

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1
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 the law of the state in which a vessel
14 is titled governs all issues relating to a certificate
15 of title; specifying when a vessel becomes covered by
16 such certificate; amending s. 328.03, F.S.; requiring
17 a vessel owner to deliver an application for
18 certificate of title to the department by a specified
19 time; revising circumstances under which a vessel must
20 be titled by this state; providing requirements for
21 issuing, transferring, or renewing the number of an
22 undocumented vessel issued under certain federal
23 provisions; deleting provisions relating to operation,
24 use, or storage of a vessel; deleting provisions
25 relating to selling, assigning, or transferring a

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

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

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

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

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

76 creating a certificate of title based on erroneous or
77 fraudulent information; providing penalties; creating
78 s. 328.22, F.S.; providing requirements for the
79 transfer of ownership in a vessel; providing effect of
80 noncompliance; creating s. 328.23, F.S.; providing a
81 definition; providing duties of the department upon
82 receipt of a secured party's transfer statement;
83 providing construction; creating s. 328.24, F.S.;
84 providing a definition; providing requirements for a
85 transfer of ownership by operation of law; providing
86 duties of the department; providing applicability;
87 creating s. 328.25, F.S.; providing that the
88 principles and law of equity supplement the provisions
89 of the act; creating s. 328.35, F.S.; authorizing the
90 department to adopt rules to implement vessel titling
91 provisions; amending ss. 409.2575, 705.103, and
92 721.08, F.S.; conforming provisions and cross-
93 references to changes made by the act; providing
94 construction and applicability regarding transactions,
95 certificates of title, and records entered into or
96 created, actions or proceedings commenced, and
97 security interests perfected before the effective date
98 of the act; providing applicability; providing an
99 effective date.

100

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

101 Be It Enacted by the Legislature of the State of Florida:

102

103 Section 1. Section 328.001, Florida Statutes, is created
104 to read:

105 328.001 Short title.—This part may be cited as the
106 "Uniform Certificate of Title for Vessels Act."

107 Section 2. Section 328.0015, Florida Statutes, is created
108 to read:

109 328.0015 Definitions.—

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

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

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

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

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

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

125 (f) "Certificate of title" means a record, created by the

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

126 department or by a governmental agency of another jurisdiction
 127 under the law of that jurisdiction, that is designated as a
 128 certificate of title by the department or agency and is evidence
 129 of ownership of a vessel.

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

132 (h) "Department" means the Department of Highway Safety
 133 and Motor Vehicles.

134 (i) "Documented vessel" means a vessel covered by a
 135 certificate of documentation issued pursuant to 46 U.S.C. s.
 136 12105. The term does not include a foreign-documented vessel.

137 (j) "Electronic" means relating to technology having
 138 electrical, digital, magnetic, wireless, optical,
 139 electromagnetic, or similar capabilities.

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

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

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

150 (n) "Hull damaged" means compromised with respect to the

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

151 integrity of a vessel's hull by a collision, allision, lightning
 152 strike, fire, explosion, running aground, or similar occurrence,
 153 or the sinking of a vessel in a manner that creates a
 154 significant risk to the integrity of the vessel's hull.

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

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

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

160 2. An assignee for benefit of creditors from the time of
 161 assignment;

162 3. A trustee in bankruptcy from the date of the filing of
 163 the petition; or

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

165 (q) "Owner" means a person who has legal title to a
 166 vessel.

167 (r) "Owner of record" means the owner indicated in the
 168 files of the department or, if the files indicate more than one
 169 owner, the one first indicated.

170 (s) "Person" means an individual, corporation, business
 171 trust, estate, trust, statutory trust, partnership, limited
 172 liability company, association, joint venture, public
 173 corporation, government or governmental subdivision, agency, or
 174 instrumentality, or any other legal or commercial entity.

175 (t) "Purchase" means to take by sale, lease, mortgage,

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

176 pledge, consensual lien, security interest, gift, or any other
 177 voluntary transaction that creates an interest in a vessel.

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

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

182 (w) "Secured party," with respect to a vessel, means a
 183 person:

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

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

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

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

194 (y) "Security interest" means an interest in a vessel
 195 which secures payment or performance of an obligation if the
 196 interest is created by contract or arises under s. 672.401, s.
 197 672.505, s. 672.711(3), or s. 680.508(5). The term includes any
 198 interest of a consignor in a vessel in a transaction that is
 199 subject to chapter 679. The term does not include the special
 200 property interest of a buyer of a vessel on identification of

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

201 that vessel to a contract for sale under s. 672.501, but a buyer
202 also may acquire a security interest by complying with chapter
203 679. Except as otherwise provided in s. 672.505, the right of a
204 seller or lessor of a vessel under chapter 672 or chapter 680 to
205 retain or acquire possession of the vessel is not a security
206 interest, but a seller or lessor also may acquire a security
207 interest by complying with chapter 679. The retention or
208 reservation of title by a seller of a vessel notwithstanding
209 shipment or delivery to the buyer under s. 672.401 is limited in
210 effect to a reservation of a security interest. Whether a
211 transaction in the form of a lease creates a security interest
212 is determined as provided in part II of chapter 671.

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

- 215 1. Make or adopt a tangible symbol; or
216 2. Attach to or logically associate with the record an
217 electronic symbol, sound, or process.

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

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

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

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

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

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

233 1. A seaplane;

234 2. An amphibious vehicle for which a certificate of title
 235 is issued pursuant to chapter 319 or a similar statute of
 236 another state;

237 3. Nonmotor-powered watercraft less than 16 feet in
 238 length;

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

243 5. A stationary floating structure that:

244 a. Does not have and is not designed to have a mode of
 245 propulsion of its own;

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

248 c. Has a permanent, continuous hookup to a shoreside
 249 sewage system;

250 6. Watercraft owned by the United States, a state, or a

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

251 foreign government or a political subdivision of any of them;
252 and

253 7. Watercraft used solely as a lifeboat on another
254 watercraft.

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

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

259 (2) The following definitions and terms also apply to this
260 part:

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

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

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

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

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

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

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

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

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

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

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

273 (l) "Security agreement" as defined in s.
274 679.1021(1)(uuu).

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

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

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

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

278 Section 3. Section 328.01, Florida Statutes, is amended to
279 read:

280 328.01 Application for certificate of title.—

281 (1) ~~(a)~~ The owner of a vessel which is required to be
282 titled shall apply to the county tax collector for a certificate
283 of title. Except as otherwise provided in ss. 328.045, 328.11,
284 328.12, 328.215, 328.23, and 328.24, only an owner may apply for
285 a certificate of title.

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

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

291 (b) The name and mailing address of each other owner of
292 the vessel;

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

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

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

300 1. The official number for the vessel, if any, assigned by

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

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

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

326 known to the applicant in which the vessel was registered or
 327 titled.

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

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

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

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

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

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

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

- 349 3. In all other cases, a certificate of origin, bill of
 350 sale, or other record that to the satisfaction of the department

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

351 identifies the applicant as the owner.

352 (5) A record submitted in connection with an application
353 is part of the application. The department shall maintain the
354 record in its files.

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

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

375 (b) The owner of an undocumented vessel that is exempt

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

376 from titling may apply to the county tax collector for a
377 certificate of title by filing an application accompanied by the
378 prescribed fee.

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

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

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

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

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

400 ~~1. A notarized statement of the builder or its equivalent,~~

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

401 ~~whichever is acceptable to the Department of Highway Safety and~~
402 ~~Motor Vehicles, if the vessel is less than 16 feet in length; or~~

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

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

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

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

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

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

449 ~~(b) If the application for transfer of title is based upon~~
450 ~~a contractual default, the recorded lienholder shall establish~~

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

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

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

476 | ~~as is otherwise directed in the application, showing no other~~
477 | ~~liens than those shown in the application.~~

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

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

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

501 1. The owner or coowner has delivered to the department,
502 or has placed in the United States mail, addressed to the
503 department, either the certificate of title, properly endorsed,
504 or a notice in the form prescribed by the department; or

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

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

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

523

524 The department shall adopt suitable language that must appear
525 upon the certificate of title to effectuate the manner in which

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

526 | the interest in or title to the vessel is held.

527 | (8)~~(4)~~ If the owner cannot furnish the department of
528 | ~~Highway Safety and Motor Vehicles~~ with all the required
529 | ownership documentation, the department may, at its discretion,
530 | issue a title conditioned on the owner's agreement to indemnify
531 | the department and its agents and defend the title against all
532 | claims or actions arising out of such issuance.

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

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

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

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

551 Section 4. Section 328.015, Florida Statutes, is created
 552 to read:

553 328.015 Duties and operation of the department.-

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

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

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

574 (4) The department shall send or otherwise make available
 575 in a record the following information to any person who requests

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

576 it and pays the applicable fee:

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

582 1. Identified by a hull identification number designated
 583 in the request;

584 2. Identified by a vessel number designated in the
 585 request; or

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

587 (b) With respect to the vessel:

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

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

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

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

600 (5) In responding to a request under this section, the

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

601 department may provide the requested information in any medium.
 602 On request, the department shall send the requested information
 603 in a record that is self-authenticating.

604 Section 5. Section 328.02, Florida Statutes, is created to
 605 read:

606 328.02 Law governing vessel covered by certificate of
 607 title.—

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

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

620 Section 6. Section 328.03, Florida Statutes, is amended to
 621 read:

622 328.03 Certificate of title required.—

623 (1) Except as otherwise provided in subsections (2) and
 624 (3), each vessel that is operated, used, or stored on the waters
 625 of this state must be titled by this state pursuant to this

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

626 part, and the owner of a vessel for which this state is the
 627 state of principal use shall deliver to the department an
 628 application for a certificate of title for the vessel, with the
 629 applicable fee, not later than 30 days after the later of:

- 630 (a) The date of a transfer of ownership; or
- 631 (b) The date this state becomes the state of principal
 632 use.

633 (2) An application for a certificate of title is not
 634 required for chapter, unless it is:

- 635 (a) A documented vessel;
- 636 (b) A foreign-documented vessel;
- 637 (c) A barge;
- 638 (d) A vessel before delivery if the vessel is under
 639 construction or completed pursuant to contract;
- 640 (e) A vessel held by a dealer for sale or lease;
- 641 (f) A vessel used solely for demonstration, testing, or
 642 sales promotional purposes by the manufacturer or dealer;
- 643 (g)-(a) A vessel operated, used, or stored exclusively on
 644 private lakes and ponds;
- 645 (h)-(b) A vessel owned by the United States Government;
- 646 ~~(c) A non-motor-powered vessel less than 16 feet in~~
 647 ~~length;~~
- 648 ~~(d) A federally documented vessel;~~
- 649 (i)-(e) A vessel already covered by a registration number
 650 in full force and effect which was awarded to it pursuant to a

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

651 federally approved numbering system of another state or by the
652 United States Coast Guard in a state without a federally
653 approved numbering system, if the vessel is not located in this
654 state for a period in excess of 90 consecutive days; or

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

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

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

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

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

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

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

676 ~~title while the application is pending.~~

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

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

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

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

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

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

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

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

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

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

726 (9)-(8) The department ~~of Highway Safety and Motor Vehicles~~
 727 shall make regulations necessary and convenient to carry out the
 728 provisions of this chapter.

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

731 328.04 Content of certificate of title.-

732 (1) A certificate of title must contain:

733 (a) The date the certificate was created;

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

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

738 (d) The hull identification number;

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

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

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

749 (2) This part does not preclude the department from noting
 750 on a certificate of title the name and mailing address of a

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

751 secured party that is not a secured party of record.

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

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

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

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

775 Section 8. Section 328.045, Florida Statutes, is created

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

776 to read:

777 328.045 Title brands.—

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

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

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

790 (2) Not later than 30 days after delivery of the
791 application under paragraph (1)(a) or the certificate of title
792 under paragraph (1)(b), the department shall create a new
793 certificate that indicates that the vessel is branded "Hull
794 Damaged."

795 (3) Before an insurer transfers an ownership interest in a
796 hull-damaged vessel that is covered by a certificate of title
797 created by the department, the insurer shall deliver to the
798 department an application for a new certificate that complies
799 with s. 328.01 and includes the title brand designation "Hull
800 Damaged." Not later than 30 days after delivery of the

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

801 application to the department, the department shall create a new
 802 certificate that indicates that the vessel is branded "Hull
 803 Damaged."

804 (4) An owner of record who fails to comply with subsection
 805 (1), a person who solicits or colludes in a failure by an owner
 806 of record to comply with subsection (1), or an insurer that
 807 fails to comply with subsection (3) commits a noncriminal
 808 infraction under s. 327.73(1) for which the penalty is \$5,000
 809 for the first offense, \$15,000 for a second offense, and \$25,000
 810 for each subsequent offense.

811 Section 9. Section 328.055, Florida Statutes, is created
 812 to read:

813 328.055 Maintenance of and access to files.—

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

816 (a) Ascertain or assign the hull identification number for
 817 the vessel;

818 (b) Maintain the hull identification number and all the
 819 information submitted with the application pursuant to s.
 820 328.01(2) to which the record relates, including the date and
 821 time the record was delivered to the department; and

822 (c) Index the files of the department as required by
 823 subsection (2).

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

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

826 | this part. The information in the files of the department must
 827 | be searchable by the hull identification number of the vessel,
 828 | the vessel number, the name of the owner of record, and any
 829 | other method used by the department.

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

836 | Section 10. Section 328.06, Florida Statutes, is created
 837 | to read:

838 | 328.06 Action required on creation of certificate of
 839 | title.-

840 | (1) On creation of a written certificate of title, the
 841 | department shall promptly send the certificate to the secured
 842 | party of record or, if none, to the owner of record at the
 843 | address indicated for that person in the files of the
 844 | department. On creation of an electronic certificate of title,
 845 | the department shall promptly send a record evidencing the
 846 | certificate to the owner of record and, if there is one, to the
 847 | secured party of record at the address indicated for each person
 848 | in the files of the department. The department may send the
 849 | record to the person's mailing address or, if indicated in the
 850 | files of the department, an electronic address.

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

851 (2) If the department creates a written certificate of
852 title, any electronic certificate of title for the vessel is
853 canceled and replaced by the written certificate. The department
854 shall maintain in the files of the department the date and time
855 of cancellation.

856 (3) Before the department creates an electronic
857 certificate of title, any written certificate for the vessel
858 must be surrendered to the department. If the department creates
859 an electronic certificate, the department shall destroy or
860 otherwise cancel the written certificate for the vessel which
861 has been surrendered to the department and maintain in the files
862 of the department the date and time of destruction or other
863 cancellation. If a written certificate being canceled is not
864 destroyed, the department shall indicate on the face of the
865 certificate that it has been canceled.

866 Section 11. Section 328.065, Florida Statutes, is created
867 to read:

868 328.065 Effect of possession of certificate of title;
869 judicial process.—Possession of a certificate of title does not
870 by itself provide a right to obtain possession of a vessel.
871 Garnishment, attachment, levy, replevin, or other judicial
872 process against the certificate is not effective to determine
873 possessory rights to the vessel. This part does not prohibit
874 enforcement under the laws of this state of a security interest
875 in, levy on, or foreclosure of a statutory or common-law lien on

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

876 a vessel. Absence of an indication of a statutory or common-law
877 lien on a certificate does not invalidate the lien.

878 Section 12. Section 328.09, Florida Statutes, is amended
879 to read:

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

882 328.09 Refusal to issue and authority to cancel a
883 certificate of title or registration.-

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

889 (2) If the department creates electronic certificates of
890 title, the department shall create an electronic certificate
891 unless in the application the secured party of record or, if
892 none, the owner of record requests that the department create a
893 written certificate.

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

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

898 (b) The application does not contain documentation
899 sufficient for the department to determine whether the applicant
900 is entitled to a certificate;

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

901 (c) There is a reasonable basis for concluding that the
 902 application is fraudulent or issuance of a certificate would
 903 facilitate a fraudulent or illegal act;

904 (d) The application does not comply with the laws of this
 905 state other than this part; or

906 (e) The application is for a vessel that has been deemed
 907 derelict by a law enforcement officer under s. 823.11. In such
 908 case, a law enforcement officer must inform the department in
 909 writing, which may be provided by facsimile, e-mail, or other
 910 electronic means, of the vessel's derelict status and supply the
 911 department with the vessel title number or vessel identification
 912 number. The department may issue a certificate of title once a
 913 law enforcement officer has verified in writing, which may be
 914 provided by facsimile, e-mail, or other electronic means, that
 915 the vessel is no longer a derelict vessel.

916 (4) The department shall reject an application for a
 917 certificate of title for a vessel that is a documented vessel or
 918 a foreign-documented vessel.

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

921 (a) Could have rejected the application for the
 922 certificate under subsection (3);

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

925 (c) Receives satisfactory evidence that the vessel is a

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

926 documented vessel or a foreign-documented vessel.

927 (6) The decision by the department to reject an
 928 application for a certificate of title or cancel a certificate
 929 of title pursuant to this section is subject to a hearing
 930 pursuant to ss. 120.569 and 120.57 at which the owner and any
 931 other interested party may present evidence in support of or
 932 opposition to the rejection of the application for a certificate
 933 of title or the cancellation of a certificate of title.

934 Section 13. Section 328.101, Florida Statutes, is created
 935 to read:

936 328.101 Effect of missing or incorrect information.—Except
 937 as otherwise provided in s. 679.337, a certificate of title or
 938 other record required or authorized by this part is effective
 939 even if it contains unintended scrivener's errors or does not
 940 contain certain required information if such missing information
 941 is determined by the department to be inconsequential to the
 942 issuing of a certificate of title or other record.

943 Section 14. Section 328.11, Florida Statutes, is amended
 944 to read:

945 328.11 Duplicate certificate of title.—

946 (1) If a written certificate of title is lost, stolen,
 947 mutilated, destroyed, or otherwise becomes unavailable or
 948 illegible, the secured party of record or, if no secured party
 949 is indicated in the files of the department, the owner of record
 950 may apply for and, by furnishing information satisfactory to the

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

951 department, obtain a duplicate certificate in the name of the
 952 owner of record.

953 (2) An applicant for a duplicate certificate of title must
 954 sign the application, and, except as otherwise permitted by the
 955 department, the application must comply with s. 328.01. The
 956 application must include the existing certificate unless the
 957 certificate is lost, stolen, mutilated, destroyed, or otherwise
 958 unavailable.

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

962 (4) If a person receiving a duplicate certificate of title
 963 subsequently obtains possession of the original written
 964 certificate, the person shall promptly destroy the original
 965 certificate of title.

966 ~~(5)(1) The Department of Highway Safety and Motor Vehicles~~
 967 ~~may issue a duplicate certificate of title upon application by~~
 968 ~~the person entitled to hold such a certificate if the department~~
 969 ~~is satisfied that the original certificate has been lost,~~
 970 ~~destroyed, or mutilated. The department shall charge a fee of \$6~~
 971 ~~for issuing a duplicate certificate.~~

972 (6)(2) In addition to the fee imposed by subsection (5)
 973 ~~(1), the department of Highway Safety and Motor Vehicles shall~~
 974 ~~charge a fee of \$5 for expedited service in issuing a duplicate~~
 975 ~~certificate of title. Application for such expedited service may~~

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

976 | be made by mail or in person. The department shall issue each
 977 | certificate of title applied for under this subsection within 5
 978 | working days after receipt of a proper application or shall
 979 | refund the additional \$5 fee upon written request by the
 980 | applicant.

981 | ~~(3) If, following the issuance of an original, duplicate,~~
 982 | ~~or corrected certificate of title by the department, the~~
 983 | ~~certificate is lost in transit and is not delivered to the~~
 984 | ~~addressee, the owner of the vessel or the holder of a lien~~
 985 | ~~thereon may, within 180 days after the date of issuance of the~~
 986 | ~~title, apply to the department for reissuance of the certificate~~
 987 | ~~of title. An additional fee may not be charged for reissuance~~
 988 | ~~under this subsection.~~

989 | (7)-(4) The department shall implement a system to verify
 990 | that the application is signed by a person authorized to receive
 991 | a duplicate title certificate under this section if the address
 992 | shown on the application is different from the address shown for
 993 | the applicant on the records of the department.

994 | Section 15. Section 328.12, Florida Statutes, is created
 995 | to read:

996 | 328.12 Perfection of security interest.-

997 | (1) Except as otherwise provided in this section, a
 998 | security interest in a vessel may be perfected only by delivery
 999 | to the department of an application for a certificate of title
 1000 | that identifies the secured party and otherwise complies with s.

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1001 328.01. The security interest is perfected on the later of
 1002 delivery to the department of the application and the applicable
 1003 fee or attachment of the security interest under s. 679.2031.

1004 (2) If the interest of a person named as owner, lessor,
 1005 consignor, or bailor in an application for a certificate of
 1006 title delivered to the department is a security interest, the
 1007 application sufficiently identifies the person as a secured
 1008 party. Identification on the application for a certificate of a
 1009 person as owner, lessor, consignor, or bailor is not by itself a
 1010 factor in determining whether the person's interest is a
 1011 security interest.

1012 (3) If the department has created a certificate of title
 1013 for a vessel, a security interest in the vessel may be perfected
 1014 by delivery to the department of an application, on a form the
 1015 department may require, to have the security interest added to
 1016 the certificate. The application must be signed by an owner of
 1017 the vessel or by the secured party and must include:

- 1018 (a) The name of the owner of record;
- 1019 (b) The name and mailing address of the secured party;
- 1020 (c) The hull identification number for the vessel; and
- 1021 (d) If the department has created a written certificate of
 1022 title for the vessel, the certificate.

1023 (4) A security interest perfected under subsection (3) is
 1024 perfected on the later of delivery to the department of the
 1025 application and all applicable fees or attachment of the

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1026 security interest under s. 679.2031.

1027 (5) On delivery of an application that complies with
 1028 subsection (3) and payment of all applicable fees, the
 1029 department shall create a new certificate of title pursuant to
 1030 s. 328.09 and deliver the new certificate or a record evidencing
 1031 an electronic certificate pursuant to s. 328.06. The department
 1032 shall maintain in the files of the department the date and time
 1033 of delivery of the application to the department.

1034 (6) If a secured party assigns a perfected security
 1035 interest in a vessel, the receipt by the department of a
 1036 statement providing the name of the assignee as secured party is
 1037 not required to continue the perfected status of the security
 1038 interest against creditors of and transferees from the original
 1039 debtor. A purchaser of a vessel subject to a security interest
 1040 who obtains a release from the secured party indicated in the
 1041 files of the department or on the certificate takes free of the
 1042 security interest and of the rights of a transferee unless the
 1043 transfer is indicated in the files of the department or on the
 1044 certificate.

1045 (7) This section does not apply to a security interest:

1046 (a) Created in a vessel by a person during any period in
 1047 which the vessel is inventory held for sale or lease by the
 1048 person or is leased by the person as lessor if the person is in
 1049 the business of selling vessels;

1050 (b) In a barge for which no application for a certificate

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1051 of title has been delivered to the department; or

1052 (c) In a vessel before delivery if the vessel is under

1053 construction, or completed, pursuant to contract and for which

1054 no application for a certificate has been delivered to the

1055 department.

1056 (8) This subsection applies if a certificate of

1057 documentation for a documented vessel is deleted or canceled. If

1058 a security interest in the vessel was valid immediately before

1059 deletion or cancellation against a third party as a result of

1060 compliance with 46 U.S.C. s. 31321, the security interest is and

1061 remains perfected until the earlier of 4 months after

1062 cancellation of the certificate or the time the security

1063 interest becomes perfected under this part.

1064 (9) A security interest in a vessel arising under s.

1065 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is

1066 perfected when it attaches but becomes unperfected when the

1067 debtor obtains possession of the vessel, unless the security

1068 interest is perfected pursuant to subsection (1) or subsection

1069 (3) before the debtor obtains possession.

1070 (10) A security interest in a vessel as proceeds of other

1071 collateral is perfected to the extent provided in s. 679.3151.

1072 (11) A security interest in a vessel perfected under the

1073 law of another jurisdiction is perfected to the extent provided

1074 in s. 679.3161(4).

1075 (12) For purposes of this section and this part, the

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1076 Department of Revenue shall be treated as a secured party when
 1077 collecting unpaid support.

1078 Section 16. Section 328.125, Florida Statutes, is created
 1079 to read:

1080 328.125 Termination statement.—

1081 (1) A secured party indicated in the files of the
 1082 department as having a security interest in a vessel shall
 1083 deliver a termination statement to the department and, on the
 1084 debtor's request, to the debtor, by the earlier of:

1085 (a) Twenty days after the secured party receives a signed
 1086 demand from an owner for a termination statement and there is no
 1087 obligation secured by the vessel subject to the security
 1088 interest and no commitment to make an advance, incur an
 1089 obligation, or otherwise give value secured by the vessel; or

1090 (b) If the vessel is consumer goods, 30 days after there
 1091 is no obligation secured by the vessel and no commitment to make
 1092 an advance, incur an obligation, or otherwise give value secured
 1093 by the vessel.

1094 (2) If a written certificate of title has been created and
 1095 delivered to a secured party and a termination statement is
 1096 required under subsection (1), the secured party, not later than
 1097 the date required by subsection (1), shall deliver the
 1098 certificate to the debtor or to the department with the
 1099 statement. If the certificate is lost, stolen, mutilated,
 1100 destroyed, or is otherwise unavailable or illegible, the secured

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1101 party shall deliver with the statement, not later than the date
 1102 required by subsection (1), an application for a duplicate
 1103 certificate meeting the requirements of s. 328.11.

1104 (3) On delivery to the department of a termination
 1105 statement authorized by the secured party, the security interest
 1106 to which the statement relates ceases to be perfected. If the
 1107 security interest to which the statement relates was indicated
 1108 on the certificate of title, the department shall create a new
 1109 certificate and deliver the new certificate or a record
 1110 evidencing an electronic certificate. The department shall
 1111 maintain in its files the date and time of delivery to the
 1112 department of the statement.

1113 (4) A secured party that fails to comply with this section
 1114 is liable for any loss that the secured party had reason to know
 1115 might result from its failure to comply and which could not
 1116 reasonably have been prevented and for the cost of an
 1117 application for a certificate of title under s. 328.01 or s.
 1118 328.11.

1119 Section 17. Section 328.14, Florida Statutes, is created
 1120 to read:

1121 328.14 Rights of purchaser other than secured party.—

1122 (1) A buyer in ordinary course of business has the
 1123 protections afforded by ss. 672.403(2) and 679.320(1) even if an
 1124 existing certificate of title was not signed and delivered to
 1125 the buyer or a new certificate listing the buyer as owner of

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1126 record was not created.

1127 (2) Except as otherwise provided in ss. 328.145 and
 1128 328.22, the rights of a purchaser of a vessel who is not a buyer
 1129 in ordinary course of business or a lien creditor are governed
 1130 by the Uniform Commercial Code.

1131 Section 18. Section 328.145, Florida Statutes, is created
 1132 to read:

1133 328.145 Rights of secured party.-

1134 (1) Subject to subsection (2), the effect of perfection
 1135 and nonperfection of a security interest and the priority of a
 1136 perfected or unperfected security interest with respect to the
 1137 rights of a purchaser or creditor, including a lien creditor, is
 1138 governed by the Uniform Commercial Code.

1139 (2) If, while a security interest in a vessel is perfected
 1140 by any method under this part, the department creates a
 1141 certificate of title that does not indicate that the vessel is
 1142 subject to the security interest or contain a statement that it
 1143 may be subject to security interests not indicated on the
 1144 certificate:

1145 (a) A buyer of the vessel, other than a person in the
 1146 business of selling or leasing vessels of that kind, takes free
 1147 of the security interest if the buyer, acting in good faith and
 1148 without knowledge of the security interest, gives value and
 1149 receives possession of the vessel; and

1150 (b) The security interest is subordinate to a conflicting

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1151 security interest in the vessel that is perfected under s.
 1152 328.12 after creation of the certificate and without the
 1153 conflicting secured party's knowledge of the security interest.

1154 Section 19. Section 328.15, Florida Statutes, is amended
 1155 to read:

1156 328.15 Notice of lien on vessel; recording.—

1157 ~~(1) No lien for purchase money or as security for a debt~~
 1158 ~~in the form of retain title contract, conditional bill of sale,~~
 1159 ~~chattel mortgage, or otherwise on a vessel shall be enforceable~~
 1160 ~~in any of the courts of this state against creditors or~~
 1161 ~~subsequent purchasers for a valuable consideration and without~~
 1162 ~~notice unless a sworn notice of such lien is recorded. The lien~~
 1163 ~~certificate shall contain the following information:~~

1164 ~~(a) Name and address of the registered owner;~~

1165 ~~(b) Date of lien;~~

1166 ~~(c) Description of the vessel to include make, type, motor~~
 1167 ~~and serial number; and~~

1168 ~~(d) Name and address of lienholder.~~

1169
 1170 ~~The lien shall be recorded by the Department of Highway Safety~~
 1171 ~~and Motor Vehicles and shall be effective as constructive notice~~
 1172 ~~when filed. The date of filing of the notice of lien is the date~~
 1173 ~~of its receipt by the department's central office in~~
 1174 ~~Tallahassee, if first filed there, or otherwise by the office of~~
 1175 ~~a county tax collector or of the tax collector's agent.~~

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1176 ~~(2) (a) The Department of Highway Safety and Motor Vehicles~~
1177 ~~shall not enter any lien upon its lien records, whether it is a~~
1178 ~~first lien or a subordinate lien, unless the official~~
1179 ~~certificate of title issued for the vessel is furnished with the~~
1180 ~~notice of lien, so that the record of lien, whether original or~~
1181 ~~subordinate, may be noted upon the face thereof. After the~~
1182 ~~department records the lien, it shall send the certificate of~~
1183 ~~title to the holder of the first lien who shall hold such~~
1184 ~~certificate until the lien is satisfied in full.~~

1185 ~~(b) When a vessel is registered in the names of two or~~
1186 ~~more persons as coowners in the alternative by the use of the~~
1187 ~~word "or," whether or not the coowners are husband and wife,~~
1188 ~~each coowner is considered to have granted to any other coowner~~
1189 ~~the absolute right to place a lien or encumbrance on the vessel,~~
1190 ~~and the signature of one coowner constitutes proper execution of~~
1191 ~~the notice of lien. When a vessel is registered in the names of~~
1192 ~~two or more persons as coowners in the conjunctive by the use of~~
1193 ~~the word "and," the signature of each coowner is required in~~
1194 ~~order to place a lien or encumbrance on the vessel.~~

1195 ~~(c) If the owner of the vessel as shown on the title~~
1196 ~~certificate or the director of the state child support~~
1197 ~~enforcement program desires to place a second or subsequent lien~~
1198 ~~or encumbrance against the vessel when the title certificate is~~
1199 ~~in the possession of the first lienholder, the owner shall send~~
1200 ~~a written request to the first lienholder by certified mail and~~

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1201 ~~such first lienholder shall forward the certificate to the~~
 1202 ~~department for endorsement. The department shall return the~~
 1203 ~~certificate to the first lienholder, as indicated in the notice~~
 1204 ~~of lien filed by the first lienholder, after endorsing the~~
 1205 ~~second or subsequent lien on the certificate and on the~~
 1206 ~~duplicate. If the first lienholder fails, neglects, or refuses~~
 1207 ~~to forward the certificate of title to the department within 10~~
 1208 ~~days after the date of the owner's or the director's request,~~
 1209 ~~the department, on written request of the subsequent lienholder~~
 1210 ~~or an assignee thereof, shall demand of the first lienholder the~~
 1211 ~~return of such certificate for the notation of the second or~~
 1212 ~~subsequent lien or encumbrance.~~

1213 (1)~~(3)~~ Upon the payment of a ~~any such~~ lien, the debtor or
 1214 the registered owner of the motorboat shall be entitled to
 1215 demand and receive from the lienholder a satisfaction of the
 1216 lien which shall likewise be filed with the Department of
 1217 Highway Safety and Motor Vehicles.

1218 (2)~~(4)~~ The Department of Highway Safety and Motor Vehicles
 1219 under precautionary rules and regulations to be promulgated by
 1220 it may permit the use, in substitution of the formal
 1221 satisfaction of lien, of other methods of satisfaction, such as
 1222 perforation, appropriate stamp, or otherwise, as it deems
 1223 reasonable and adequate.

1224 (3)~~(5)~~(a) The Department of Highway Safety and Motor
 1225 Vehicles shall adopt rules to administer this section. The

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1226 department may by rule require that a notice of satisfaction of
1227 a lien be notarized. The department shall prepare the forms of
1228 the notice of lien and the satisfaction of lien to be supplied,
1229 at a charge not to exceed 50 percent more than cost, to
1230 applicants for recording the liens or satisfactions and shall
1231 keep a record of such notices of lien and satisfactions
1232 available for inspection by the public at all reasonable times.
1233 The division may furnish certified copies of such satisfactions
1234 for a fee of \$1, which are admissible in evidence in all courts
1235 of this state under the same conditions and to the same effect
1236 as certified copies of other public records.

1237 (b) The department shall establish and administer an
1238 electronic titling program that requires the recording of vessel
1239 title information for new, transferred, and corrected
1240 certificates of title. Lienholders shall electronically transmit
1241 liens and lien satisfactions to the department in a format
1242 determined by the department. Individuals and lienholders who
1243 the department determines are not normally engaged in the
1244 business or practice of financing vessels are not required to
1245 participate in the electronic titling program.

1246 ~~(6) The Department of Highway Safety and Motor Vehicles is~~
1247 ~~entitled to a fee of \$1 for the recording of each notice of~~
1248 ~~lien. No fee shall be charged for recording the satisfaction of~~
1249 ~~a lien. All of the fees collected shall be paid into the Marine~~
1250 ~~Resources Conservation Trust Fund.~~

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1251 (4) ~~(7)~~ (a) Should any person, firm, or corporation holding
 1252 such lien, which has been recorded by the Department of Highway
 1253 Safety and Motor Vehicles, upon payment of such lien and on
 1254 demand, fail or refuse, within 30 days after such payment and
 1255 demand, to furnish the debtor or the registered owner of such
 1256 vessel a satisfaction of the lien, then, in that event, such
 1257 person, firm, or corporation shall be held liable for all costs,
 1258 damages, and expenses, including reasonable attorney ~~attorney's~~
 1259 fees, lawfully incurred by the debtor or the registered owner of
 1260 such vessel in any suit which may be brought in the courts of
 1261 this state for the cancellation of such lien.

1262 (b) Following satisfaction of a lien, the lienholder shall
 1263 enter a satisfaction thereof in the space provided on the face
 1264 of the certificate of title. If there are no subsequent liens
 1265 shown thereon, the certificate shall be delivered by the
 1266 lienholder to the person satisfying the lien or encumbrance and
 1267 an executed satisfaction on a form provided by the department
 1268 shall be forwarded to the department by the lienholder within 10
 1269 days after satisfaction of the lien.

1270 (c) If the certificate of title shows a subsequent lien
 1271 not then being discharged, an executed satisfaction of the first
 1272 lien shall be delivered by the lienholder to the person
 1273 satisfying the lien and the certificate of title showing
 1274 satisfaction of the first lien shall be forwarded by the
 1275 lienholder to the department within 10 days after satisfaction

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1276 | of the lien.

1277 | (d) If, upon receipt of a title certificate showing
 1278 | satisfaction of the first lien, the department determines from
 1279 | its records that there are no subsequent liens or encumbrances
 1280 | upon the vessel, the department shall forward to the owner, as
 1281 | shown on the face of the title, a corrected certificate showing
 1282 | no liens or encumbrances. If there is a subsequent lien not
 1283 | being discharged, the certificate of title shall be reissued
 1284 | showing the second or subsequent lienholder as the first
 1285 | lienholder and shall be delivered to the new first lienholder.
 1286 | The first lienholder shall be entitled to retain the certificate
 1287 | of title until his or her lien is satisfied. Upon satisfaction
 1288 | of the lien, the lienholder shall be subject to the procedures
 1289 | required of a first lienholder in this subsection ~~and in~~
 1290 | ~~subsection (2)~~.

1291 | (5) ~~(8)~~ When the original certificate of title cannot be
 1292 | returned to the department by the lienholder and evidence
 1293 | satisfactory to the department is produced that all liens or
 1294 | encumbrances have been satisfied, upon application by the owner
 1295 | for a duplicate copy of the certificate of title, upon the form
 1296 | prescribed by the department, accompanied by the fee prescribed
 1297 | in this chapter, a duplicate copy of the certificate of title
 1298 | without statement of liens or encumbrances shall be issued by
 1299 | the department and delivered to the owner.

1300 | (6) ~~(9)~~ Any person who fails, within 10 days after receipt

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1301 of a demand by the department by certified mail, to return a
1302 certificate of title to the department ~~as required by paragraph~~
1303 ~~(2)(e)~~ or who, upon satisfaction of a lien, fails within 10 days
1304 after receipt of such demand to forward the appropriate document
1305 to the department as required by paragraph (4)(b) ~~(7)(b)~~ or
1306 paragraph (4)(c) ~~(7)(e)~~ commits a misdemeanor of the second
1307 degree, punishable as provided in s. 775.082 or s. 775.083.

1308 (7)(10) The department shall use the last known address as
1309 shown by its records when sending any notice required by this
1310 section.

1311 (8)(11) If the original lienholder sells and assigns his
1312 or her lien to some other person, and if the assignee desires to
1313 have his or her name substituted on the certificate of title as
1314 the holder of the lien, he or she may, after delivering the
1315 original certificate of title to the department and providing a
1316 sworn statement of the assignment, have his or her name
1317 substituted as a lienholder. Upon substitution of the assignee's
1318 name as lienholder, the department shall deliver the certificate
1319 of title to the assignee as the first lienholder.

1320 (9) Subsections (1), (2), and (4)-(8) shall expire October
1321 1, 2026.

1322 Section 20. Section 328.16, Florida Statutes, is amended
1323 to read:

1324 328.16 Issuance in duplicate; delivery; liens, security
1325 interests, and encumbrances.-

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1326 (1) The department shall assign a number to each
1327 certificate of title and shall issue each certificate of title
1328 and each corrected certificate in duplicate. The database record
1329 shall serve as the duplicate title certificate.

1330 (2) An authorized person must sign the original
1331 certificate of title and each corrected certificate and, if
1332 there are no liens, security interests, or encumbrances on the
1333 vessel, as shown in the records of the department or as shown in
1334 the application, must deliver the certificate to the applicant
1335 or to another person as directed by the applicant or person,
1336 agent, or attorney submitting the application. If there are one
1337 or more liens, security interests, or encumbrances on the
1338 vessel, the department must deliver the certificate to the first
1339 lienholder or secured party as shown by department records. The
1340 department shall deliver to the first lienholder or secured
1341 party, along with the certificate, a form to be subsequently
1342 used by the lienholder or secured party as a satisfaction. If
1343 the application for certificate of title shows the name of a
1344 first lienholder or secured party which is different from the
1345 name of the first lienholder or secured party as shown by the
1346 records of the department, the certificate shall not be issued
1347 to any person until after the department notifies all parties
1348 who appear to hold a lien or a security interest and the
1349 applicant for the certificate, in writing by certified mail. If
1350 the parties do not amicably resolve the conflict within 10 days

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1351 after the date the notice was mailed, the department shall serve
1352 notice in writing by certified mail on all persons that appear
1353 to hold liens or security interests on that particular vessel,
1354 including the applicant for the certificate, to show cause
1355 within 15 days after the date the notice is mailed why it should
1356 not issue and deliver the certificate to the secured party of
1357 record or person indicated in the notice of lien filed by the
1358 lienholder whose name appears in the application as the first
1359 lienholder without showing any lien or liens as outstanding
1360 other than those appearing in the application or those filed
1361 subsequent to the filing of the application for the certificate
1362 of title. If, within the 15-day period, any person other than
1363 the lienholder or secured party of record shown in the
1364 application or a party filing a subsequent lien or security
1365 interest, in answer to the notice to show cause, appears in
1366 person or by a representative, or responds in writing, and files
1367 a written statement under oath that his or her lien or security
1368 interest on that particular vessel is still outstanding, the
1369 department shall not issue the certificate to anyone until after
1370 the conflict has been settled by the lien or security interest
1371 claimants involved or by a court of competent jurisdiction. If
1372 the conflict is not settled amicably within 10 days after the
1373 final date for filing an answer to the notice to show cause, the
1374 complaining party shall have 10 days to obtain a ruling, or a
1375 stay order, from a court of competent jurisdiction. If a ruling

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1376 or stay order is not issued and served on the department within
 1377 the 10-day period, the department shall issue the certificate
 1378 showing no liens or security interests, except those shown in
 1379 the application or thereafter filed, to the original applicant
 1380 if there are no liens or security interests shown in the
 1381 application and none are thereafter filed, or to the person
 1382 indicated as the secured party of record or in the notice of
 1383 lien filed by the lienholder whose name appears in the
 1384 application as the first lienholder if there are liens shown in
 1385 the application or thereafter filed. A duplicate certificate or
 1386 corrected certificate must show only such security interest or
 1387 interests or lien or liens as were shown in the application and
 1388 subsequently filed liens or security interests that may be
 1389 outstanding.

1390 (3) ~~Except as provided in s. 328.15(11),~~ The certificate
 1391 of title shall be retained by the first lienholder or secured
 1392 party of record. The first lienholder or secured party of record
 1393 is entitled to retain the certificate until the first lien or
 1394 security interest is satisfied.

1395 (4) Notwithstanding any requirements in this section ~~or in~~
 1396 ~~s. 328.15~~ indicating that a lien or security interest on a
 1397 vessel shall be noted on the face of the Florida certificate of
 1398 title, if there are one or more liens, security interests, or
 1399 encumbrances on a vessel, the department shall electronically
 1400 transmit the lien or security interest to the first lienholder

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1401 or secured party and notify the first lienholder or secured
 1402 party of any additional liens or security interests. Subsequent
 1403 lien or security interest satisfactions shall be electronically
 1404 transmitted to the department and must include the name and
 1405 address of the person or entity satisfying the lien or security
 1406 interest. When electronic transmission of liens or security
 1407 interest and lien satisfactions or security interest are used,
 1408 the issuance of a certificate of title may be waived until the
 1409 last lien or security interest is satisfied and a clear
 1410 certificate of title is issued to the owner of the vessel.

1411 (5) The owner of a vessel~~7~~ upon which a lien or security
 1412 interest has been filed with the department or noted upon a
 1413 certificate of title for a period of 5 years~~7~~ may apply to the
 1414 department in writing for such lien or security interest to be
 1415 removed from the department files or from the certificate of
 1416 title. The application must be accompanied by evidence
 1417 satisfactory to the department that the applicant has notified
 1418 the lienholder or secured party by certified mail, not less than
 1419 20 days before ~~prior to~~ the date of the application, of his or
 1420 her intention to apply to the department for removal of the lien
 1421 or security interest. Ten days after receipt of the application,
 1422 the department may remove the lien or security interest from its
 1423 files or from the certificate of title, as the case may be, if
 1424 no statement in writing protesting removal of the lien or
 1425 security interest is received by the department from the

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1426 | lienholder or secured party within the 10-day period. However,
 1427 | if the lienholder or secured party files with the department,
 1428 | within the 10-day period, a written statement that the lien or
 1429 | security interest is still outstanding, the department may not
 1430 | remove the lien or security interest until the lienholder or
 1431 | secured party presents a satisfaction of lien or satisfaction of
 1432 | security interest to the department.

1433 | Section 21. Subsection (1) of section 328.165, Florida
 1434 | Statutes, is amended to read:

1435 | 328.165 Cancellation of certificates.—

1436 | (1) If it appears that a certificate of title has been
 1437 | improperly issued, the department shall cancel the certificate.
 1438 | Upon cancellation of any certificate of title, the department
 1439 | shall notify the person to whom the certificate of title was
 1440 | issued, and any lienholders or secured parties appearing
 1441 | thereon, of the cancellation and shall demand the surrender of
 1442 | the certificate of title; however, the cancellation does not
 1443 | affect the validity of any lien or security interest noted
 1444 | thereon. The holder of the certificate of title shall
 1445 | immediately return it to the department. If a certificate of
 1446 | registration has been issued to the holder of a certificate of
 1447 | title so canceled, the department shall immediately cancel the
 1448 | certificate of registration and demand the return of the
 1449 | certificate of registration, and the holder of such certificate
 1450 | of registration shall immediately return it to the department.

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1451 Section 22. Section 328.215, Florida Statutes, is created
1452 to read:

1453 328.215 Application for transfer of ownership or
1454 termination of security interest without certificate of title.-

1455 (1) Except as otherwise provided in s. 328.23 or s.
1456 328.24, if the department receives, unaccompanied by a signed
1457 certificate of title, an application for a new certificate that
1458 includes an indication of a transfer of ownership or a
1459 termination statement, the department may create a new
1460 certificate under this section only if:

1461 (a) All other requirements under ss. 328.01 and 328.09 are
1462 met;

1463 (b) The applicant provides an affidavit stating facts
1464 showing the applicant is entitled to a transfer of ownership or
1465 termination statement;

1466 (c) The applicant provides the department with
1467 satisfactory evidence that notification of the application has
1468 been sent to the owner of record and all persons indicated in
1469 the files of the department as having an interest, including a
1470 security interest, in the vessel; at least 45 days have passed
1471 since the notification was sent; and the department has not
1472 received an objection from any of those persons; and

1473 (d) The applicant submits any other information required
1474 by the department as evidence of the applicant's ownership or
1475 right to terminate the security interest, and the department has

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1476 no credible information indicating theft, fraud, or an
 1477 undisclosed or unsatisfied security interest, lien, or other
 1478 claim to an interest in the vessel.

1479 (2) The department may indicate in a certificate of title
 1480 created under subsection (1) that the certificate was created
 1481 without submission of a signed certificate or termination
 1482 statement. Unless credible information indicating theft, fraud,
 1483 or an undisclosed or unsatisfied security interest, lien, or
 1484 other claim to an interest in the vessel is delivered to the
 1485 department not later than 1 year after creation of the
 1486 certificate, on request in a form and manner required by the
 1487 department, the department shall remove the indication from the
 1488 certificate.

1489 (3) Before the department creates a certificate of title
 1490 under subsection (1), the department may require the applicant
 1491 to post a reasonable bond or provide an equivalent source of
 1492 indemnity or security. The bond, indemnity, or other security
 1493 must be in a form required by the department and provide for
 1494 indemnification of any owner, purchaser, or other claimant for
 1495 any expense, loss, delay, or damage, including reasonable
 1496 attorney fees and costs, but not including incidental or
 1497 consequential damages, resulting from creation or amendment of
 1498 the certificate.

1499 (4) Unless the department receives a claim for indemnity
 1500 not later than 1 year after creation of a certificate of title

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1501 under subsection (1), on request in a form and manner required
 1502 by the department, the department shall release any bond,
 1503 indemnity, or other security. The department is not liable to a
 1504 person or entity for creating a certificate of title under this
 1505 section when the department issues the certificate of title in
 1506 good faith based on the information provided by an applicant. An
 1507 applicant that submits erroneous or fraudulent information with
 1508 the intent to mislead the department into issuing a certificate
 1509 of title under this section is subject to the penalties
 1510 established in s. 328.045(4) in addition to any other criminal
 1511 or civil penalties provided by law.

1512 Section 23. Section 328.22, Florida Statutes, is created
 1513 to read:

1514 328.22 Transfer of ownership.—

1515 (1) On voluntary transfer of an ownership interest in a
 1516 vessel covered by a certificate of title, the following
 1517 requirements apply:

1518 (a) If the certificate is a written certificate of title
 1519 and the transferor's interest is noted on the certificate, the
 1520 transferor shall promptly sign the certificate and deliver it to
 1521 the transferee. If the transferor does not have possession of
 1522 the certificate, the person in possession of the certificate has
 1523 a duty to facilitate the transferor's compliance with this
 1524 paragraph. A secured party does not have a duty to facilitate
 1525 the transferor's compliance with this paragraph if the proposed

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1526 transfer is prohibited by the security agreement.

1527 (b) If the certificate of title is an electronic
1528 certificate of title, the transferor shall promptly sign by
1529 hand, or electronically if available, and deliver to the
1530 transferee a record evidencing the transfer of ownership to the
1531 transferee.

1532 (c) The transferee has a right enforceable by specific
1533 performance to require the transferor to comply with paragraph
1534 (a) or paragraph (b).

1535 (2) The creation of a certificate of title identifying the
1536 transferee as owner of record satisfies subsection (1).

1537 (3) A failure to comply with subsection (1) or to apply
1538 for a new certificate of title does not render a transfer of
1539 ownership of a vessel ineffective between the parties. Except as
1540 otherwise provided in s. 328.101, s. 328.14(1), s. 328.145, or
1541 s. 328.23, a transfer of ownership without compliance with
1542 subsection (1) is not effective against another person claiming
1543 an interest in the vessel.

1544 (4) A transferor that complies with subsection (1) is not
1545 liable as owner of the vessel for an event occurring after the
1546 transfer, regardless of whether the transferee applies for a new
1547 certificate of title.

1548 Section 24. Section 328.23, Florida Statutes, is created
1549 to read:

1550 328.23 Transfer of ownership by secured party's transfer

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1551 statement.—

1552 (1) In this section, "secured party's transfer statement"

1553 means a record signed by the secured party of record stating:

1554 (a) That there has been a default on an obligation secured

1555 by the vessel;

1556 (b) That the secured party of record is exercising or has

1557 exercised post-default remedies with respect to the vessel;

1558 (c) That by reason of the exercise, the secured party of

1559 record has the right to transfer the ownership interest of an

1560 owner, and the name of the owner;

1561 (d) The name and last known mailing address of the owner

1562 of record and the secured party of record;

1563 (e) The name of the transferee;

1564 (f) Other information required by s. 328.01(2); and

1565 (g) One of the following:

1566 1. The certificate of title is an electronic certificate;

1567 2. The secured party does not have possession of the

1568 written certificate of title created in the name of the owner of

1569 record; or

1570 3. The secured party is delivering the written certificate

1571 of title to the department with the secured party's transfer

1572 statement.

1573 (2) Unless the department rejects a secured party's

1574 transfer statement for a reason stated in s. 328.09(3), not

1575 later than 30 days after delivery to the department of the

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1576 statement and payment of fees and taxes payable under the laws
 1577 of this state other than this part in connection with the
 1578 statement or the acquisition or use of the vessel, the
 1579 department shall:

1580 (a) Accept the statement;

1581 (b) Amend the files of the department to reflect the
 1582 transfer; and

1583 (c) If the name of the owner whose ownership interest is
 1584 being transferred is indicated on the certificate of title:

1585 1. Cancel the certificate even if the certificate has not
 1586 been delivered to the department;

1587 2. Create a new certificate indicating the transferee as
 1588 owner; and

1589 3. Deliver the new certificate or a record evidencing an
 1590 electronic certificate.

1591 (3) An application under subsection (1) or the creation of
 1592 a certificate of title under subsection (2) is not by itself a
 1593 disposition of the vessel and does not by itself relieve the
 1594 secured party of its duties under chapter 679.

1595 Section 25. Section 328.24, Florida Statutes, is created
 1596 to read:

1597 328.24 Transfer by operation of law.—

1598 (1) In this section, "by operation of law" means pursuant
 1599 to a law or judicial order affecting ownership of a vessel:

1600 (a) Because of death, divorce, or other family law

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1601 proceeding, merger, consolidation, dissolution, or bankruptcy;
 1602 (b) Through the exercise of the rights of a lien creditor
 1603 or a person having a lien created by statute or rule of law; or
 1604 (c) Through other legal process.
 1605 (2) A transfer-by-law statement must contain:
 1606 (a) The name and last known mailing address of the owner
 1607 of record and the transferee and the other information required
 1608 by s. 328.01;
 1609 (b) Documentation sufficient to establish the transferee's
 1610 ownership interest or right to acquire the ownership interest;
 1611 (c) A statement that:
 1612 1. The certificate of title is an electronic certificate
 1613 of title;
 1614 2. The transferee does not have possession of the written
 1615 certificate of title created in the name of the owner of record;
 1616 or
 1617 3. The transferee is delivering the written certificate to
 1618 the department with the transfer-by-law statement; and
 1619 (d) Except for a transfer described in paragraph (1)(a),
 1620 evidence that notification of the transfer and the intent to
 1621 file the transfer-by-law statement has been sent to all persons
 1622 indicated in the files of the department as having an interest,
 1623 including a security interest, in the vessel.
 1624 (3) Unless the department rejects a transfer-by-law
 1625 statement for a reason stated in s. 328.09(3) or because the

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1626 statement does not include documentation satisfactory to the
1627 department as to the transferee's ownership interest or right to
1628 acquire the ownership interest, not later than 30 days after
1629 delivery to the department of the statement and payment of fees
1630 and taxes payable under the law of this state other than this
1631 part in connection with the statement or with the acquisition or
1632 use of the vessel, the department shall:

1633 (a) Accept the statement;

1634 (b) Amend the files of the department to reflect the
1635 transfer; and

1636 (c) If the name of the owner whose ownership interest is
1637 being transferred is indicated on the certificate of title:

1638 1. Cancel the certificate even if the certificate has not
1639 been delivered to the department;

1640 2. Create a new certificate indicating the transferee as
1641 owner;

1642 3. Indicate on the new certificate any security interest
1643 indicated on the canceled certificate, unless a court order
1644 provides otherwise; and

1645 4. Deliver the new certificate or a record evidencing an
1646 electronic certificate.

1647 (4) This section does not apply to a transfer of an
1648 interest in a vessel by a secured party under part VI of chapter
1649 679.

1650 Section 26. Section 328.25, Florida Statutes, is created

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1651 to read:

1652 328.25 Supplemental principles of law and equity.—Unless
 1653 displaced by a provision of this part, the principles of law and
 1654 equity supplement its provisions.

1655 Section 27. Section 328.35, Florida Statutes, is created
 1656 to read:

1657 328.35 Rulemaking.—The department may adopt rules pursuant
 1658 to ss. 120.536(1) and 120.54 to implement this part.

1659 Section 28. Section 409.2575, Florida Statutes, is amended
 1660 to read:

1661 409.2575 Liens on motor vehicles and vessels.—

1662 (1) The director of the state IV-D program, or the
 1663 director's designee, may cause a lien for unpaid and delinquent
 1664 support to be placed upon motor vehicles, as defined in chapter
 1665 320, and upon vessels, as defined in chapter 327, that are
 1666 registered in the name of an obligor who is delinquent in
 1667 support payments, if the title to the property is held by a
 1668 lienholder, in the manner provided in chapter 319 or, if
 1669 applicable in accordance with s. 328.15(9), chapter 328. Notice
 1670 of lien shall not be mailed unless the delinquency in support
 1671 exceeds \$600.

1672 (2) If the first lienholder fails, neglects, or refuses to
 1673 forward the certificate of title to the appropriate department
 1674 as requested pursuant to s. 319.24 or, if applicable in
 1675 accordance with s. 328.15(9), s. 328.15, the director of the IV-

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1676 D program, or the director's designee, may apply to the circuit
 1677 court for an order to enforce the requirements of s. 319.24 or
 1678 s. 328.15, whichever applies.

1679 Section 29. Subsection (2) of section 705.103, Florida
 1680 Statutes, is amended to read:

1681 705.103 Procedure for abandoned or lost property.—

1682 (2) Whenever a law enforcement officer ascertains that an
 1683 article of lost or abandoned property is present on public
 1684 property and is of such nature that it cannot be easily removed,
 1685 the officer shall cause a notice to be placed upon such article
 1686 in substantially the following form:

1687 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
 1688 PROPERTY. This property, to wit: ...(setting forth brief
 1689 description)... is unlawfully upon public property known as
 1690 ...(setting forth brief description of location)... and must be
 1691 removed within 5 days; otherwise, it will be removed and
 1692 disposed of pursuant to chapter 705, Florida Statutes. The owner
 1693 will be liable for the costs of removal, storage, and
 1694 publication of notice. Dated this: ...(setting forth the date of
 1695 posting of notice)..., signed: ...(setting forth name, title,
 1696 address, and telephone number of law enforcement officer)....

1697 Such notice shall be not less than 8 inches by 10 inches and
 1698 shall be sufficiently weatherproof to withstand normal exposure
 1699 to the elements. In addition to posting, the law enforcement
 1700 officer shall make a reasonable effort to ascertain the name and

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1701 address of the owner. If such is reasonably available to the
 1702 officer, she or he shall mail a copy of such notice to the owner
 1703 on or before the date of posting. If the property is a motor
 1704 vehicle as defined in s. 320.01(1) or a vessel as defined in s.
 1705 327.02, the law enforcement agency shall contact the Department
 1706 of Highway Safety and Motor Vehicles in order to determine the
 1707 name and address of the owner and any person who has filed a
 1708 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)
 1709 or s. 328.15 ~~s. 328.15(1)~~. On receipt of this information, the
 1710 law enforcement agency shall mail a copy of the notice by
 1711 certified mail, return receipt requested, to the owner and to
 1712 the lienholder, if any, except that a law enforcement officer
 1713 who has issued a citation for a violation of s. 823.11 to the
 1714 owner of a derelict vessel is not required to mail a copy of the
 1715 notice by certified mail, return receipt requested, to the
 1716 owner. If, at the end of 5 days after posting the notice and
 1717 mailing such notice, if required, the owner or any person
 1718 interested in the lost or abandoned article or articles
 1719 described has not removed the article or articles from public
 1720 property or shown reasonable cause for failure to do so, the
 1721 following shall apply:
 1722 (a) For abandoned property, the law enforcement agency may
 1723 retain any or all of the property for its own use or for use by
 1724 the state or unit of local government, trade such property to
 1725 another unit of local government or state agency, donate the

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1726 | property to a charitable organization, sell the property, or
1727 | notify the appropriate refuse removal service.

1728 | (b) For lost property, the officer shall take custody and
1729 | the agency shall retain custody of the property for 90 days. The
1730 | agency shall publish notice of the intended disposition of the
1731 | property, as provided in this section, during the first 45 days
1732 | of this time period.

1733 | 1. If the agency elects to retain the property for use by
1734 | the unit of government, donate the property to a charitable
1735 | organization, surrender such property to the finder, sell the
1736 | property, or trade the property to another unit of local
1737 | government or state agency, notice of such election shall be
1738 | given by an advertisement published once a week for 2
1739 | consecutive weeks in a newspaper of general circulation in the
1740 | county where the property was found if the value of the property
1741 | is more than \$100. If the value of the property is \$100 or less,
1742 | notice shall be given by posting a description of the property
1743 | at the law enforcement agency where the property was turned in.
1744 | The notice must be posted for not less than 2 consecutive weeks
1745 | in a public place designated by the law enforcement agency. The
1746 | notice must describe the property in a manner reasonably
1747 | adequate to permit the rightful owner of the property to claim
1748 | it.

1749 | 2. If the agency elects to sell the property, it must do
1750 | so at public sale by competitive bidding. Notice of the time and

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1751 place of the sale shall be given by an advertisement of the sale
1752 published once a week for 2 consecutive weeks in a newspaper of
1753 general circulation in the county where the sale is to be held.
1754 The notice shall include a statement that the sale shall be
1755 subject to any and all liens. The sale must be held at the
1756 nearest suitable place to that where the lost or abandoned
1757 property is held or stored. The advertisement must include a
1758 description of the goods and the time and place of the sale. The
1759 sale may take place no earlier than 10 days after the final
1760 publication. If there is no newspaper of general circulation in
1761 the county where the sale is to be held, the advertisement shall
1762 be posted at the door of the courthouse and at three other
1763 public places in the county at least 10 days prior to sale.
1764 Notice of the agency's intended disposition shall describe the
1765 property in a manner reasonably adequate to permit the rightful
1766 owner of the property to identify it.

1767 Section 30. Paragraph (c) of subsection (2) of section
1768 721.08, Florida Statutes, is amended to read:

1769 721.08 Escrow accounts; nondisturbance instruments;
1770 alternate security arrangements; transfer of legal title.—

1771 (2) One hundred percent of all funds or other property
1772 which is received from or on behalf of purchasers of the
1773 timeshare plan or timeshare interest prior to the occurrence of
1774 events required in this subsection shall be deposited pursuant
1775 to an escrow agreement approved by the division. The funds or

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1776 other property may be released from escrow only as follows:
 1777 (c) Compliance with conditions.—
 1778 1. Timeshare licenses.—If the timeshare plan is one in
 1779 which timeshare licenses are to be sold and no cancellation or
 1780 default has occurred, the escrow agent may release the escrowed
 1781 funds or other property to or on the order of the developer upon
 1782 presentation of:
 1783 a. An affidavit by the developer that all of the following
 1784 conditions have been met:
 1785 (I) Expiration of the cancellation period.
 1786 (II) Completion of construction.
 1787 (III) Closing.
 1788 (IV) Either:
 1789 (A) Execution, delivery, and recordation by each
 1790 interestholder of the nondisturbance and notice to creditors
 1791 instrument, as described in this section; or
 1792 (B) Transfer by the developer of legal title to the
 1793 subject accommodations and facilities, or all use rights
 1794 therein, into a trust satisfying the requirements of
 1795 subparagraph 4. and the execution, delivery, and recordation by
 1796 each other interestholder of the nondisturbance and notice to
 1797 creditors instrument, as described in this section.
 1798 b. A certified copy of each recorded nondisturbance and
 1799 notice to creditors instrument.
 1800 c. One of the following:

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1801 (I) A copy of a memorandum of agreement, as defined in s.
 1802 721.05, together with satisfactory evidence that the original
 1803 memorandum of agreement has been irretrievably delivered for
 1804 recording to the appropriate official responsible for
 1805 maintaining the public records in the county in which the
 1806 subject accommodations and facilities are located. The original
 1807 memorandum of agreement must be recorded within 180 days after
 1808 the date on which the purchaser executed her or his purchase
 1809 agreement.

1810 (II) A notice delivered for recording to the appropriate
 1811 official responsible for maintaining the public records in each
 1812 county in which the subject accommodations and facilities are
 1813 located notifying all persons of the identity of an independent
 1814 escrow agent or trustee satisfying the requirements of
 1815 subparagraph 4. that shall maintain separate books and records,
 1816 in accordance with good accounting practices, for the timeshare
 1817 plan in which timeshare licenses are to be sold. The books and
 1818 records shall indicate each accommodation and facility that is
 1819 subject to such a timeshare plan and each purchaser of a
 1820 timeshare license in the timeshare plan.

1821 2. Timeshare estates.—If the timeshare plan is one in
 1822 which timeshare estates are to be sold and no cancellation or
 1823 default has occurred, the escrow agent may release the escrowed
 1824 funds or other property to or on the order of the developer upon
 1825 presentation of:

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1826 a. An affidavit by the developer that all of the following
 1827 conditions have been met:

1828 (I) Expiration of the cancellation period.

1829 (II) Completion of construction.

1830 (III) Closing.

1831 b. If the timeshare estate is sold by agreement for deed,
 1832 a certified copy of the recorded nondisturbance and notice to
 1833 creditors instrument, as described in this section.

1834 c. Evidence that each accommodation and facility:

1835 (I) Is free and clear of the claims of any
 1836 interestholders, other than the claims of interestholders that,
 1837 through a recorded instrument, are irrevocably made subject to
 1838 the timeshare instrument and the use rights of purchasers made
 1839 available through the timeshare instrument;

1840 (II) Is the subject of a recorded nondisturbance and
 1841 notice to creditors instrument that complies with subsection (3)
 1842 and s. 721.17; or

1843 (III) Has been transferred into a trust satisfying the
 1844 requirements of subparagraph 4.

1845 d. Evidence that the timeshare estate:

1846 (I) Is free and clear of the claims of any
 1847 interestholders, other than the claims of interestholders that,
 1848 through a recorded instrument, are irrevocably made subject to
 1849 the timeshare instrument and the use rights of purchasers made
 1850 available through the timeshare instrument; or

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1851 (II) Is the subject of a recorded nondisturbance and
 1852 notice to creditors instrument that complies with subsection (3)
 1853 and s. 721.17.

1854 3. Personal property timeshare interests.—If the timeshare
 1855 plan is one in which personal property timeshare interests are
 1856 to be sold and no cancellation or default has occurred, the
 1857 escrow agent may release the escrowed funds or other property to
 1858 or on the order of the developer upon presentation of:

1859 a. An affidavit by the developer that all of the following
 1860 conditions have been met:

1861 (I) Expiration of the cancellation period.

1862 (II) Completion of construction.

1863 (III) Closing.

1864 b. If the personal property timeshare interest is sold by
 1865 agreement for transfer, evidence that the agreement for transfer
 1866 complies fully with s. 721.06 and this section.

1867 c. Evidence that one of the following has occurred:

1868 (I) Transfer by the owner of the underlying personal
 1869 property of legal title to the subject accommodations and
 1870 facilities or all use rights therein into a trust satisfying the
 1871 requirements of subparagraph 4.; or

1872 (II) Transfer by the owner of the underlying personal
 1873 property of legal title to the subject accommodations and
 1874 facilities or all use rights therein into an owners' association
 1875 satisfying the requirements of subparagraph 5.

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1876 d. Evidence of compliance with the provisions of
1877 subparagraph 6., if required.

1878 e. If a personal property timeshare plan is created with
1879 respect to accommodations and facilities that are located on or
1880 in an oceangoing vessel, including a "documented vessel" or a
1881 "foreign vessel," as defined and governed by 46 U.S.C. chapter
1882 301:

1883 (I) In making the transfer required in sub-subparagraph
1884 c., the developer shall use as its transfer instrument a
1885 document that establishes and protects the continuance of the
1886 use rights in the subject accommodations and facilities in a
1887 manner that is enforceable by the trust or owners' association.

1888 (II) The transfer instrument shall comply fully with the
1889 provisions of this chapter, shall be part of the timeshare
1890 instrument, and shall contain specific provisions that:

1891 (A) Prohibit the vessel owner, the developer, any manager
1892 or operator of the vessel, the owners' association or the
1893 trustee, the managing entity, or any other person from incurring
1894 any liens against the vessel except for liens that are required
1895 for the operation and upkeep of the vessel, including liens for
1896 fuel expenditures, repairs, crews' wages, and salvage, and
1897 except as provided in sub-sub-subparagraphs 4.b.(III) and
1898 5.b.(III). All expenses, fees, and taxes properly incurred in
1899 connection with the creation, satisfaction, and discharge of any
1900 such permitted lien, or a prorated portion thereof if less than

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1901 | all of the accommodations on the vessel are subject to the
 1902 | timeshare plan, shall be common expenses of the timeshare plan.

1903 | (B) Grant a lien against the vessel in favor of the
 1904 | owners' association or trustee to secure the full and faithful
 1905 | performance of the vessel owner and developer of all of their
 1906 | obligations to the purchasers.

1907 | (C) Establish governing law in a jurisdiction that
 1908 | recognizes and will enforce the timeshare instrument and the
 1909 | laws of the jurisdiction of registry of the vessel.

1910 | (D) Require that a description of the use rights of
 1911 | purchasers be posted and displayed on the vessel in a manner
 1912 | that will give notice of such rights to any party examining the
 1913 | vessel. This notice must identify the owners' association or
 1914 | trustee and include a statement disclosing the limitation on
 1915 | incurring liens against the vessel described in sub-sub-sub-
 1916 | subparagraph (A).

1917 | (E) Include the nondisturbance and notice to creditors
 1918 | instrument for the vessel owner and any other interestholders.

1919 | (F) The owners' association created under subparagraph 5.
 1920 | or trustee created under subparagraph 4. shall have access to
 1921 | any certificates of classification in accordance with the
 1922 | timeshare instrument.

1923 | (III) If the vessel is a foreign vessel, the vessel must
 1924 | be registered in a jurisdiction that permits a filing evidencing
 1925 | the use rights of purchasers in the subject accommodations and

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1926 facilities, offers protection for such use rights against
 1927 unfiled and inferior claims, and recognizes the document or
 1928 instrument creating such use rights as a lien against the
 1929 vessel.

1930 (IV) In addition to the disclosures required by s.
 1931 721.07(5), the public offering statement and purchase contract
 1932 must contain a disclosure in conspicuous type in substantially
 1933 the following form:

1934 The laws of the State of Florida govern the offering of this
 1935 timeshare plan in this state. There are inherent risks in
 1936 purchasing a timeshare interest in this timeshare plan because
 1937 the accommodations and facilities of the timeshare plan are
 1938 located on a vessel that will sail into international waters and
 1939 into waters governed by many different jurisdictions. Therefore,
 1940 the laws of the State of Florida cannot fully protect your
 1941 purchase of an interest in this timeshare plan. Specifically,
 1942 management and operational issues may need to be addressed in
 1943 the jurisdiction in which the vessel is registered, which is
 1944 (insert jurisdiction in which vessel is registered). Concerns of
 1945 purchasers may be sent to (insert name of applicable regulatory
 1946 agency and address).

1947 4. Trust.—

1948 a. If the subject accommodations or facilities, or all use
 1949 rights therein, are to be transferred into a trust in order to
 1950 comply with this paragraph, such transfer shall take place

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1951 pursuant to this subparagraph. If the accommodations or
 1952 facilities included in such transfer are subject to a lease, the
 1953 unexpired term of the lease must be disclosed as the term of the
 1954 timeshare plan pursuant to s. 721.07(5)(f)4.

1955 b. Prior to the transfer of the subject accommodations and
 1956 facilities, or all use rights therein, to a trust, any lien or
 1957 other encumbrance against such accommodations and facilities, or
 1958 use rights therein, shall be made subject to a nondisturbance
 1959 and notice to creditors instrument pursuant to subsection (3).
 1960 No transfer pursuant to this subparagraph shall become effective
 1961 until the trustee accepts such transfer and the responsibilities
 1962 set forth herein. A trust established pursuant to this
 1963 subparagraph shall comply with the following provisions:

1964 (I) The trustee shall be an individual or a business
 1965 entity authorized and qualified to conduct trust business in
 1966 this state. Any corporation authorized to do business in this
 1967 state may act as trustee in connection with a timeshare plan
 1968 pursuant to this chapter. The trustee must be independent from
 1969 any developer or managing entity of the timeshare plan or any
 1970 interestholder of any accommodation or facility of such plan.

1971 (II) The trust shall be irrevocable so long as any
 1972 purchaser has a right to occupy any portion of the timeshare
 1973 property pursuant to the timeshare plan.

1974 (III) The trustee shall not convey, hypothecate, mortgage,
 1975 assign, lease, or otherwise transfer or encumber in any fashion

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

1976 | any interest in or portion of the timeshare property with
 1977 | respect to which any purchaser has a right of use or occupancy
 1978 | unless the timeshare plan is terminated pursuant to the
 1979 | timeshare instrument, or such conveyance, hypothecation,
 1980 | mortgage, assignment, lease, transfer, or encumbrance is
 1981 | approved by a vote of two-thirds of all voting interests of the
 1982 | timeshare plan. Subject to s. 721.552, a vote of the voting
 1983 | interests of the timeshare plan is not required for substitution
 1984 | or automatic deletion of accommodations or facilities.

1985 | (IV) All purchasers of the timeshare plan or the owners'
 1986 | association of the timeshare plan shall be the express
 1987 | beneficiaries of the trust. The trustee shall act as a fiduciary
 1988 | to the beneficiaries of the trust. The personal liability of the
 1989 | trustee shall be governed by ss. 736.08125, 736.08163, 736.1013,
 1990 | and 736.1015. The agreement establishing the trust shall set
 1991 | forth the duties of the trustee. The trustee shall be required
 1992 | to furnish promptly to the division upon request a copy of the
 1993 | complete list of the names and addresses of the owners in the
 1994 | timeshare plan and a copy of any other books and records of the
 1995 | timeshare plan required to be maintained pursuant to s. 721.13
 1996 | that are in the possession, custody, or control of the trustee.
 1997 | All expenses reasonably incurred by the trustee in the
 1998 | performance of its duties, together with any reasonable
 1999 | compensation of the trustee, shall be common expenses of the
 2000 | timeshare plan.

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

2001 (V) The trustee shall not resign upon less than 90 days'
 2002 prior written notice to the managing entity and the division. No
 2003 resignation shall become effective until a substitute trustee,
 2004 approved by the division, is appointed by the managing entity
 2005 and accepts the appointment.

2006 (VI) The documents establishing the trust arrangement
 2007 shall constitute a part of the timeshare instrument.

2008 (VII) For trusts holding property in a timeshare plan
 2009 located outside this state, the trust and trustee holding such
 2010 property shall be deemed in compliance with the requirements of
 2011 this subparagraph if such trust and trustee are authorized and
 2012 qualified to conduct trust business under the laws of such
 2013 jurisdiction and the agreement or law governing such trust
 2014 arrangement provides substantially similar protections for the
 2015 purchaser as are required in this subparagraph for trusts
 2016 holding property in a timeshare plan in this state.

2017 (VIII) The trustee shall have appointed a registered agent
 2018 in this state for service of process. In the event such a
 2019 registered agent is not appointed, service of process may be
 2020 served pursuant to s. 721.265.

2021 5. Owners' association.—

2022 a. If the subject accommodations or facilities, or all use
 2023 rights therein, are to be transferred into an owners'
 2024 association in order to comply with this paragraph, such
 2025 transfer shall take place pursuant to this subparagraph.

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

2026 b. Before the transfer of the subject accommodations and
 2027 facilities, or all use rights therein, to an owners'
 2028 association, any lien or other encumbrance against such
 2029 accommodations and facilities, or use rights therein, shall be
 2030 made subject to a nondisturbance and notice to creditors
 2031 instrument pursuant to subsection (3). No transfer pursuant to
 2032 this subparagraph shall become effective until the owners'
 2033 association accepts such transfer and the responsibilities set
 2034 forth herein. An owners' association established pursuant to
 2035 this subparagraph shall comply with the following provisions:

2036 (I) The owners' association shall be a business entity
 2037 authorized and qualified to conduct business in this state.
 2038 Control of the board of directors of the owners' association
 2039 must be independent from any developer or managing entity of the
 2040 timeshare plan or any interestholder.

2041 (II) The bylaws of the owners' association shall provide
 2042 that the corporation may not be voluntarily dissolved without
 2043 the unanimous vote of all owners of personal property timeshare
 2044 interests so long as any purchaser has a right to occupy any
 2045 portion of the timeshare property pursuant to the timeshare
 2046 plan.

2047 (III) The owners' association shall not convey,
 2048 hypothecate, mortgage, assign, lease, or otherwise transfer or
 2049 encumber in any fashion any interest in or portion of the
 2050 timeshare property with respect to which any purchaser has a

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

2051 right of use or occupancy, unless the timeshare plan is
2052 terminated pursuant to the timeshare instrument, or unless such
2053 conveyance, hypothecation, mortgage, assignment, lease,
2054 transfer, or encumbrance is approved by a vote of two-thirds of
2055 all voting interests of the association and such decision is
2056 declared by a court of competent jurisdiction to be in the best
2057 interests of the purchasers of the timeshare plan. The owners'
2058 association shall notify the division in writing within 10 days
2059 after receiving notice of the filing of any petition relating to
2060 obtaining such a court order. The division shall have standing
2061 to advise the court of the division's interpretation of the
2062 statute as it relates to the petition.

2063 (IV) All purchasers of the timeshare plan shall be members
2064 of the owners' association and shall be entitled to vote on
2065 matters requiring a vote of the owners' association as provided
2066 in this chapter or the timeshare instrument. The owners'
2067 association shall act as a fiduciary to the purchasers of the
2068 timeshare plan. The articles of incorporation establishing the
2069 owners' association shall set forth the duties of the owners'
2070 association. All expenses reasonably incurred by the owners'
2071 association in the performance of its duties, together with any
2072 reasonable compensation of the officers or directors of the
2073 owners' association, shall be common expenses of the timeshare
2074 plan.

2075 (V) The documents establishing the owners' association

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

2076 shall constitute a part of the timeshare instrument.

2077 (VI) For owners' associations holding property in a
 2078 timeshare plan located outside this state, the owners'
 2079 association holding such property shall be deemed in compliance
 2080 with the requirements of this subparagraph if such owners'
 2081 association is authorized and qualified to conduct owners'
 2082 association business under the laws of such jurisdiction and the
 2083 agreement or law governing such arrangement provides
 2084 substantially similar protections for the purchaser as are
 2085 required in this subparagraph for owners' associations holding
 2086 property in a timeshare plan in this state.

2087 (VII) The owners' association shall have appointed a
 2088 registered agent in this state for service of process. In the
 2089 event such a registered agent cannot be located, service of
 2090 process may be made pursuant to s. 721.265.

2091 6. Personal property subject to certificate of title.—If
 2092 any personal property that is an accommodation or facility of a
 2093 timeshare plan is subject to a certificate of title in this
 2094 state pursuant to chapter 319 or chapter 328, the following
 2095 notation must be made on such certificate of title pursuant to
 2096 s. 319.27(1) or s. 328.15 ~~s. 328.15(1)~~:

2097 The further transfer or encumbrance of the property subject to
 2098 this certificate of title, or any lien or encumbrance thereon,
 2099 is subject to the requirements of section 721.17, Florida
 2100 Statutes, and the transferee or lienor agrees to be bound by all

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

2101 of the obligations set forth therein.

2102 7. If the developer has previously provided a certified
2103 copy of any document required by this paragraph, she or he may
2104 for all subsequent disbursements substitute a true and correct
2105 copy of the certified copy, provided no changes to the document
2106 have been made or are required to be made.

2107 8. In the event that use rights relating to an
2108 accommodation or facility are transferred into a trust pursuant
2109 to subparagraph 4. or into an owners' association pursuant to
2110 subparagraph 5., all other interestholders, including the owner
2111 of the underlying fee or underlying personal property, must
2112 execute a nondisturbance and notice to creditors instrument
2113 pursuant to subsection (3).

2114 Section 31. (1) The rights, duties, and interests flowing
2115 from a transaction, certificate of title, or record relating to
2116 a vessel which was validly entered into or created before the
2117 effective date of this act and would be subject to this act if
2118 it had been entered into or created on or after the effective
2119 date of this act remain valid on and after the effective date of
2120 this act.

2121 (2) This act does not affect an action or proceeding
2122 commenced before the effective date of this act.

2123 (3) Except as otherwise provided in subsection (4), a
2124 security interest that is enforceable immediately before the
2125 effective date of this act and would have priority over the

ENROLLED

CS/CS/CS/HB 475, Engrossed 1

2019 Legislature

2126 | rights of a person who becomes a lien creditor at that time is a
 2127 | perfected security interest under this act.

2128 | (4) A security interest perfected immediately before the
 2129 | effective date of this act remains perfected until the earlier
 2130 | of:

2131 | (a) The time perfection would have ceased under the law
 2132 | under which the security interest was perfected; or

2133 | (b) Three years after the effective date of this act.

2134 | (5) This act does not affect the priority of a security
 2135 | interest in a vessel if immediately before the effective date of
 2136 | this act the security interest is enforceable and perfected, and
 2137 | that priority is established.

2138 | Section 32. Subject to section 31, this act applies to any
 2139 | transaction, certificate of title, or record relating to a
 2140 | vessel, even if the transaction, certificate of title, or record
 2141 | was entered into or created before the effective date of this
 2142 | act.

2143 | Section 33. This act shall take effect July 1, 2023.