S.; providing definitions;
5 amending s. 328.01, F.S.; revising requirements for
6 application for, and information to be included in, a
7 certificate of title for a vessel; creating s.
8 328.015, F.S.; requiring the Department of Highway
9 Safety and Motor Vehicles to retain certain
10 information relating to ownership and titling of
11 vessels; requiring the department to furnish certain
12 information upon request; creating s. 328.02, F.S.;
13 providing that local law governs all issues relating
14 to a certificate of title; specifying when a vessel
15 becomes covered by such certificate; amending s.
16 328.03, F.S.; requiring a vessel owner to deliver an
17 application for certificate of title to the department
18 by a specified time; revising circumstances under
19 which a vessel must be titled by this state; providing
20 requirements for issuing, transferring, or renewing
21 the number of an undocumented vessel issued under
22 certain federal provisions; deleting provisions
23 relating to operation, use, or storage of a vessel;
24 deleting provisions relating to selling, assigning, or
25 transferring a vessel; specifying that a certificate

26 | of title is prima facie evidence of the accuracy of
27 | the information in the record that constitutes the
28 | certificate; creating s. 328.04, F.S.; providing
29 | requirements for the contents of a certificate of
30 | title; creating s. 328.045, F.S.; providing
31 | responsibilities of an owner and insurer of a hull-
32 | damaged vessel when transferring an ownership interest
33 | in the vessel; requiring the department to create a
34 | new certificate indicating such damage; providing a
35 | civil penalty; creating s. 328.055, F.S.; requiring
36 | the department to maintain certain information in its
37 | files and to provide certain information to
38 | governmental entities; specifying that certain
39 | information is a public record; creating s. 328.06,
40 | F.S.; providing responsibilities of the department
41 | when creating a certificate of title; creating s.
42 | 328.065, F.S.; specifying effect of possession of a
43 | certificate of title; providing construction; amending
44 | s. 328.09, F.S.; providing duties of the department
45 | relating to creation, issuance, refusal to issue, or
46 | cancellation of a certificate of title; providing for
47 | a hearing; creating s. 328.101, F.S.; specifying that
48 | a certificate of title and certain other records are
49 | effective despite missing or incorrect information;
50 | amending s. 328.11, F.S.; providing requirements for

51 obtaining a duplicate certificate of title; creating
52 s. 328.12, F.S.; providing requirements for
53 determination and perfection of a security interest in
54 a vessel; providing applicability; requiring the
55 department to adopt rules; creating s. 328.125, F.S.;
56 providing requirements for the delivery of a statement
57 of termination of a security interest; providing
58 duties of the department; providing liability for
59 noncompliance; creating s. 328.14, F.S.; providing for
60 the rights of a purchaser of a vessel who is not a
61 secured party; creating s. 328.145, F.S.; providing
62 for the rights of a secured party; amending s. 328.15,
63 F.S.; deleting certain provisions relating to notice
64 of a lien; providing for future repeal of certain
65 provisions; amending ss. 328.16 and 328.165, F.S.;
66 conforming provisions to changes made by the act;
67 creating s. 328.215, F.S.; specifying circumstances
68 under which the department may create a new
69 certificate of title after receipt of an application
70 for a transfer of ownership or termination of a
71 security interest unaccompanied by a certificate of
72 title; authorizing the department to indicate certain
73 information on the new certificate; authorizing the
74 department to require a bond, indemnity, or other
75 security under certain circumstances; providing for

76 the release of such bond, indemnity, or other
77 security; creating s. 328.22, F.S.; providing rules
78 for the transfer of ownership in a vessel; providing
79 effect of noncompliance; creating s. 328.23, F.S.;
80 providing a definition; providing duties of the
81 department upon receipt of a secured party's transfer
82 statement; providing construction; creating s. 328.24,
83 F.S.; providing a definition; providing requirements
84 for a transfer of ownership by operation of law;
85 providing duties of the department; providing
86 applicability; creating s. 328.25, F.S.; providing
87 that the principles and law of equity supplement the
88 provisions of the act; amending ss. 409.2575, 705.103,
89 and 721.08, F.S.; conforming provisions and cross-
90 references to changes made by the act; providing
91 construction and applicability regarding transactions,
92 certificates of title, and records entered into or
93 created, actions or proceedings commenced, and
94 security interests perfected before the effective date
95 of the act; providing applicability; providing an
96 effective date.

97
98 Be It Enacted by the Legislature of the State of Florida:

99
100 Section 1. Section 328.001, Florida Statutes, is created

101 to read:

102 328.001 Short title.—This part may be cited as the
103 "Uniform Certificate of Title for Vessels Act."

104 Section 2. Section 328.0015, Florida Statutes, is created
105 to read:

106 328.0015 Definitions.—

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

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

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

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

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

116 (e) "Certificate of origin" means a record created by a
117 manufacturer or importer as the manufacturer's or importer's
118 proof of identity of a vessel. The term includes a
119 manufacturer's certificate or statement of origin and an
120 importer's certificate or statement of origin. The term does not
121 include a builder's certificate.

122 (f) "Certificate of title" means a record, created by the
123 department or by a governmental agency of another jurisdiction
124 under the law of that jurisdiction, that is designated as a
125 certificate of title by the department or agency and is evidence

126 of ownership of a vessel.

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

129 (h) "Department" means the Department of Highway Safety
130 and Motor Vehicles.

131 (i) "Documented vessel" means a vessel covered by a
132 certificate of documentation issued pursuant to 46 U.S.C. s.
133 12105. The term does not include a foreign-documented vessel.

134 (j) "Electronic" means relating to technology having
135 electrical, digital, magnetic, wireless, optical,
136 electromagnetic, or similar capabilities.

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

140 (l) "Foreign-documented vessel" means a vessel the
141 ownership of which is recorded in a registry maintained by a
142 country other than the United States which identifies each
143 person who has an ownership interest in a vessel and includes a
144 unique alphanumeric designation for the vessel.

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

147 (n) "Hull damaged" means compromised with respect to the
148 integrity of a vessel's hull by a collision, allision, lightning
149 strike, fire, explosion, running aground, or similar occurrence,
150 or the sinking of a vessel in a manner that creates a

- 151 significant risk to the integrity of the vessel's hull.
- 152 (o) "Hull identification number" means the alphanumeric
153 designation assigned to a vessel pursuant to 33 C.F.R. part 181.
- 154 (p) "Lien creditor," with respect to a vessel, means:
- 155 1. A creditor that has acquired a lien on the vessel by
156 attachment, levy, or the like;
- 157 2. An assignee for benefit of creditors from the time of
158 assignment;
- 159 3. A trustee in bankruptcy from the date of the filing of
160 the petition; or
- 161 4. A receiver in equity from the time of appointment.
- 162 (q) "Owner" means a person who has legal title to a
163 vessel.
- 164 (r) "Owner of record" means the owner indicated in the
165 files of the department or, if the files indicate more than one
166 owner, the one first indicated.
- 167 (s) "Person" means an individual, corporation, business
168 trust, estate, trust, statutory trust, partnership, limited
169 liability company, association, joint venture, public
170 corporation, government or governmental subdivision, agency, or
171 instrumentality, or any other legal or commercial entity.
- 172 (t) "Purchase" means to take by sale, lease, mortgage,
173 pledge, consensual lien, security interest, gift, or any other
174 voluntary transaction that creates an interest in a vessel.
- 175 (u) "Purchaser" means a person who takes by purchase.

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

179 (w) "Secured party," with respect to a vessel, means a
180 person:

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

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

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

187 (x) "Secured party of record" means the secured party
188 whose name is indicated as the name of the secured party in the
189 files of the department or, if the files indicate more than one
190 secured party, the one first indicated.

191 (y) "Security interest" means an interest in a vessel
192 which secures payment or performance of an obligation if the
193 interest is created by contract or arises under s. 672.401, s.
194 672.505, s. 672.711(3), or s. 680.508(5). The term includes any
195 interest of a consignor in a vessel in a transaction that is
196 subject to chapter 679. The term does not include the special
197 property interest of a buyer of a vessel on identification of
198 that vessel to a contract for sale under s. 672.501, but a buyer
199 also may acquire a security interest by complying with chapter
200 679. Except as otherwise provided in s. 672.505, the right of a

201 seller or lessor of a vessel under chapter 672 or chapter 680 to
202 retain or acquire possession of the vessel is not a security
203 interest, but a seller or lessor also may acquire a security
204 interest by complying with chapter 679. The retention or
205 reservation of title by a seller of a vessel notwithstanding
206 shipment or delivery to the buyer under s. 672.401 is limited in
207 effect to a reservation of a security interest. Whether a
208 transaction in the form of a lease creates a security interest
209 is determined as provided in part II of chapter 671.

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

- 212 1. Make or adopt a tangible symbol; or
213 2. Attach to or logically associate with the record an
214 electronic symbol, sound, or process.

215 (aa) "State" means a state of the United States, the
216 District of Columbia, Puerto Rico, the United States Virgin
217 Islands, or any territory or insular possession subject to the
218 jurisdiction of the United States.

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

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

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

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

230 1. A seaplane;

231 2. An amphibious vehicle for which a certificate of title
232 is issued pursuant to chapter 319 or a similar statute of
233 another state;

234 3. Watercraft less than 16 feet in length and propelled
235 solely by sail, paddle, oar, or an engine of less than 10
236 horsepower;

237 4. Watercraft that operate only on a permanently fixed,
238 manufactured course and the movement of which is restricted to
239 or guided by means of a mechanical device to which the
240 watercraft is attached or by which the watercraft is controlled;

241 5. A stationary floating structure that:

242 a. Does not have and is not designed to have a mode of
243 propulsion of its own;

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

246 c. Has a permanent, continuous hookup to a shoreside
247 sewage system;

248 6. Watercraft owned by the United States, a state, or a
249 foreign government or a political subdivision of any of them;
250 and

251 7. Watercraft used solely as a lifeboat on another
252 watercraft.

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

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

257 (2) The following definitions and terms also apply to this
258 part:

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

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

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

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

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

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

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

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

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

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

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

271 (l) "Security agreement" as defined in s.

272 679.1021(1)(uuu).

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

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

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

276 Section 3. Section 328.01, Florida Statutes, is amended to
277 read:

278 328.01 Application for certificate of title.—

279 (1)~~(a)~~ The owner of a vessel which is required to be
280 titled shall apply to the county tax collector for a certificate
281 of title. Except as otherwise provided in ss. 328.045, 328.11,
282 328.12, 328.215, 328.23, and 328.24, only an owner may apply for
283 a certificate of title.

284 (2) An application for a certificate of title must be
285 signed by the applicant and contain:

286 (a) The applicant's name, the street address of the
287 applicant's principal residence, and, if different, the
288 applicant's mailing address;

289 (b) The name and mailing address of each other owner of
290 the vessel;

291 (c) The hull identification number for the vessel or, if
292 none, an application for the issuance of a hull identification
293 number for the vessel;

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

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

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

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

301 3. The model year or the year in which the manufacture or
 302 build of the vessel was completed;
 303 4. The overall length of the vessel;
 304 5. The vessel type;
 305 6. The hull material;
 306 7. The propulsion type;
 307 8. The engine drive type, if any; and
 308 9. The fuel type, if any;
 309 (f) An indication of all security interests in the vessel
 310 known to the applicant and the name and mailing address of each
 311 secured party;
 312 (g) A statement that the vessel is not a documented vessel
 313 or a foreign-documented vessel;
 314 (h) Any title brand known to the applicant and, if known,
 315 the jurisdiction under whose law the title brand was created;
 316 (i) If the applicant knows that the vessel is hull
 317 damaged, a statement that the vessel is hull damaged;
 318 (j) If the application is made in connection with a
 319 transfer of ownership, the transferor's name, street address,
 320 and, if different, mailing address, the sales price, if any, and
 321 the date of the transfer; and
 322 (k) If the vessel was previously registered or titled in
 323 another jurisdiction, a statement identifying each jurisdiction
 324 known to the applicant in which the vessel was registered or
 325 titled.

326 (3) In addition to the information required by subsection
327 (2), an application for a certificate of title may contain an
328 electronic communication address of the owner, transferor, or
329 secured party.

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

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

335 1. Identifies the applicant as the owner of the vessel; or
336 2. Is accompanied by a record that identifies the
337 applicant as the owner; or

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

339 1. If the vessel was a documented vessel, a record issued
340 by the United States Coast Guard which shows the vessel is no
341 longer a documented vessel and identifies the applicant as the
342 owner;

343 2. If the vessel was a foreign-documented vessel, a record
344 issued by the foreign country which shows the vessel is no
345 longer a foreign-documented vessel and identifies the applicant
346 as the owner; or

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

350 (5) A record submitted in connection with an application

351 is part of the application. The department shall maintain the
352 record in its files.

353 (6) The department may require that an application for a
354 certificate of title be accompanied by payment or evidence of
355 payment of all fees and taxes payable by the applicant under the
356 laws of this state other than this part in connection with the
357 application or the acquisition or use of the vessel ~~The~~
358 ~~application shall include the true name of the owner, the~~
359 ~~residence or business address of the owner, and the complete~~
360 ~~description of the vessel, including the hull identification~~
361 ~~number, except that an application for a certificate of title~~
362 ~~for a homemade vessel shall state all the foregoing information~~
363 ~~except the hull identification number.~~

364 (7) (a) The application shall be signed by the owner and
365 shall be accompanied by personal or business identification and
366 the prescribed fee. An individual applicant must provide a valid
367 driver license or identification card issued by this state or
368 another state or a valid passport. A business applicant must
369 provide a federal employer identification number, if applicable,
370 verification that the business is authorized to conduct business
371 in the state, or a Florida city or county business license or
372 number.

373 (b) The owner of an undocumented vessel that is exempt
374 from titling may apply to the county tax collector for a
375 certificate of title by filing an application accompanied by the

376 prescribed fee.

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

382 ~~(b) The owner of a manufactured vessel that was initially~~
383 ~~sold in another state or country for which vessel an application~~
384 ~~for an initial title is made shall establish proof of ownership~~
385 ~~by submitting with the application:~~

386 ~~1. The original copy of the manufacturer's statement of~~
387 ~~origin if the vessel was initially sold or manufactured in a~~
388 ~~state or country requiring the issuance of such a statement or~~
389 ~~the original copy of the executed bill of sale if the vessel was~~
390 ~~initially sold or manufactured in a state or country not~~
391 ~~requiring the issuance of a manufacturer's statement of origin;~~
392 ~~and~~

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

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

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

401 ~~2. A certificate of inspection from the Fish and Wildlife~~
402 ~~Conservation Commission and a notarized statement of the builder~~
403 ~~or its equivalent, whichever is acceptable to the Department of~~
404 ~~Highway Safety and Motor Vehicles, if the vessel is 16 feet or~~
405 ~~more in length.~~

406 ~~(d) The owner of a nontitled vessel registered or~~
407 ~~previously registered in another state or country for which an~~
408 ~~application for title is made in this state shall establish~~
409 ~~proof of ownership by surrendering, with the submission of the~~
410 ~~application, the original copy of the most current certificate~~
411 ~~of registration issued by the other state or country.~~

412 ~~(e) The owner of a vessel titled in another state or~~
413 ~~country for which an application for title is made in this state~~
414 ~~shall not be issued a title unless and until all existing titles~~
415 ~~to the vessel are surrendered to the Department of Highway~~
416 ~~Safety and Motor Vehicles. The department shall retain the~~
417 ~~evidence of title which is presented by the applicant and on the~~
418 ~~basis of which the certificate of title is issued. The~~
419 ~~department shall use reasonable diligence in ascertaining~~
420 ~~whether the facts in the application are true; and, if satisfied~~
421 ~~that the applicant is the owner of the vessel and that the~~
422 ~~application is in the proper form, the department shall issue a~~
423 ~~certificate of title.~~

424 ~~(f) In making application for the titling of a vessel~~
425 ~~previously documented by the Federal Government, the current~~

426 ~~owner shall establish proof of ownership by submitting with the~~
427 ~~application a copy of the canceled documentation papers or a~~
428 ~~properly executed release from documentation certificate~~
429 ~~provided by the United States Coast Guard. In the event such~~
430 ~~documentation papers or certification are in the name of a~~
431 ~~person other than the current owner, the current owner shall~~
432 ~~provide the original copy of all subsequently executed bills of~~
433 ~~sale applicable to the vessel.~~

434 ~~(3) (a) In making application for a title upon transfer of~~
435 ~~ownership of a vessel, the new owner shall surrender to the~~
436 ~~Department of Highway Safety and Motor Vehicles the last title~~
437 ~~document issued for that vessel. The document shall be properly~~
438 ~~executed. Proper execution includes, but is not limited to, the~~
439 ~~previous owner's signature and certification that the vessel to~~
440 ~~be transferred is debt free or is subject to a lien. If a lien~~
441 ~~exists, the previous owner shall furnish the new owner, on forms~~
442 ~~supplied by the Department of Highway Safety and Motor Vehicles,~~
443 ~~the names and addresses of all lienholders and the dates of all~~
444 ~~liens, together with a statement from each lienholder that the~~
445 ~~lienholder has knowledge of and consents to the transfer of~~
446 ~~title to the new owner.~~

447 ~~(b) If the application for transfer of title is based upon~~
448 ~~a contractual default, the recorded lienholder shall establish~~
449 ~~proof of right to ownership by submitting with the application~~
450 ~~the original certificate of title and a copy of the applicable~~

451 ~~contract upon which the claim of ownership is made. If the claim~~
452 ~~is based upon a court order or judgment, a copy of such document~~
453 ~~shall accompany the application for transfer of title. If, on~~
454 ~~the basis of departmental records, there appears to be any other~~
455 ~~lien on the vessel, the certificate of title must contain a~~
456 ~~statement of such a lien, unless the application for a~~
457 ~~certificate of title is either accompanied by proper evidence of~~
458 ~~the satisfaction or extinction of the lien or contains a~~
459 ~~statement certifying that any lienholder named on the last-~~
460 ~~issued certificate of title has been sent notice by certified~~
461 ~~mail, at least 5 days before the application was filed, of the~~
462 ~~applicant's intention to seek a repossessed title. If such~~
463 ~~notice is given and no written protest to the department is~~
464 ~~presented by a subsequent lienholder within 15 days after the~~
465 ~~date on which the notice was mailed, the certificate of title~~
466 ~~shall be issued showing no liens. If the former owner or any~~
467 ~~subsequent lienholder files a written protest under oath within~~
468 ~~the 15-day period, the department shall not issue the~~
469 ~~repossessed certificate for 10 days thereafter. If, within the~~
470 ~~10-day period, no injunction or other order of a court of~~
471 ~~competent jurisdiction has been served on the department~~
472 ~~commanding it not to deliver the certificate, the department~~
473 ~~shall deliver the repossessed certificate to the applicant, or~~
474 ~~as is otherwise directed in the application, showing no other~~
475 ~~liens than those shown in the application.~~

476 ~~(c) In making application for transfer of title from a~~
477 ~~deceased titled owner, the new owner or surviving coowner shall~~
478 ~~establish proof of ownership by submitting with the application~~
479 ~~the original certificate of title and the decedent's probated~~
480 ~~last will and testament or letters of administration appointing~~
481 ~~the personal representative of the decedent. In lieu of a~~
482 ~~probated last will and testament or letters of administration, a~~
483 ~~copy of the decedent's death certificate, a copy of the~~
484 ~~decedent's last will and testament, and an affidavit by the~~
485 ~~decedent's surviving spouse or heirs affirming rights of~~
486 ~~ownership may be accepted by the department. If the decedent~~
487 ~~died intestate, a court order awarding the ownership of the~~
488 ~~vessel or an affidavit by the decedent's surviving spouse or~~
489 ~~heirs establishing or releasing all rights of ownership and a~~
490 ~~copy of the decedent's death certificate shall be submitted to~~
491 ~~the department.~~

492 (c)~~(d)~~ An owner or coowner who has made a bona fide sale
493 or transfer of a vessel and has delivered possession thereof to
494 a purchaser shall not, by reason of any of the provisions of
495 this chapter, be considered the owner or coowner of the vessel
496 so as to be subject to civil liability for the operation of the
497 vessel thereafter by another if the owner or coowner has
498 fulfilled either of the following requirements:

499 1. The owner or coowner has delivered to the department,
500 or has placed in the United States mail, addressed to the

501 department, either the certificate of title, properly endorsed,
 502 or a notice in the form prescribed by the department; or

503 2. The owner or coowner has made proper endorsement and
 504 delivery of the certificate of title as provided by this
 505 chapter. As used in this subparagraph, the term "proper
 506 endorsement" means:

507 a. The signature of one coowner if the vessel is held in
 508 joint tenancy, signified by the vessel's being registered in the
 509 names of two or more persons as coowners in the alternative by
 510 the use of the word "or." In a joint tenancy, each coowner is
 511 considered to have granted to each of the other coowners the
 512 absolute right to dispose of the title and interest in the
 513 vessel, and, upon the death of a coowner, the interest of the
 514 decedent in the jointly held vessel passes to the surviving
 515 coowner or coowners. This sub-subparagraph is applicable even if
 516 the coowners are husband and wife; or

517 b. The signatures of every coowner or of the respective
 518 personal representatives of the coowners if the vessel is
 519 registered in the names of two or more persons as coowners in
 520 the conjunctive by the use of the word "and."
 521

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

525 (8)~~(4)~~ If the owner cannot furnish the department ~~of~~

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526 ~~Highway Safety and Motor Vehicles~~ with all the required
527 ownership documentation, the department may, at its discretion,
528 issue a title conditioned on the owner's agreement to indemnify
529 the department and its agents and defend the title against all
530 claims or actions arising out of such issuance.

531 (9)~~(5)~~ (a) An application for an initial title or a title
532 transfer shall include payment of the applicable state sales tax
533 or proof of payment of such tax.

534 (b) An application for a title transfer between
535 individuals, which transfer is not exempt from the payment of
536 sales tax, shall include payment of the appropriate sales tax
537 payable on the selling price for the complete vessel rig, which
538 includes the vessel and its motor, trailer, and accessories, if
539 any. If the applicant submits with his or her application an
540 itemized, properly executed bill of sale which separately
541 describes and itemizes the prices paid for each component of the
542 rig, only the vessel and trailer will be subject to the sales
543 tax.

544 (10)~~(6)~~ The department of ~~Highway Safety and Motor~~
545 ~~Vehicles~~ shall prescribe and provide suitable forms for
546 applications, certificates of title, notices of security
547 interests, and other notices and forms necessary to carry out
548 the provisions of this chapter.

549 Section 4. Section 328.015, Florida Statutes, is created
550 to read:

551 328.015 Duties and operation of the department.—

552 (1) The department shall retain the evidence used to
553 establish the accuracy of the information in its files relating
554 to the current ownership of a vessel and the information on the
555 certificate of title.

556 (2) The department shall retain in its files all
557 information regarding a security interest in a vessel for at
558 least 10 years after the department receives a termination
559 statement regarding the security interest. The information must
560 be accessible by the hull identification number for the vessel
561 and any other methods provided by the department.

562 (3) If a person submits a record to the department, or
563 submits information that is accepted by the department, and
564 requests an acknowledgment of the filing or submission, the
565 department shall send to the person an acknowledgment showing
566 the hull identification number of the vessel to which the record
567 or submission relates, the information in the filed record or
568 submission, and the date and time the record was received or the
569 submission was accepted. A request under this section must
570 contain the hull identification number and be delivered by means
571 authorized by the department.

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

575 (a) Whether the files of the department indicate, as of a

576 date and time specified by the department, but not a date
577 earlier than 3 days before the department received the request,
578 any certificate of title, security interest, termination
579 statement, or title brand that relates to a vessel:

580 1. Identified by a hull identification number designated
581 in the request;

582 2. Identified by a vessel number designated in the
583 request; or

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

585 (b) With respect to the vessel:

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

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

591 3. A copy of any termination statement indicated in the
592 files of the department and the effective date of the
593 termination statement; and

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

598 (5) In responding to a request under this section, the
599 department may provide the requested information in any medium.
600 On request, the department shall send the requested information

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601 in a record that is self-authenticating.

602 Section 5. Section 328.02, Florida Statutes, is created to
603 read:

604 328.02 Law governing vessel covered by certificate of
605 title.—

606 (1) The local law of the jurisdiction under whose
607 certificate of title a vessel is covered governs all issues
608 relating to the certificate from the time the vessel becomes
609 covered by the certificate until the vessel becomes covered by
610 another certificate or becomes a documented vessel, even if no
611 other relationship exists between the jurisdiction and the
612 vessel or its owner.

613 (2) A vessel becomes covered by a certificate of title
614 when an application for the certificate and the applicable fee
615 are delivered to the department in accordance with this part or
616 to the governmental agency that creates a certificate in another
617 jurisdiction in accordance with the law of that jurisdiction.

618 Section 6. Section 328.03, Florida Statutes, is amended to
619 read:

620 328.03 Certificate of title required.—

621 (1) Except as otherwise provided in subsections (2) and
622 (3), each vessel that is operated, used, or stored on the waters
623 of this state must be titled by this state pursuant to this
624 part, and the owner of a vessel for which this state is the
625 state of principal use shall deliver to the department an

626 application for a certificate of title for the vessel, with the
 627 applicable fee, not later than 20 days after the later of:
 628 (a) The date of a transfer of ownership; or
 629 (b) The date this state becomes the state of principal
 630 use.
 631 (2) An application for a certificate of title is not
 632 required for chapter, unless it is:
 633 (a) A documented vessel;
 634 (b) A foreign-documented vessel;
 635 (c) A barge;
 636 (d) A vessel before delivery if the vessel is under
 637 construction or completed pursuant to contract;
 638 (e) A vessel held by a dealer for sale or lease;
 639 (f) A vessel used solely for demonstration, testing, or
 640 sales promotional purposes by the manufacturer or dealer;
 641 (g) ~~(a)~~ A vessel operated, used, or stored exclusively on
 642 private lakes and ponds;
 643 (h) ~~(b)~~ A vessel owned by the United States Government;
 644 ~~(c) A non-motor-powered vessel less than 16 feet in~~
 645 ~~length;~~
 646 ~~(d) A federally documented vessel;~~
 647 (i) ~~(e)~~ A vessel already covered by a registration number
 648 in full force and effect which was awarded to it pursuant to a
 649 federally approved numbering system of another state or by the
 650 United States Coast Guard in a state without a federally

651 approved numbering system, if the vessel is not located in this
652 state for a period in excess of 90 consecutive days; or

653 (j)~~(f)~~ A vessel from a country other than the United
654 States temporarily used, operated, or stored on the waters of
655 this state for a period that is not in excess of 90 days;

656 ~~(g) An amphibious vessel for which a vehicle title is
657 issued by the Department of Highway Safety and Motor Vehicles;~~

658 ~~(h) A vessel used solely for demonstration, testing, or
659 sales promotional purposes by the manufacturer or dealer; or~~

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

662 (3) The department may not issue, transfer, or renew a
663 certificate of number for a vessel issued pursuant to the
664 requirements of 46 U.S.C. s. 12301 unless the department has
665 created a certificate of title for the vessel or an application
666 for a certificate for the vessel and the applicable fee have
667 been delivered to the department.

668 ~~(2) A person shall not operate, use, or store a vessel for
669 which a certificate of title is required unless the owner has
670 received from the Department of Highway Safety and Motor
671 Vehicles a valid certificate of title for such vessel. However,
672 such vessel may be operated, used, or stored for a period of up
673 to 180 days after the date of application for a certificate of
674 title while the application is pending.~~

675 ~~(3) A person shall not sell, assign, or transfer a vessel~~

676 ~~titled by the state without delivering to the purchaser or~~
677 ~~transferee a valid certificate of title with an assignment on it~~
678 ~~showing the transfer of title to the purchaser or transferee. A~~
679 ~~person shall not purchase or otherwise acquire a vessel required~~
680 ~~to be titled by the state without obtaining a certificate of~~
681 ~~title for the vessel in his or her name. The purchaser or~~
682 ~~transferee shall, within 30 days after a change in vessel~~
683 ~~ownership, file an application for a title transfer with the~~
684 ~~county tax collector.~~

685 (4) An additional \$10 fee shall be charged against the
686 purchaser or transferee if he or she files a title transfer
687 application after the 20-day ~~30-day~~ period. The county tax
688 collector shall be entitled to retain \$5 of the additional
689 amount.

690 (5)~~(4)~~ A certificate of title is prima facie evidence of
691 the accuracy of the information in the record that constitutes
692 the certificate and of the ownership of the vessel. A
693 certificate of title is good for the life of the vessel so long
694 as the certificate is owned or held by the legal holder. If a
695 titled vessel is destroyed or abandoned, the owner, with the
696 consent of any recorded lienholders, shall, within 30 days after
697 the destruction or abandonment, surrender to the department for
698 cancellation any and all title documents. If a titled vessel is
699 insured and the insurer has paid the owner for the total loss of
700 the vessel, the insurer shall obtain the title to the vessel

701 and, within 30 days after receiving the title, forward the title
702 to the department ~~of Highway Safety and Motor Vehicles~~ for
703 cancellation. The insurer may retain the certificate of title
704 when payment for the loss was made because of the theft of the
705 vessel.

706 (6)~~(5)~~ The department ~~of Highway Safety and Motor Vehicles~~
707 shall provide labeled places on the title where the seller's
708 price shall be indicated when a vessel is sold and where a
709 selling dealer shall record his or her valid sales tax
710 certificate of registration number.

711 (7)~~(6)~~ (a) The department ~~of Highway Safety and Motor~~
712 ~~Vehicles~~ shall charge a fee of \$5.25 for issuing each
713 certificate of title. The tax collector shall be entitled to
714 retain \$3.75 of the fee.

715 (b) ~~Beginning July 1, 1996,~~ The department ~~of Highway~~
716 ~~Safety and Motor Vehicles~~ shall use security procedures,
717 processes, and materials in the preparation and issuance of each
718 certificate of title to prohibit, to the extent possible, a
719 person's ability to alter, counterfeit, duplicate, or modify the
720 certificate.

721 (8)~~(7)~~ The department ~~of Highway Safety and Motor Vehicles~~
722 shall charge a fee of \$4 in addition to that charged in
723 subsection (7) ~~(6)~~ for each initial certificate of title issued
724 for a vessel previously registered outside this state.

725 (9)~~(8)~~ The department ~~of Highway Safety and Motor Vehicles~~

726 shall make regulations necessary and convenient to carry out the
727 provisions of this chapter.

728 Section 7. Section 328.04, Florida Statutes, is created to
729 read:

730 328.04 Content of certificate of title.—

731 (1) A certificate of title must contain:

732 (a) The date the certificate was created;

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

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

737 (d) The hull identification number;

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

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

744 (g) All title brands indicated in the files of the
745 department covering the vessel, including brands indicated on a
746 certificate created by a governmental agency of another
747 jurisdiction and delivered to the department.

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

751 (3) For each title brand indicated on a certificate of
752 title, the certificate must identify the jurisdiction under
753 whose law the title brand was created or the jurisdiction that
754 created the certificate on which the title brand was indicated.
755 If the meaning of a title brand is not easily ascertainable or
756 cannot be accommodated on the certificate, the certificate may
757 state: "Previously branded in (insert the jurisdiction under
758 whose law the title brand was created or whose certificate of
759 title previously indicated the title brand)."

760 (4) If the files of the department indicate that a vessel
761 was previously registered or titled in a foreign country, the
762 department shall indicate on the certificate of title that the
763 vessel was registered or titled in that country.

764 (5) A written certificate of title must contain a form
765 that all owners indicated on the certificate may sign to
766 evidence consent to a transfer of an ownership interest to
767 another person. The form must include a certification, signed
768 under penalty of perjury, that the statements made are true and
769 correct to the best of each owner's knowledge, information, and
770 belief.

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

774 Section 8. Section 328.045, Florida Statutes, is created
775 to read:

776 328.045 Title brands.-

777 (1) Unless subsection (3) applies, at or before the time
778 the owner of record transfers an ownership interest in a hull-
779 damaged vessel that is covered by a certificate of title created
780 by the department, if the damage occurred while that person was
781 an owner of the vessel and the person has notice of the damage
782 at the time of the transfer, the owner shall:

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

786 (b) Indicate on the certificate in the place designated
787 for that purpose that the vessel is hull damaged and deliver the
788 certificate to the transferee.

789 (2) Not later than 20 days after delivery of the
790 application under paragraph (1)(a) or the certificate of title
791 under paragraph (1)(b), the department shall create a new
792 certificate that indicates that the vessel is branded "Hull
793 Damaged."

794 (3) Before an insurer transfers an ownership interest in a
795 hull-damaged vessel that is covered by a certificate of title
796 created by the department, the insurer shall deliver to the
797 department an application for a new certificate that complies
798 with s. 328.01 and includes the title brand designation "Hull
799 Damaged." Not later than 20 days after delivery of the
800 application to the department, the department shall create a new

801 certificate that indicates that the vessel is branded "Hull
802 Damaged."

803 (4) An owner of record who fails to comply with subsection
804 (1), a person who solicits or colludes in a failure by an owner
805 of record to comply with subsection (1), or an insurer that
806 fails to comply with subsection (3) is subject to a civil
807 penalty of \$1,000.

808 Section 9. Section 328.055, Florida Statutes, is created
809 to read:

810 328.055 Maintenance of and access to files.—

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

813 (a) Ascertain or assign the hull identification number for
814 the vessel;

815 (b) Maintain the hull identification number and all the
816 information submitted with the application pursuant to s.
817 328.01(2) to which the record relates, including the date and
818 time the record was delivered to the department;

819 (c) Maintain the files for public inspection subject to
820 subsection (5); and

821 (d) Index the files of the department as required by
822 subsection (2).

823 (2) The department shall maintain in its files the
824 information contained in all certificates of title created under
825 this part. The information in the files of the department must

826 be searchable by the hull identification number of the vessel,
827 the vessel number, the name of the owner of record, and any
828 other method used by the department.

829 (3) The department shall maintain in its files, for each
830 vessel for which it has created a certificate of title, all
831 title brands known to the department, the name of each secured
832 party known to the department, the name of each person known to
833 the department to be claiming an ownership interest, and all
834 stolen property reports the department has received.

835 (4) Upon request, for safety, security, or law enforcement
836 purposes, the department shall provide to federal, state, or
837 local government the information in its files relating to any
838 vessel for which the department has issued a certificate of
839 title.

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

843 Section 10. Section 328.06, Florida Statutes, is created
844 to read:

845 328.06 Action required on creation of certificate of
846 title.-

847 (1) On creation of a written certificate of title, the
848 department shall promptly send the certificate to the secured
849 party of record or, if none, to the owner of record at the
850 address indicated for that person in the files of the

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851 department. On creation of an electronic certificate of title,
852 the department shall promptly send a record evidencing the
853 certificate to the owner of record and, if there is one, to the
854 secured party of record at the address indicated for each person
855 in the files of the department. The department may send the
856 record to the person's mailing address or, if indicated in the
857 files of the department, an electronic address.

858 (2) If the department creates a written certificate of
859 title, any electronic certificate of title for the vessel is
860 canceled and replaced by the written certificate. The department
861 shall maintain in the files of the department the date and time
862 of cancellation.

863 (3) Before the department creates an electronic
864 certificate of title, any written certificate for the vessel
865 must be surrendered to the department. If the department creates
866 an electronic certificate, the department shall destroy or
867 otherwise cancel the written certificate for the vessel which
868 has been surrendered to the department and maintain in the files
869 of the department the date and time of destruction or other
870 cancellation. If a written certificate being canceled is not
871 destroyed, the department shall indicate on the face of the
872 certificate that it has been canceled.

873 Section 11. Section 328.065, Florida Statutes, is created
874 to read:

875 328.065 Effect of possession of certificate of title;

876 judicial process.—Possession of a certificate of title does not
877 by itself provide a right to obtain possession of a vessel.
878 Garnishment, attachment, levy, replevin, or other judicial
879 process against the certificate is not effective to determine
880 possessory rights to the vessel. This part does not prohibit
881 enforcement under the laws of this state of a security interest
882 in, levy on, or foreclosure of a statutory or common-law lien on
883 a vessel. Absence of an indication of a statutory or common-law
884 lien on a certificate does not invalidate the lien.

885 Section 12. Section 328.09, Florida Statutes, is amended
886 to read:

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

889 328.09 Refusal to issue and authority to cancel a
890 certificate of title or registration.—

891 (1) Unless an application for a certificate of title is
892 rejected under subsection (3) or subsection (4), the department
893 shall create a certificate for the vessel in accordance with
894 subsection (2) not later than 20 days after delivery to the
895 department of an application that complies with s. 328.01.

896 (2) If the department creates electronic certificates of
897 title, the department shall create an electronic certificate
898 unless in the application the secured party of record or, if
899 none, the owner of record requests that the department create a
900 written certificate.

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

904 (a) The application does not comply with s. 328.01;
905 (b) The application does not contain documentation
906 sufficient for the department to determine whether the applicant
907 is entitled to a certificate;

908 (c) There is a reasonable basis for concluding that the
909 application is fraudulent or issuance of a certificate would
910 facilitate a fraudulent or illegal act; or

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

913 (4) The department shall reject an application for a
914 certificate of title for a vessel that is a documented vessel or
915 a foreign-documented vessel.

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

918 (a) Could have rejected the application for the
919 certificate under subsection (3);

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

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

924 (6) The department shall provide an opportunity for a
925 hearing pursuant to ss. 120.569 and 120.57 at which the owner

926 and any other interested party may present evidence in support
 927 of or opposition to cancellation of a certificate of title.

928 Section 13. Section 328.101, Florida Statutes, is created
 929 to read:

930 328.101 Effect of missing or incorrect information.—Except
 931 as otherwise provided in s. 679.337, a certificate of title or
 932 other record required or authorized by this part is effective
 933 even if it contains incorrect information or does not contain
 934 required information.

935 Section 14. Section 328.11, Florida Statutes, is amended
 936 to read:

937 328.11 Duplicate certificate of title.—

938 (1) If a written certificate of title is lost, stolen,
 939 mutilated, destroyed, or otherwise becomes unavailable or
 940 illegible, the secured party of record or, if no secured party
 941 is indicated in the files of the department, the owner of record
 942 may apply for and, by furnishing information satisfactory to the
 943 department, obtain a duplicate certificate in the name of the
 944 owner of record.

945 (2) An applicant for a duplicate certificate of title must
 946 sign the application, and, except as otherwise permitted by the
 947 department, the application must comply with s. 328.01. The
 948 application must include the existing certificate unless the
 949 certificate is lost, stolen, mutilated, destroyed, or otherwise
 950 unavailable.

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

954 (4) If a person receiving a duplicate certificate of title
955 subsequently obtains possession of the original written
956 certificate, the person shall promptly destroy the original
957 certificate of title.

958 ~~(5)(1) The Department of Highway Safety and Motor Vehicles~~
959 ~~may issue a duplicate certificate of title upon application by~~
960 ~~the person entitled to hold such a certificate if the department~~
961 ~~is satisfied that the original certificate has been lost,~~
962 ~~destroyed, or mutilated.~~ The department shall charge a fee of \$6
963 for issuing a duplicate certificate.

964 ~~(6)(2)~~ In addition to the fee imposed by subsection (5)
965 ~~(1)~~, the department of Highway Safety and Motor Vehicles shall
966 charge a fee of \$5 for expedited service in issuing a duplicate
967 certificate of title. Application for such expedited service may
968 be made by mail or in person. The department shall issue each
969 certificate of title applied for under this subsection within 5
970 working days after receipt of a proper application or shall
971 refund the additional \$5 fee upon written request by the
972 applicant.

973 ~~(3) If, following the issuance of an original, duplicate,~~
974 ~~or corrected certificate of title by the department, the~~
975 ~~certificate is lost in transit and is not delivered to the~~

976 ~~addressee, the owner of the vessel or the holder of a lien~~
977 ~~thereon may, within 180 days after the date of issuance of the~~
978 ~~title, apply to the department for reissuance of the certificate~~
979 ~~of title. An additional fee may not be charged for reissuance~~
980 ~~under this subsection.~~

981 (7) ~~(4)~~ The department shall implement a system to verify
982 that the application is signed by a person authorized to receive
983 a duplicate title certificate under this section if the address
984 shown on the application is different from the address shown for
985 the applicant on the records of the department.

986 Section 15. Section 328.12, Florida Statutes, is created
987 to read:

988 328.12 Perfection of security interest.-

989 (1) Except as otherwise provided in this section, a
990 security interest in a vessel may be perfected only by delivery
991 to the department of an application for a certificate of title
992 that identifies the secured party and otherwise complies with s.
993 328.01. The security interest is perfected on the later of
994 delivery to the department of the application and the applicable
995 fee or attachment of the security interest under s. 679.2031.

996 (2) If the interest of a person named as owner, lessor,
997 consignor, or bailor in an application for a certificate of
998 title delivered to the department is a security interest, the
999 application sufficiently identifies the person as a secured
1000 party. Identification on the application for a certificate of a

1001 person as owner, lessor, consignor, or bailor is not by itself a
1002 factor in determining whether the person's interest is a
1003 security interest.

1004 (3) If the department has created a certificate of title
1005 for a vessel, a security interest in the vessel may be perfected
1006 by delivery to the department of an application, on a form the
1007 department may require, to have the security interest added to
1008 the certificate. The application must be signed by an owner of
1009 the vessel or by the secured party and must include:

1010 (a) The name of the owner of record;

1011 (b) The name and mailing address of the secured party;

1012 (c) The hull identification number for the vessel; and

1013 (d) If the department has created a written certificate of
1014 title for the vessel, the certificate.

1015 (4) A security interest perfected under subsection (3) is
1016 perfected on the later of delivery to the department of the
1017 application and all applicable fees or attachment of the
1018 security interest under s. 679.2031.

1019 (5) On delivery of an application that complies with
1020 subsection (3) and payment of all applicable fees, the
1021 department shall create a new certificate of title pursuant to
1022 s. 328.09 and deliver the new certificate or a record evidencing
1023 an electronic certificate pursuant to s. 328.06. The department
1024 shall maintain in the files of the department the date and time
1025 of delivery of the application to the department.

1026 (6) If a secured party assigns a perfected security
1027 interest in a vessel, the receipt by the department of a
1028 statement providing the name of the assignee as secured party is
1029 not required to continue the perfected status of the security
1030 interest against creditors of and transferees from the original
1031 debtor. A purchaser of a vessel subject to a security interest
1032 who obtains a release from the secured party indicated in the
1033 files of the department or on the certificate takes free of the
1034 security interest and of the rights of a transferee unless the
1035 transfer is indicated in the files of the department or on the
1036 certificate.

1037 (7) This section does not apply to a security interest:

1038 (a) Created in a vessel by a person during any period in
1039 which the vessel is inventory held for sale or lease by the
1040 person or is leased by the person as lessor if the person is in
1041 the business of selling vessels;

1042 (b) In a barge for which no application for a certificate
1043 of title has been delivered to the department; or

1044 (c) In a vessel before delivery if the vessel is under
1045 construction, or completed, pursuant to contract and for which
1046 no application for a certificate has been delivered to the
1047 department.

1048 (8) This subsection applies if a certificate of
1049 documentation for a documented vessel is deleted or canceled. If
1050 a security interest in the vessel was valid immediately before

1051 deletion or cancellation against a third party as a result of
1052 compliance with 46 U.S.C. s. 31321, the security interest is and
1053 remains perfected until the earlier of 4 months after
1054 cancellation of the certificate or the time the security
1055 interest becomes perfected under this part.

1056 (9) A security interest in a vessel arising under s.
1057 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is
1058 perfected when it attaches but becomes unperfected when the
1059 debtor obtains possession of the vessel, unless the security
1060 interest is perfected pursuant to subsection (1) or subsection
1061 (3) before the debtor obtains possession.

1062 (10) A security interest in a vessel as proceeds of other
1063 collateral is perfected to the extent provided in s. 679.3151.

1064 (11) A security interest in a vessel perfected under the
1065 law of another jurisdiction is perfected to the extent provided
1066 in s. 679.3161(4).

1067 (12) The department shall adopt rules to administer this
1068 section.

1069 Section 16. Section 328.125, Florida Statutes, is created
1070 to read:

1071 328.125 Termination statement.—

1072 (1) A secured party indicated in the files of the
1073 department as having a security interest in a vessel shall
1074 deliver a termination statement to the department and, on the
1075 debtor's request, to the debtor, by the earlier of:

1076 (a) Twenty days after the secured party receives a signed
1077 demand from an owner for a termination statement and there is no
1078 obligation secured by the vessel subject to the security
1079 interest and no commitment to make an advance, incur an
1080 obligation, or otherwise give value secured by the vessel; or

1081 (b) If the vessel is consumer goods, 30 days after there
1082 is no obligation secured by the vessel and no commitment to make
1083 an advance, incur an obligation, or otherwise give value secured
1084 by the vessel.

1085 (2) If a written certificate of title has been created and
1086 delivered to a secured party and a termination statement is
1087 required under subsection (1), the secured party, not later than
1088 the date required by subsection (1), shall deliver the
1089 certificate to the debtor or to the department with the
1090 statement. If the certificate is lost, stolen, mutilated,
1091 destroyed, or is otherwise unavailable or illegible, the secured
1092 party shall deliver with the statement, not later than the date
1093 required by subsection (1), an application for a duplicate
1094 certificate meeting the requirements of s. 328.11.

1095 (3) On delivery to the department of a termination
1096 statement authorized by the secured party, the security interest
1097 to which the statement relates ceases to be perfected. If the
1098 security interest to which the statement relates was indicated
1099 on the certificate of title, the department shall create a new
1100 certificate and deliver the new certificate or a record

1101 evidencing an electronic certificate. The department shall
 1102 maintain in its files the date and time of delivery to the
 1103 department of the statement.

1104 (4) A secured party that fails to comply with this section
 1105 is liable for any loss that the secured party had reason to know
 1106 might result from its failure to comply and which could not
 1107 reasonably have been prevented and for the cost of an
 1108 application for a certificate of title under s. 328.01 or s.
 1109 328.11.

1110 Section 17. Section 328.14, Florida Statutes, is created
 1111 to read:

1112 328.14 Rights of purchaser other than secured party.-

1113 (1) A buyer in ordinary course of business has the
 1114 protections afforded by ss. 672.403(2) and 679.320(1) even if an
 1115 existing certificate of title was not signed and delivered to
 1116 the buyer or a new certificate listing the buyer as owner of
 1117 record was not created.

1118 (2) Except as otherwise provided in ss. 328.145 and
 1119 328.22, the rights of a purchaser of a vessel who is not a buyer
 1120 in ordinary course of business or a lien creditor are governed
 1121 by the Uniform Commercial Code.

1122 Section 18. Section 328.145, Florida Statutes, is created
 1123 to read:

1124 328.145 Rights of secured party.-

1125 (1) Subject to subsection (2), the effect of perfection

1126 and nonperfection of a security interest and the priority of a
 1127 perfected or unperfected security interest with respect to the
 1128 rights of a purchaser or creditor, including a lien creditor, is
 1129 governed by the Uniform Commercial Code.

1130 (2) If, while a security interest in a vessel is perfected
 1131 by any method under this part, the department creates a
 1132 certificate of title that does not indicate that the vessel is
 1133 subject to the security interest or contain a statement that it
 1134 may be subject to security interests not indicated on the
 1135 certificate:

1136 (a) A buyer of the vessel, other than a person in the
 1137 business of selling or leasing vessels of that kind, takes free
 1138 of the security interest if the buyer, acting in good faith and
 1139 without knowledge of the security interest, gives value and
 1140 receives possession of the vessel; and

1141 (b) The security interest is subordinate to a conflicting
 1142 security interest in the vessel that is perfected under s.
 1143 328.12 after creation of the certificate and without the
 1144 conflicting secured party's knowledge of the security interest.

1145 Section 19. Section 328.15, Florida Statutes, is amended
 1146 to read:

1147 328.15 Notice of lien on vessel; recording.—

1148 ~~(1) No lien for purchase money or as security for a debt~~
 1149 ~~in the form of retain title contract, conditional bill of sale,~~
 1150 ~~chattel mortgage, or otherwise on a vessel shall be enforceable~~

1151 ~~in any of the courts of this state against creditors or~~
1152 ~~subsequent purchasers for a valuable consideration and without~~
1153 ~~notice unless a sworn notice of such lien is recorded. The lien~~
1154 ~~certificate shall contain the following information:~~

- 1155 ~~(a) Name and address of the registered owner;~~
1156 ~~(b) Date of lien;~~
1157 ~~(c) Description of the vessel to include make, type, motor~~
1158 ~~and serial number; and~~
1159 ~~(d) Name and address of lienholder.~~

1160
1161 ~~The lien shall be recorded by the Department of Highway Safety~~
1162 ~~and Motor Vehicles and shall be effective as constructive notice~~
1163 ~~when filed. The date of filing of the notice of lien is the date~~
1164 ~~of its receipt by the department's central office in~~
1165 ~~Tallahassee, if first filed there, or otherwise by the office of~~
1166 ~~a county tax collector or of the tax collector's agent.~~

1167 ~~(2)(a) The Department of Highway Safety and Motor Vehicles~~
1168 ~~shall not enter any lien upon its lien records, whether it is a~~
1169 ~~first lien or a subordinate lien, unless the official~~
1170 ~~certificate of title issued for the vessel is furnished with the~~
1171 ~~notice of lien, so that the record of lien, whether original or~~
1172 ~~subordinate, may be noted upon the face thereof. After the~~
1173 ~~department records the lien, it shall send the certificate of~~
1174 ~~title to the holder of the first lien who shall hold such~~
1175 ~~certificate until the lien is satisfied in full.~~

1176 ~~(b) When a vessel is registered in the names of two or~~
1177 ~~more persons as coowners in the alternative by the use of the~~
1178 ~~word "or," whether or not the coowners are husband and wife,~~
1179 ~~each coowner is considered to have granted to any other coowner~~
1180 ~~the absolute right to place a lien or encumbrance on the vessel,~~
1181 ~~and the signature of one coowner constitutes proper execution of~~
1182 ~~the notice of lien. When a vessel is registered in the names of~~
1183 ~~two or more persons as coowners in the conjunctive by the use of~~
1184 ~~the word "and," the signature of each coowner is required in~~
1185 ~~order to place a lien or encumbrance on the vessel.~~

1186 ~~(c) If the owner of the vessel as shown on the title~~
1187 ~~certificate or the director of the state child support~~
1188 ~~enforcement program desires to place a second or subsequent lien~~
1189 ~~or encumbrance against the vessel when the title certificate is~~
1190 ~~in the possession of the first lienholder, the owner shall send~~
1191 ~~a written request to the first lienholder by certified mail and~~
1192 ~~such first lienholder shall forward the certificate to the~~
1193 ~~department for endorsement. The department shall return the~~
1194 ~~certificate to the first lienholder, as indicated in the notice~~
1195 ~~of lien filed by the first lienholder, after endorsing the~~
1196 ~~second or subsequent lien on the certificate and on the~~
1197 ~~duplicate. If the first lienholder fails, neglects, or refuses~~
1198 ~~to forward the certificate of title to the department within 10~~
1199 ~~days after the date of the owner's or the director's request,~~
1200 ~~the department, on written request of the subsequent lienholder~~

1201 ~~or an assignee thereof, shall demand of the first lienholder the~~
1202 ~~return of such certificate for the notation of the second or~~
1203 ~~subsequent lien or encumbrance.~~

1204 (1)~~(3)~~ Upon the payment of a any such lien, the debtor or
1205 the registered owner of the motorboat shall be entitled to
1206 demand and receive from the lienholder a satisfaction of the
1207 lien which shall likewise be filed with the Department of
1208 Highway Safety and Motor Vehicles.

1209 (2)~~(4)~~ The Department of Highway Safety and Motor Vehicles
1210 under precautionary rules and regulations to be promulgated by
1211 it may permit the use, in substitution of the formal
1212 satisfaction of lien, of other methods of satisfaction, such as
1213 perforation, appropriate stamp, or otherwise, as it deems
1214 reasonable and adequate.

1215 (3)~~(5)~~(a) The Department of Highway Safety and Motor
1216 Vehicles shall adopt rules to administer this section. The
1217 department may by rule require that a notice of satisfaction of
1218 a lien be notarized. The department shall prepare the forms of
1219 the notice of lien and the satisfaction of lien to be supplied,
1220 at a charge not to exceed 50 percent more than cost, to
1221 applicants for recording the liens or satisfactions and shall
1222 keep a record of such notices of lien and satisfactions
1223 available for inspection by the public at all reasonable times.
1224 The division may furnish certified copies of such satisfactions
1225 for a fee of \$1, which are admissible in evidence in all courts

1226 | of this state under the same conditions and to the same effect
 1227 | as certified copies of other public records.

1228 | (b) The department shall establish and administer an
 1229 | electronic titling program that requires the recording of vessel
 1230 | title information for new, transferred, and corrected
 1231 | certificates of title. Lienholders shall electronically transmit
 1232 | liens and lien satisfactions to the department in a format
 1233 | determined by the department. Individuals and lienholders who
 1234 | the department determines are not normally engaged in the
 1235 | business or practice of financing vessels are not required to
 1236 | participate in the electronic titling program.

1237 | ~~(6) The Department of Highway Safety and Motor Vehicles is~~
 1238 | ~~entitled to a fee of \$1 for the recording of each notice of~~
 1239 | ~~lien. No fee shall be charged for recording the satisfaction of~~
 1240 | ~~a lien. All of the fees collected shall be paid into the Marine~~
 1241 | ~~Resources Conservation Trust Fund.~~

1242 | (4)~~(7)~~(a) Should any person, firm, or corporation holding
 1243 | such lien, which has been recorded by the Department of Highway
 1244 | Safety and Motor Vehicles, upon payment of such lien and on
 1245 | demand, fail or refuse, within 30 days after such payment and
 1246 | demand, to furnish the debtor or the registered owner of such
 1247 | vessel a satisfaction of the lien, then, in that event, such
 1248 | person, firm, or corporation shall be held liable for all costs,
 1249 | damages, and expenses, including reasonable attorney ~~attorney's~~
 1250 | fees, lawfully incurred by the debtor or the registered owner of

1251 such vessel in any suit which may be brought in the courts of
1252 this state for the cancellation of such lien.

1253 (b) Following satisfaction of a lien, the lienholder shall
1254 enter a satisfaction thereof in the space provided on the face
1255 of the certificate of title. If there are no subsequent liens
1256 shown thereon, the certificate shall be delivered by the
1257 lienholder to the person satisfying the lien or encumbrance and
1258 an executed satisfaction on a form provided by the department
1259 shall be forwarded to the department by the lienholder within 10
1260 days after satisfaction of the lien.

1261 (c) If the certificate of title shows a subsequent lien
1262 not then being discharged, an executed satisfaction of the first
1263 lien shall be delivered by the lienholder to the person
1264 satisfying the lien and the certificate of title showing
1265 satisfaction of the first lien shall be forwarded by the
1266 lienholder to the department within 10 days after satisfaction
1267 of the lien.

1268 (d) If, upon receipt of a title certificate showing
1269 satisfaction of the first lien, the department determines from
1270 its records that there are no subsequent liens or encumbrances
1271 upon the vessel, the department shall forward to the owner, as
1272 shown on the face of the title, a corrected certificate showing
1273 no liens or encumbrances. If there is a subsequent lien not
1274 being discharged, the certificate of title shall be reissued
1275 showing the second or subsequent lienholder as the first

1276 | lienholder and shall be delivered to the new first lienholder.
1277 | The first lienholder shall be entitled to retain the certificate
1278 | of title until his or her lien is satisfied. Upon satisfaction
1279 | of the lien, the lienholder shall be subject to the procedures
1280 | required of a first lienholder in this subsection ~~and in~~
1281 | ~~subsection (2)~~.

1282 | (5)~~(8)~~ When the original certificate of title cannot be
1283 | returned to the department by the lienholder and evidence
1284 | satisfactory to the department is produced that all liens or
1285 | encumbrances have been satisfied, upon application by the owner
1286 | for a duplicate copy of the certificate of title, upon the form
1287 | prescribed by the department, accompanied by the fee prescribed
1288 | in this chapter, a duplicate copy of the certificate of title
1289 | without statement of liens or encumbrances shall be issued by
1290 | the department and delivered to the owner.

1291 | (6)~~(9)~~ Any person who fails, within 10 days after receipt
1292 | of a demand by the department by certified mail, to return a
1293 | certificate of title to the department ~~as required by paragraph~~
1294 | ~~(2)(e)~~ or who, upon satisfaction of a lien, fails within 10 days
1295 | after receipt of such demand to forward the appropriate document
1296 | to the department as required by paragraph (4)(b) ~~(7)(b)~~ or
1297 | paragraph (4)(c) ~~(7)(e)~~ commits a misdemeanor of the second
1298 | degree, punishable as provided in s. 775.082 or s. 775.083.

1299 | (7)~~(10)~~ The department shall use the last known address as
1300 | shown by its records when sending any notice required by this

1301 section.

1302 (8)~~(11)~~ If the original lienholder sells and assigns his
1303 or her lien to some other person, and if the assignee desires to
1304 have his or her name substituted on the certificate of title as
1305 the holder of the lien, he or she may, after delivering the
1306 original certificate of title to the department and providing a
1307 sworn statement of the assignment, have his or her name
1308 substituted as a lienholder. Upon substitution of the assignee's
1309 name as lienholder, the department shall deliver the certificate
1310 of title to the assignee as the first lienholder.

1311 (9) Subsections (1), (2), and (4)-(8) shall expire on
1312 October 1, 2022.

1313 Section 20. Section 328.16, Florida Statutes, is amended
1314 to read:

1315 328.16 Issuance in duplicate; delivery; liens, security
1316 interests, and encumbrances.—

1317 (1) The department shall assign a number to each
1318 certificate of title and shall issue each certificate of title
1319 and each corrected certificate in duplicate. The database record
1320 shall serve as the duplicate title certificate.

1321 (2) An authorized person must sign the original
1322 certificate of title and each corrected certificate and, if
1323 there are no liens, security interests, or encumbrances on the
1324 vessel, as shown in the records of the department or as shown in
1325 the application, must deliver the certificate to the applicant

1326 or to another person as directed by the applicant or person,
1327 agent, or attorney submitting the application. If there are one
1328 or more liens, security interests, or encumbrances on the
1329 vessel, the department must deliver the certificate to the first
1330 lienholder or secured party as shown by department records. The
1331 department shall deliver to the first lienholder or secured
1332 party, along with the certificate, a form to be subsequently
1333 used by the lienholder or secured party as a satisfaction. If
1334 the application for certificate of title shows the name of a
1335 first lienholder or secured party which is different from the
1336 name of the first lienholder or secured party as shown by the
1337 records of the department, the certificate shall not be issued
1338 to any person until after the department notifies all parties
1339 who appear to hold a lien or a security interest and the
1340 applicant for the certificate, in writing by certified mail. If
1341 the parties do not amicably resolve the conflict within 10 days
1342 after the date the notice was mailed, the department shall serve
1343 notice in writing by certified mail on all persons that appear
1344 to hold liens or security interests on that particular vessel,
1345 including the applicant for the certificate, to show cause
1346 within 15 days after the date the notice is mailed why it should
1347 not issue and deliver the certificate to the secured party of
1348 record or person indicated in the notice of lien filed by the
1349 lienholder whose name appears in the application as the first
1350 lienholder without showing any lien or liens as outstanding

1351 other than those appearing in the application or those filed
1352 subsequent to the filing of the application for the certificate
1353 of title. If, within the 15-day period, any person other than
1354 the lienholder or secured party of record shown in the
1355 application or a party filing a subsequent lien or security
1356 interest, in answer to the notice to show cause, appears in
1357 person or by a representative, or responds in writing, and files
1358 a written statement under oath that his or her lien or security
1359 interest on that particular vessel is still outstanding, the
1360 department shall not issue the certificate to anyone until after
1361 the conflict has been settled by the lien or security interest
1362 claimants involved or by a court of competent jurisdiction. If
1363 the conflict is not settled amicably within 10 days after the
1364 final date for filing an answer to the notice to show cause, the
1365 complaining party shall have 10 days to obtain a ruling, or a
1366 stay order, from a court of competent jurisdiction. If a ruling
1367 or stay order is not issued and served on the department within
1368 the 10-day period, the department shall issue the certificate
1369 showing no liens or security interests, except those shown in
1370 the application or thereafter filed, to the original applicant
1371 if there are no liens or security interests shown in the
1372 application and none are thereafter filed, or to the person
1373 indicated as the secured party of record or in the notice of
1374 lien filed by the lienholder whose name appears in the
1375 application as the first lienholder if there are liens shown in

1376 the application or thereafter filed. A duplicate certificate or
1377 corrected certificate must show only such security interest or
1378 interests or lien or liens as were shown in the application and
1379 subsequently filed liens or security interests that may be
1380 outstanding.

1381 (3) ~~Except as provided in s. 328.15(11),~~ The certificate
1382 of title shall be retained by the first lienholder or secured
1383 party of record. The first lienholder or secured party of record
1384 is entitled to retain the certificate until the first lien or
1385 security interest is satisfied.

1386 (4) Notwithstanding any requirements in this section ~~or in~~
1387 ~~s. 328.15~~ indicating that a lien or security interest on a
1388 vessel shall be noted on the face of the Florida certificate of
1389 title, if there are one or more liens, security interests, or
1390 encumbrances on a vessel, the department shall electronically
1391 transmit the lien or security interest to the first lienholder
1392 or secured party and notify the first lienholder or secured
1393 party of any additional liens or security interests. Subsequent
1394 lien or security interest satisfactions shall be electronically
1395 transmitted to the department and must include the name and
1396 address of the person or entity satisfying the lien or security
1397 interest. When electronic transmission of liens or security
1398 interest and lien satisfactions or security interest are used,
1399 the issuance of a certificate of title may be waived until the
1400 last lien or security interest is satisfied and a clear

1401 certificate of title is issued to the owner of the vessel.
1402 (5) The owner of a vessel~~7~~ upon which a lien or security
1403 interest has been filed with the department or noted upon a
1404 certificate of title for a period of 5 years~~7~~ may apply to the
1405 department in writing for such lien or security interest to be
1406 removed from the department files or from the certificate of
1407 title. The application must be accompanied by evidence
1408 satisfactory to the department that the applicant has notified
1409 the lienholder or secured party by certified mail, not less than
1410 20 days before ~~prior to~~ the date of the application, of his or
1411 her intention to apply to the department for removal of the lien
1412 or security interest. Ten days after receipt of the application,
1413 the department may remove the lien or security interest from its
1414 files or from the certificate of title, as the case may be, if
1415 no statement in writing protesting removal of the lien or
1416 security interest is received by the department from the
1417 lienholder or secured party within the 10-day period. However,
1418 if the lienholder or secured party files with the department,
1419 within the 10-day period, a written statement that the lien or
1420 security interest is still outstanding, the department may not
1421 remove the lien or security interest until the lienholder or
1422 secured party presents a satisfaction of lien or satisfaction of
1423 security interest to the department.

1424 Section 21. Subsection (1) of section 328.165, Florida
1425 Statutes, is amended to read:

1426 328.165 Cancellation of certificates.-

1427 (1) If it appears that a certificate of title has been
 1428 improperly issued, the department shall cancel the certificate.
 1429 Upon cancellation of any certificate of title, the department
 1430 shall notify the person to whom the certificate of title was
 1431 issued, and any lienholders or secured parties appearing
 1432 thereon, of the cancellation and shall demand the surrender of
 1433 the certificate of title; however, the cancellation does not
 1434 affect the validity of any lien or security interest noted
 1435 thereon. The holder of the certificate of title shall
 1436 immediately return it to the department. If a certificate of
 1437 registration has been issued to the holder of a certificate of
 1438 title so canceled, the department shall immediately cancel the
 1439 certificate of registration and demand the return of the
 1440 certificate of registration, and the holder of such certificate
 1441 of registration shall immediately return it to the department.

1442 Section 22. Section 328.215, Florida Statutes, is created
 1443 to read:

1444 328.215 Application for transfer of ownership or
 1445 termination of security interest without certificate of title.-

1446 (1) Except as otherwise provided in s. 328.23 or s.
 1447 328.24, if the department receives, unaccompanied by a signed
 1448 certificate of title, an application for a new certificate that
 1449 includes an indication of a transfer of ownership or a
 1450 termination statement, the department may create a new

1451 certificate under this section only if:

1452 (a) All other requirements under ss. 328.01 and 328.09 are
1453 met;

1454 (b) The applicant provides an affidavit stating facts
1455 showing the applicant is entitled to a transfer of ownership or
1456 termination statement;

1457 (c) The applicant provides the department with
1458 satisfactory evidence that notification of the application has
1459 been sent to the owner of record and all persons indicated in
1460 the files of the department as having an interest, including a
1461 security interest, in the vessel; at least 45 days have passed
1462 since the notification was sent; and the department has not
1463 received an objection from any of those persons; and

1464 (d) The applicant submits any other information required
1465 by the department as evidence of the applicant's ownership or
1466 right to terminate the security interest, and the department has
1467 no credible information indicating theft, fraud, or an
1468 undisclosed or unsatisfied security interest, lien, or other
1469 claim to an interest in the vessel.

1470 (2) The department may indicate in a certificate of title
1471 created under subsection (1) that the certificate was created
1472 without submission of a signed certificate or termination
1473 statement. Unless credible information indicating theft, fraud,
1474 or an undisclosed or unsatisfied security interest, lien, or
1475 other claim to an interest in the vessel is delivered to the

1476 department not later than 1 year after creation of the
1477 certificate, on request in a form and manner required by the
1478 department, the department shall remove the indication from the
1479 certificate.

1480 (3) Unless the department determines that the value of a
1481 vessel is less than \$5,000, before the department creates a
1482 certificate of title under subsection (1), the department may
1483 require the applicant to post a bond or provide an equivalent
1484 source of indemnity or security. The bond, indemnity, or other
1485 security may not exceed twice the value of the vessel as
1486 determined by the department. The bond, indemnity, or other
1487 security must be in a form required by the department and
1488 provide for indemnification of any owner, purchaser, or other
1489 claimant for any expense, loss, delay, or damage, including
1490 reasonable attorney fees and costs, but not including incidental
1491 or consequential damages, resulting from creation or amendment
1492 of the certificate.

1493 (4) Unless the department receives a claim for indemnity
1494 not later than 1 year after creation of a certificate of title
1495 under subsection (1), on request in a form and manner required
1496 by the department, the department shall release any bond,
1497 indemnity, or other security.

1498 Section 23. Section 328.22, Florida Statutes, is created
1499 to read:

1500 328.22 Transfer of ownership.—

1501 (1) On voluntary transfer of an ownership interest in a
1502 vessel covered by a certificate of title, the following rules
1503 apply:

1504 (a) If the certificate is a written certificate of title
1505 and the transferor's interest is noted on the certificate, the
1506 transferor shall promptly sign the certificate and deliver it to
1507 the transferee. If the transferor does not have possession of
1508 the certificate, the person in possession of the certificate has
1509 a duty to facilitate the transferor's compliance with this
1510 paragraph. A secured party does not have a duty to facilitate
1511 the transferor's compliance with this paragraph if the proposed
1512 transfer is prohibited by the security agreement.

1513 (b) If the certificate of title is an electronic
1514 certificate of title, the transferor shall promptly sign and
1515 deliver to the transferee a record evidencing the transfer of
1516 ownership to the transferee.

1517 (c) The transferee has a right enforceable by specific
1518 performance to require the transferor to comply with paragraph
1519 (a) or paragraph (b).

1520 (2) The creation of a certificate of title identifying the
1521 transferee as owner of record satisfies subsection (1).

1522 (3) A failure to comply with subsection (1) or to apply
1523 for a new certificate of title does not render a transfer of
1524 ownership of a vessel ineffective between the parties. Except as
1525 otherwise provided in s. 328.101, s. 328.14(1), s. 328.145, or

1526 s. 328.23, a transfer of ownership without compliance with
1527 subsection (1) is not effective against another person claiming
1528 an interest in the vessel.

1529 (4) A transferor that complies with subsection (1) is not
1530 liable as owner of the vessel for an event occurring after the
1531 transfer, regardless of whether the transferee applies for a new
1532 certificate of title.

1533 Section 24. Section 328.23, Florida Statutes, is created
1534 to read:

1535 328.23 Transfer of ownership by secured party's transfer
1536 statement.—

1537 (1) In this section, "secured party's transfer statement"
1538 means a record signed by the secured party of record stating:

1539 (a) That there has been a default on an obligation secured
1540 by the vessel;

1541 (b) That the secured party of record is exercising or has
1542 exercised post-default remedies with respect to the vessel;

1543 (c) That by reason of the exercise, the secured party of
1544 record has the right to transfer the ownership interest of an
1545 owner, and the name of the owner;

1546 (d) The name and last known mailing address of the owner
1547 of record and the secured party of record;

1548 (e) The name of the transferee;

1549 (f) Other information required by s. 328.01(2); and

1550 (g) One of the following:

- 1551 1. The certificate of title is an electronic certificate;
1552 2. The secured party does not have possession of the
1553 written certificate of title created in the name of the owner of
1554 record; or
1555 3. The secured party is delivering the written certificate
1556 of title to the department with the secured party's transfer
1557 statement.
- 1558 (2) Unless the department rejects a secured party's
1559 transfer statement for a reason stated in s. 328.09(3), not
1560 later than 20 days after delivery to the department of the
1561 statement and payment of fees and taxes payable under the laws
1562 of this state other than this part in connection with the
1563 statement or the acquisition or use of the vessel, the
1564 department shall:
- 1565 (a) Accept the statement;
1566 (b) Amend the files of the department to reflect the
1567 transfer; and
1568 (c) If the name of the owner whose ownership interest is
1569 being transferred is indicated on the certificate of title:
- 1570 1. Cancel the certificate even if the certificate has not
1571 been delivered to the department;
1572 2. Create a new certificate indicating the transferee as
1573 owner; and
1574 3. Deliver the new certificate or a record evidencing an
1575 electronic certificate.

1576 (3) An application under subsection (1) or the creation of
1577 a certificate of title under subsection (2) is not by itself a
1578 disposition of the vessel and does not by itself relieve the
1579 secured party of its duties under chapter 679.

1580 Section 25. Section 328.24, Florida Statutes, is created
1581 to read:

1582 328.24 Transfer by operation of law.—

1583 (1) In this section, "by operation of law" means pursuant
1584 to a law or judicial order affecting ownership of a vessel:

1585 (a) Because of death, divorce, or other family law
1586 proceeding, merger, consolidation, dissolution, or bankruptcy;

1587 (b) Through the exercise of the rights of a lien creditor
1588 or a person having a lien created by statute or rule of law; or

1589 (c) Through other legal process.

1590 (2) A transfer-by-law statement must contain:

1591 (a) The name and last known mailing address of the owner
1592 of record and the transferee and the other information required
1593 by s. 328.01;

1594 (b) Documentation sufficient to establish the transferee's
1595 ownership interest or right to acquire the ownership interest;

1596 (c) A statement that:

1597 1. The certificate of title is an electronic certificate
1598 of title;

1599 2. The transferee does not have possession of the written
1600 certificate of title created in the name of the owner of record;

1601 or

1602 3. The transferee is delivering the written certificate to
1603 the department with the transfer-by-law statement; and

1604 (d) Except for a transfer described in paragraph (1) (a),
1605 evidence that notification of the transfer and the intent to
1606 file the transfer-by-law statement has been sent to all persons
1607 indicated in the files of the department as having an interest,
1608 including a security interest, in the vessel.

1609 (3) Unless the department rejects a transfer-by-law
1610 statement for a reason stated in s. 328.09(3) or because the
1611 statement does not include documentation satisfactory to the
1612 department as to the transferee's ownership interest or right to
1613 acquire the ownership interest, not later than 20 days after
1614 delivery to the department of the statement and payment of fees
1615 and taxes payable under the law of this state other than this
1616 part in connection with the statement or with the acquisition or
1617 use of the vessel, the department shall:

1618 (a) Accept the statement;

1619 (b) Amend the files of the department to reflect the
1620 transfer; and

1621 (c) If the name of the owner whose ownership interest is
1622 being transferred is indicated on the certificate of title:

1623 1. Cancel the certificate even if the certificate has not
1624 been delivered to the department;

1625 2. Create a new certificate indicating the transferee as

1626 owner;

1627 3. Indicate on the new certificate any security interest
 1628 indicated on the canceled certificate, unless a court order
 1629 provides otherwise; and

1630 4. Deliver the new certificate or a record evidencing an
 1631 electronic certificate.

1632 (4) This section does not apply to a transfer of an
 1633 interest in a vessel by a secured party under part VI of chapter
 1634 679.

1635 Section 26. Section 328.25, Florida Statutes, is created
 1636 to read:

1637 328.25 Supplemental principles of law and equity.—Unless
 1638 displaced by a provision of this part, the principles of law and
 1639 equity supplement its provisions.

1640 Section 27. Section 409.2575, Florida Statutes, is amended
 1641 to read:

1642 409.2575 Liens on motor vehicles and vessels.—

1643 (1) The director of the state IV-D program, or the
 1644 director's designee, may cause a lien for unpaid and delinquent
 1645 support to be placed upon motor vehicles, as defined in chapter
 1646 320, and upon vessels, as defined in chapter 327, that are
 1647 registered in the name of an obligor who is delinquent in
 1648 support payments, if the title to the property is held by a
 1649 lienholder, in the manner provided in chapter 319 or, if
 1650 applicable in accordance with s. 328.15(9), chapter 328. Notice

1651 of lien shall not be mailed unless the delinquency in support
 1652 exceeds \$600.

1653 (2) If the first lienholder fails, neglects, or refuses to
 1654 forward the certificate of title to the appropriate department
 1655 as requested pursuant to s. 319.24 or, if applicable in
 1656 accordance with s. 328.15(9), s. 328.15, the director of the IV-
 1657 D program, or the director's designee, may apply to the circuit
 1658 court for an order to enforce the requirements of s. 319.24 or
 1659 s. 328.15, whichever applies.

1660 Section 28. Subsection (2) of section 705.103, Florida
 1661 Statutes, is amended to read:

1662 705.103 Procedure for abandoned or lost property.—

1663 (2) Whenever a law enforcement officer ascertains that an
 1664 article of lost or abandoned property is present on public
 1665 property and is of such nature that it cannot be easily removed,
 1666 the officer shall cause a notice to be placed upon such article
 1667 in substantially the following form:

1668 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
 1669 PROPERTY. This property, to wit: ...(setting forth brief
 1670 description)... is unlawfully upon public property known as
 1671 ...(setting forth brief description of location)... and must be
 1672 removed within 5 days; otherwise, it will be removed and
 1673 disposed of pursuant to chapter 705, Florida Statutes. The owner
 1674 will be liable for the costs of removal, storage, and
 1675 publication of notice. Dated this: ...(setting forth the date of

1676 posting of notice)..., signed: ...(setting forth name, title,
1677 address, and telephone number of law enforcement officer)....
1678 Such notice shall be not less than 8 inches by 10 inches and
1679 shall be sufficiently weatherproof to withstand normal exposure
1680 to the elements. In addition to posting, the law enforcement
1681 officer shall make a reasonable effort to ascertain the name and
1682 address of the owner. If such is reasonably available to the
1683 officer, she or he shall mail a copy of such notice to the owner
1684 on or before the date of posting. If the property is a motor
1685 vehicle as defined in s. 320.01(1) or a vessel as defined in s.
1686 327.02, the law enforcement agency shall contact the Department
1687 of Highway Safety and Motor Vehicles in order to determine the
1688 name and address of the owner and any person who has filed a
1689 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)
1690 ~~or s. 328.15(1)~~. On receipt of this information, the law
1691 enforcement agency shall mail a copy of the notice by certified
1692 mail, return receipt requested, to the owner and to the
1693 lienholder, if any, except that a law enforcement officer who
1694 has issued a citation for a violation of s. 823.11 to the owner
1695 of a derelict vessel is not required to mail a copy of the
1696 notice by certified mail, return receipt requested, to the
1697 owner. If, at the end of 5 days after posting the notice and
1698 mailing such notice, if required, the owner or any person
1699 interested in the lost or abandoned article or articles
1700 described has not removed the article or articles from public

1701 property or shown reasonable cause for failure to do so, the
1702 following shall apply:

1703 (a) For abandoned property, the law enforcement agency may
1704 retain any or all of the property for its own use or for use by
1705 the state or unit of local government, trade such property to
1706 another unit of local government or state agency, donate the
1707 property to a charitable organization, sell the property, or
1708 notify the appropriate refuse removal service.

1709 (b) For lost property, the officer shall take custody and
1710 the agency shall retain custody of the property for 90 days. The
1711 agency shall publish notice of the intended disposition of the
1712 property, as provided in this section, during the first 45 days
1713 of this time period.

1714 1. If the agency elects to retain the property for use by
1715 the unit of government, donate the property to a charitable
1716 organization, surrender such property to the finder, sell the
1717 property, or trade the property to another unit of local
1718 government or state agency, notice of such election shall be
1719 given by an advertisement published once a week for 2
1720 consecutive weeks in a newspaper of general circulation in the
1721 county where the property was found if the value of the property
1722 is more than \$100. If the value of the property is \$100 or less,
1723 notice shall be given by posting a description of the property
1724 at the law enforcement agency where the property was turned in.
1725 The notice must be posted for not less than 2 consecutive weeks

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1726 | in a public place designated by the law enforcement agency. The
1727 | notice must describe the property in a manner reasonably
1728 | adequate to permit the rightful owner of the property to claim
1729 | it.

1730 | 2. If the agency elects to sell the property, it must do
1731 | so at public sale by competitive bidding. Notice of the time and
1732 | place of the sale shall be given by an advertisement of the sale
1733 | published once a week for 2 consecutive weeks in a newspaper of
1734 | general circulation in the county where the sale is to be held.
1735 | The notice shall include a statement that the sale shall be
1736 | subject to any and all liens. The sale must be held at the
1737 | nearest suitable place to that where the lost or abandoned
1738 | property is held or stored. The advertisement must include a
1739 | description of the goods and the time and place of the sale. The
1740 | sale may take place no earlier than 10 days after the final
1741 | publication. If there is no newspaper of general circulation in
1742 | the county where the sale is to be held, the advertisement shall
1743 | be posted at the door of the courthouse and at three other
1744 | public places in the county at least 10 days prior to sale.
1745 | Notice of the agency's intended disposition shall describe the
1746 | property in a manner reasonably adequate to permit the rightful
1747 | owner of the property to identify it.

1748 | Section 29. Paragraph (c) of subsection (2) of section
1749 | 721.08, Florida Statutes, is amended to read:

1750 | 721.08 Escrow accounts; nondisturbance instruments;

1751 | alternate security arrangements; transfer of legal title.-

1752 | (2) One hundred percent of all funds or other property
 1753 | which is received from or on behalf of purchasers of the
 1754 | timeshare plan or timeshare interest prior to the occurrence of
 1755 | events required in this subsection shall be deposited pursuant
 1756 | to an escrow agreement approved by the division. The funds or
 1757 | other property may be released from escrow only as follows:

1758 | (c) Compliance with conditions.-

1759 | 1. Timeshare licenses.-If the timeshare plan is one in
 1760 | which timeshare licenses are to be sold and no cancellation or
 1761 | default has occurred, the escrow agent may release the escrowed
 1762 | funds or other property to or on the order of the developer upon
 1763 | presentation of:

1764 | a. An affidavit by the developer that all of the following
 1765 | conditions have been met:

1766 | (I) Expiration of the cancellation period.

1767 | (II) Completion of construction.

1768 | (III) Closing.

1769 | (IV) Either:

1770 | (A) Execution, delivery, and recordation by each
 1771 | interestholder of the nondisturbance and notice to creditors
 1772 | instrument, as described in this section; or

1773 | (B) Transfer by the developer of legal title to the
 1774 | subject accommodations and facilities, or all use rights
 1775 | therein, into a trust satisfying the requirements of

1776 subparagraph 4. and the execution, delivery, and recordation by
 1777 each other interestholder of the nondisturbance and notice to
 1778 creditors instrument, as described in this section.

1779 b. A certified copy of each recorded nondisturbance and
 1780 notice to creditors instrument.

1781 c. One of the following:

1782 (I) A copy of a memorandum of agreement, as defined in s.
 1783 721.05, together with satisfactory evidence that the original
 1784 memorandum of agreement has been irretrievably delivered for
 1785 recording to the appropriate official responsible for
 1786 maintaining the public records in the county in which the
 1787 subject accommodations and facilities are located. The original
 1788 memorandum of agreement must be recorded within 180 days after
 1789 the date on which the purchaser executed her or his purchase
 1790 agreement.

1791 (II) A notice delivered for recording to the appropriate
 1792 official responsible for maintaining the public records in each
 1793 county in which the subject accommodations and facilities are
 1794 located notifying all persons of the identity of an independent
 1795 escrow agent or trustee satisfying the requirements of
 1796 subparagraph 4. that shall maintain separate books and records,
 1797 in accordance with good accounting practices, for the timeshare
 1798 plan in which timeshare licenses are to be sold. The books and
 1799 records shall indicate each accommodation and facility that is
 1800 subject to such a timeshare plan and each purchaser of a

1801 timeshare license in the timeshare plan.

1802 2. Timeshare estates.—If the timeshare plan is one in
1803 which timeshare estates are to be sold and no cancellation or
1804 default has occurred, the escrow agent may release the escrowed
1805 funds or other property to or on the order of the developer upon
1806 presentation of:

1807 a. An affidavit by the developer that all of the following
1808 conditions have been met:

1809 (I) Expiration of the cancellation period.

1810 (II) Completion of construction.

1811 (III) Closing.

1812 b. If the timeshare estate is sold by agreement for deed,
1813 a certified copy of the recorded nondisturbance and notice to
1814 creditors instrument, as described in this section.

1815 c. Evidence that each accommodation and facility:

1816 (I) Is free and clear of the claims of any
1817 interestholders, other than the claims of interestholders that,
1818 through a recorded instrument, are irrevocably made subject to
1819 the timeshare instrument and the use rights of purchasers made
1820 available through the timeshare instrument;

1821 (II) Is the subject of a recorded nondisturbance and
1822 notice to creditors instrument that complies with subsection (3)
1823 and s. 721.17; or

1824 (III) Has been transferred into a trust satisfying the
1825 requirements of subparagraph 4.

1826 d. Evidence that the timeshare estate:

1827 (I) Is free and clear of the claims of any

1828 interestholders, other than the claims of interestholders that,

1829 through a recorded instrument, are irrevocably made subject to

1830 the timeshare instrument and the use rights of purchasers made

1831 available through the timeshare instrument; or

1832 (II) Is the subject of a recorded nondisturbance and

1833 notice to creditors instrument that complies with subsection (3)

1834 and s. 721.17.

1835 3. Personal property timeshare interests.—If the timeshare

1836 plan is one in which personal property timeshare interests are

1837 to be sold and no cancellation or default has occurred, the

1838 escrow agent may release the escrowed funds or other property to

1839 or on the order of the developer upon presentation of:

1840 a. An affidavit by the developer that all of the following

1841 conditions have been met:

1842 (I) Expiration of the cancellation period.

1843 (II) Completion of construction.

1844 (III) Closing.

1845 b. If the personal property timeshare interest is sold by

1846 agreement for transfer, evidence that the agreement for transfer

1847 complies fully with s. 721.06 and this section.

1848 c. Evidence that one of the following has occurred:

1849 (I) Transfer by the owner of the underlying personal

1850 property of legal title to the subject accommodations and

1851 facilities or all use rights therein into a trust satisfying the
 1852 requirements of subparagraph 4.; or

1853 (II) Transfer by the owner of the underlying personal
 1854 property of legal title to the subject accommodations and
 1855 facilities or all use rights therein into an owners' association
 1856 satisfying the requirements of subparagraph 5.

1857 d. Evidence of compliance with the provisions of
 1858 subparagraph 6., if required.

1859 e. If a personal property timeshare plan is created with
 1860 respect to accommodations and facilities that are located on or
 1861 in an oceangoing vessel, including a "documented vessel" or a
 1862 "foreign vessel," as defined and governed by 46 U.S.C. chapter
 1863 301:

1864 (I) In making the transfer required in sub-subparagraph
 1865 c., the developer shall use as its transfer instrument a
 1866 document that establishes and protects the continuance of the
 1867 use rights in the subject accommodations and facilities in a
 1868 manner that is enforceable by the trust or owners' association.

1869 (II) The transfer instrument shall comply fully with the
 1870 provisions of this chapter, shall be part of the timeshare
 1871 instrument, and shall contain specific provisions that:

1872 (A) Prohibit the vessel owner, the developer, any manager
 1873 or operator of the vessel, the owners' association or the
 1874 trustee, the managing entity, or any other person from incurring
 1875 any liens against the vessel except for liens that are required

1876 for the operation and upkeep of the vessel, including liens for
1877 fuel expenditures, repairs, crews' wages, and salvage, and
1878 except as provided in sub-sub-subparagraphs 4.b.(III) and
1879 5.b.(III). All expenses, fees, and taxes properly incurred in
1880 connection with the creation, satisfaction, and discharge of any
1881 such permitted lien, or a prorated portion thereof if less than
1882 all of the accommodations on the vessel are subject to the
1883 timeshare plan, shall be common expenses of the timeshare plan.

1884 (B) Grant a lien against the vessel in favor of the
1885 owners' association or trustee to secure the full and faithful
1886 performance of the vessel owner and developer of all of their
1887 obligations to the purchasers.

1888 (C) Establish governing law in a jurisdiction that
1889 recognizes and will enforce the timeshare instrument and the
1890 laws of the jurisdiction of registry of the vessel.

1891 (D) Require that a description of the use rights of
1892 purchasers be posted and displayed on the vessel in a manner
1893 that will give notice of such rights to any party examining the
1894 vessel. This notice must identify the owners' association or
1895 trustee and include a statement disclosing the limitation on
1896 incurring liens against the vessel described in sub-sub-sub-
1897 subparagraph (A).

1898 (E) Include the nondisturbance and notice to creditors
1899 instrument for the vessel owner and any other interestholders.

1900 (F) The owners' association created under subparagraph 5.

1901 or trustee created under subparagraph 4. shall have access to
 1902 any certificates of classification in accordance with the
 1903 timeshare instrument.

1904 (III) If the vessel is a foreign vessel, the vessel must
 1905 be registered in a jurisdiction that permits a filing evidencing
 1906 the use rights of purchasers in the subject accommodations and
 1907 facilities, offers protection for such use rights against
 1908 unfiled and inferior claims, and recognizes the document or
 1909 instrument creating such use rights as a lien against the
 1910 vessel.

1911 (IV) In addition to the disclosures required by s.
 1912 721.07(5), the public offering statement and purchase contract
 1913 must contain a disclosure in conspicuous type in substantially
 1914 the following form:

1915 The laws of the State of Florida govern the offering of this
 1916 timeshare plan in this state. There are inherent risks in
 1917 purchasing a timeshare interest in this timeshare plan because
 1918 the accommodations and facilities of the timeshare plan are
 1919 located on a vessel that will sail into international waters and
 1920 into waters governed by many different jurisdictions. Therefore,
 1921 the laws of the State of Florida cannot fully protect your
 1922 purchase of an interest in this timeshare plan. Specifically,
 1923 management and operational issues may need to be addressed in
 1924 the jurisdiction in which the vessel is registered, which is
 1925 (insert jurisdiction in which vessel is registered). Concerns of

1926 purchasers may be sent to (insert name of applicable regulatory
 1927 agency and address).

1928 4. Trust.—

1929 a. If the subject accommodations or facilities, or all use
 1930 rights therein, are to be transferred into a trust in order to
 1931 comply with this paragraph, such transfer shall take place
 1932 pursuant to this subparagraph. If the accommodations or
 1933 facilities included in such transfer are subject to a lease, the
 1934 unexpired term of the lease must be disclosed as the term of the
 1935 timeshare plan pursuant to s. 721.07(5)(f)4.

1936 b. Prior to the transfer of the subject accommodations and
 1937 facilities, or all use rights therein, to a trust, any lien or
 1938 other encumbrance against such accommodations and facilities, or
 1939 use rights therein, shall be made subject to a nondisturbance
 1940 and notice to creditors instrument pursuant to subsection (3).
 1941 No transfer pursuant to this subparagraph shall become effective
 1942 until the trustee accepts such transfer and the responsibilities
 1943 set forth herein. A trust established pursuant to this
 1944 subparagraph shall comply with the following provisions:

1945 (I) The trustee shall be an individual or a business
 1946 entity authorized and qualified to conduct trust business in
 1947 this state. Any corporation authorized to do business in this
 1948 state may act as trustee in connection with a timeshare plan
 1949 pursuant to this chapter. The trustee must be independent from
 1950 any developer or managing entity of the timeshare plan or any

1951 interestholder of any accommodation or facility of such plan.

1952 (II) The trust shall be irrevocable so long as any
 1953 purchaser has a right to occupy any portion of the timeshare
 1954 property pursuant to the timeshare plan.

1955 (III) The trustee shall not convey, hypothecate, mortgage,
 1956 assign, lease, or otherwise transfer or encumber in any fashion
 1957 any interest in or portion of the timeshare property with
 1958 respect to which any purchaser has a right of use or occupancy
 1959 unless the timeshare plan is terminated pursuant to the
 1960 timeshare instrument, or such conveyance, hypothecation,
 1961 mortgage, assignment, lease, transfer, or encumbrance is
 1962 approved by a vote of two-thirds of all voting interests of the
 1963 timeshare plan. Subject to s. 721.552, a vote of the voting
 1964 interests of the timeshare plan is not required for substitution
 1965 or automatic deletion of accommodations or facilities.

1966 (IV) All purchasers of the timeshare plan or the owners'
 1967 association of the timeshare plan shall be the express
 1968 beneficiaries of the trust. The trustee shall act as a fiduciary
 1969 to the beneficiaries of the trust. The personal liability of the
 1970 trustee shall be governed by ss. 736.08125, 736.08163, 736.1013,
 1971 and 736.1015. The agreement establishing the trust shall set
 1972 forth the duties of the trustee. The trustee shall be required
 1973 to furnish promptly to the division upon request a copy of the
 1974 complete list of the names and addresses of the owners in the
 1975 timeshare plan and a copy of any other books and records of the

1976 | timeshare plan required to be maintained pursuant to s. 721.13
 1977 | that are in the possession, custody, or control of the trustee.
 1978 | All expenses reasonably incurred by the trustee in the
 1979 | performance of its duties, together with any reasonable
 1980 | compensation of the trustee, shall be common expenses of the
 1981 | timeshare plan.

1982 | (V) The trustee shall not resign upon less than 90 days'
 1983 | prior written notice to the managing entity and the division. No
 1984 | resignation shall become effective until a substitute trustee,
 1985 | approved by the division, is appointed by the managing entity
 1986 | and accepts the appointment.

1987 | (VI) The documents establishing the trust arrangement
 1988 | shall constitute a part of the timeshare instrument.

1989 | (VII) For trusts holding property in a timeshare plan
 1990 | located outside this state, the trust and trustee holding such
 1991 | property shall be deemed in compliance with the requirements of
 1992 | this subparagraph if such trust and trustee are authorized and
 1993 | qualified to conduct trust business under the laws of such
 1994 | jurisdiction and the agreement or law governing such trust
 1995 | arrangement provides substantially similar protections for the
 1996 | purchaser as are required in this subparagraph for trusts
 1997 | holding property in a timeshare plan in this state.

1998 | (VIII) The trustee shall have appointed a registered agent
 1999 | in this state for service of process. In the event such a
 2000 | registered agent is not appointed, service of process may be

2001 served pursuant to s. 721.265.

2002 5. Owners' association.—

2003 a. If the subject accommodations or facilities, or all use
 2004 rights therein, are to be transferred into an owners'
 2005 association in order to comply with this paragraph, such
 2006 transfer shall take place pursuant to this subparagraph.

2007 b. Before the transfer of the subject accommodations and
 2008 facilities, or all use rights therein, to an owners'
 2009 association, any lien or other encumbrance against such
 2010 accommodations and facilities, or use rights therein, shall be
 2011 made subject to a nondisturbance and notice to creditors
 2012 instrument pursuant to subsection (3). No transfer pursuant to
 2013 this subparagraph shall become effective until the owners'
 2014 association accepts such transfer and the responsibilities set
 2015 forth herein. An owners' association established pursuant to
 2016 this subparagraph shall comply with the following provisions:

2017 (I) The owners' association shall be a business entity
 2018 authorized and qualified to conduct business in this state.
 2019 Control of the board of directors of the owners' association
 2020 must be independent from any developer or managing entity of the
 2021 timeshare plan or any interestholder.

2022 (II) The bylaws of the owners' association shall provide
 2023 that the corporation may not be voluntarily dissolved without
 2024 the unanimous vote of all owners of personal property timeshare
 2025 interests so long as any purchaser has a right to occupy any

2026 | portion of the timeshare property pursuant to the timeshare
 2027 | plan.

2028 | (III) The owners' association shall not convey,
 2029 | hypothecate, mortgage, assign, lease, or otherwise transfer or
 2030 | encumber in any fashion any interest in or portion of the
 2031 | timeshare property with respect to which any purchaser has a
 2032 | right of use or occupancy, unless the timeshare plan is
 2033 | terminated pursuant to the timeshare instrument, or unless such
 2034 | conveyance, hypothecation, mortgage, assignment, lease,
 2035 | transfer, or encumbrance is approved by a vote of two-thirds of
 2036 | all voting interests of the association and such decision is
 2037 | declared by a court of competent jurisdiction to be in the best
 2038 | interests of the purchasers of the timeshare plan. The owners'
 2039 | association shall notify the division in writing within 10 days
 2040 | after receiving notice of the filing of any petition relating to
 2041 | obtaining such a court order. The division shall have standing
 2042 | to advise the court of the division's interpretation of the
 2043 | statute as it relates to the petition.

2044 | (IV) All purchasers of the timeshare plan shall be members
 2045 | of the owners' association and shall be entitled to vote on
 2046 | matters requiring a vote of the owners' association as provided
 2047 | in this chapter or the timeshare instrument. The owners'
 2048 | association shall act as a fiduciary to the purchasers of the
 2049 | timeshare plan. The articles of incorporation establishing the
 2050 | owners' association shall set forth the duties of the owners'

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2051 association. All expenses reasonably incurred by the owners'
2052 association in the performance of its duties, together with any
2053 reasonable compensation of the officers or directors of the
2054 owners' association, shall be common expenses of the timeshare
2055 plan.

2056 (V) The documents establishing the owners' association
2057 shall constitute a part of the timeshare instrument.

2058 (VI) For owners' associations holding property in a
2059 timeshare plan located outside this state, the owners'
2060 association holding such property shall be deemed in compliance
2061 with the requirements of this subparagraph if such owners'
2062 association is authorized and qualified to conduct owners'
2063 association business under the laws of such jurisdiction and the
2064 agreement or law governing such arrangement provides
2065 substantially similar protections for the purchaser as are
2066 required in this subparagraph for owners' associations holding
2067 property in a timeshare plan in this state.

2068 (VII) The owners' association shall have appointed a
2069 registered agent in this state for service of process. In the
2070 event such a registered agent cannot be located, service of
2071 process may be made pursuant to s. 721.265.

2072 6. Personal property subject to certificate of title.—If
2073 any personal property that is an accommodation or facility of a
2074 timeshare plan is subject to a certificate of title in this
2075 state pursuant to chapter 319 or chapter 328, the following

2076 notation must be made on such certificate of title pursuant to
 2077 s. 319.27(1) or s. 328.15 ~~s. 328.15(1)~~:

2078 The further transfer or encumbrance of the property subject to
 2079 this certificate of title, or any lien or encumbrance thereon,
 2080 is subject to the requirements of section 721.17, Florida
 2081 Statutes, and the transferee or lienor agrees to be bound by all
 2082 of the obligations set forth therein.

2083 7. If the developer has previously provided a certified
 2084 copy of any document required by this paragraph, she or he may
 2085 for all subsequent disbursements substitute a true and correct
 2086 copy of the certified copy, provided no changes to the document
 2087 have been made or are required to be made.

2088 8. In the event that use rights relating to an
 2089 accommodation or facility are transferred into a trust pursuant
 2090 to subparagraph 4. or into an owners' association pursuant to
 2091 subparagraph 5., all other interestholders, including the owner
 2092 of the underlying fee or underlying personal property, must
 2093 execute a nondisturbance and notice to creditors instrument
 2094 pursuant to subsection (3).

2095 Section 30. (1) The rights, duties, and interests flowing
 2096 from a transaction, certificate of title, or record relating to
 2097 a vessel which was validly entered into or created before the
 2098 effective date of this act and would be subject to this act if
 2099 it had been entered into or created on or after the effective
 2100 date of this act remain valid on and after the effective date of

2101 this act.

2102 (2) This act does not affect an action or proceeding
2103 commenced before the effective date of this act.

2104 (3) Except as otherwise provided in subsection (4), a
2105 security interest that is enforceable immediately before the
2106 effective date of this act and would have priority over the
2107 rights of a person who becomes a lien creditor at that time is a
2108 perfected security interest under this act.

2109 (4) A security interest perfected immediately before the
2110 effective date of this act remains perfected until the earlier
2111 of:

2112 (a) The time perfection would have ceased under the law
2113 under which the security interest was perfected; or

2114 (b) Three years after the effective date of this act.

2115 (5) This act does not affect the priority of a security
2116 interest in a vessel if immediately before the effective date of
2117 this act the security interest is enforceable and perfected, and
2118 that priority is established.

2119 Section 31. Subject to section 25, this act applies to any
2120 transaction, certificate of title, or record relating to a
2121 vessel, even if the transaction, certificate of title, or record
2122 was entered into or created before the effective date of this
2123 act.

2124 Section 32. This act shall take effect October 1, 2019.