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Proposed Committee Substitute by the Committee on Appropriations  
(Appropriations Subcommittee on Transportation, Tourism, and  
Economic Development)

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



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27 of title is prima facie evidence of the accuracy of  
28 the 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 and to provide certain information to  
39 governmental entities; specifying that certain  
40 information is a public record; creating s. 328.06,  
41 F.S.; providing responsibilities of the department  
42 when creating a certificate of title; creating s.  
43 328.065, F.S.; specifying effect of possession of a  
44 certificate of title; providing construction; amending  
45 s. 328.09, F.S.; providing duties of the department  
46 relating to creation, issuance, refusal to issue, or  
47 cancellation of a certificate of title; providing for  
48 a hearing; creating s. 328.101, F.S.; specifying that  
49 a certificate of title and certain other records are  
50 effective despite missing or incorrect information;  
51 amending s. 328.11, F.S.; providing requirements for  
52 obtaining a duplicate certificate of title; creating  
53 s. 328.12, F.S.; providing requirements for  
54 determination and perfection of a security interest in  
55 a vessel; providing applicability; creating s.



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56 328.125, F.S.; providing requirements for the delivery  
57 of a statement of termination of a security interest;  
58 providing duties of the department; providing  
59 liability for noncompliance; creating s. 328.14, F.S.;  
60 providing for the rights of a purchaser of a vessel  
61 who is not a secured party; creating s. 328.145, F.S.;  
62 providing for the rights of a secured party; amending  
63 s. 328.15, F.S.; deleting certain provisions relating  
64 to notice of a lien; providing for future expiration  
65 of certain provisions; amending ss. 328.16 and  
66 328.165, F.S.; conforming provisions to changes made  
67 by the act; creating s. 328.215, F.S.; specifying  
68 circumstances under which the department may create a  
69 new certificate of title after receipt of an  
70 application for a transfer of ownership or termination  
71 of a security interest unaccompanied by a certificate  
72 of title; authorizing the department to indicate  
73 certain information on the new certificate;  
74 authorizing the department to require a bond,  
75 indemnity, or other security; providing for the  
76 release of such bond, indemnity, or other security;  
77 providing that the department is not liable for  
78 creating a certificate of title based on erroneous or  
79 fraudulent information; providing penalties; creating  
80 s. 328.22, F.S.; providing requirements for the  
81 transfer of ownership in a vessel; providing effect of  
82 noncompliance; creating s. 328.23, F.S.; providing a  
83 definition; providing duties of the department upon  
84 receipt of a secured party's transfer statement;



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85 providing construction; creating s. 328.24, F.S.;

86 providing a definition; providing requirements for a

87 transfer of ownership by operation of law; providing

88 duties of the department; providing applicability;

89 creating s. 328.25, F.S.; providing that the

90 principles and law of equity supplement the provisions

91 of the act; creating s. 328.41, F.S.; authorizing the

92 department to adopt rules to implement vessel

93 registration provisions; amending ss. 409.2575,

94 705.103, and 721.08, F.S.; conforming provisions and

95 cross-references to changes made by the act; providing

96 construction and applicability regarding transactions,

97 certificates of title, and records entered into or

98 created, actions or proceedings commenced, and

99 security interests perfected before the effective date

100 of the act; providing applicability; providing an

101 effective date.

102

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

104

105 Section 1. Section 328.001, Florida Statutes, is created to

106 read:

107 328.001 Short title.—This part may be cited as the “Uniform

108 Certificate of Title for Vessels Act.”

109 Section 2. Section 328.0015, Florida Statutes, is created

110 to read:

111 328.0015 Definitions.—

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

113 (a) “Barge” means a vessel that is not self-propelled or



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114 fitted for propulsion by sail, paddle, oar, or a similar device.

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

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

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

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

127 (f) "Certificate of title" means a record, created by the  
128 department or by a governmental agency of another jurisdiction  
129 under the law of that jurisdiction, that is designated as a  
130 certificate of title by the department or agency and is evidence  
131 of ownership of a vessel.

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

134 (h) "Department" means the Department of Highway Safety and  
135 Motor Vehicles.

136 (i) "Documented vessel" means a vessel covered by a  
137 certificate of documentation issued pursuant to 46 U.S.C. s.  
138 12105. The term does not include a foreign-documented vessel.

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

142 (k) "Electronic certificate of title" means a certificate



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143 of title consisting of information that is stored solely in an  
144 electronic medium and is retrievable in perceivable form.

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

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

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

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

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

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

162 2. An assignee for benefit of creditors from the time of  
163 assignment;

164 3. A trustee in bankruptcy from the date of the filing of  
165 the petition; or

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

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

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

171 (s) "Person" means an individual, a corporation, a business



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172 trust, an estate, a trust, a statutory trust, a partnership, a  
173 limited liability company, an association, a joint venture, a  
174 public corporation, a government or governmental subdivision, an  
175 agency, an instrumentality, or any other legal or commercial  
176 entity.

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

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

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

184 (w) "Secured party," with respect to a vessel, means a  
185 person:

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

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

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

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

196 (y) "Security interest" means an interest in a vessel which  
197 secures payment or performance of an obligation if the interest  
198 is created by contract or arises under s. 672.401, s. 672.505,  
199 s. 672.711(3), or s. 680.508(5). The term includes any interest  
200 of a consignor in a vessel in a transaction that is subject to



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

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

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

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

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

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





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230 title.  
231 (dd) "Transfer of ownership" means a voluntary or  
232 involuntary conveyance of an interest in a vessel.  
233 (ee) "Vessel" means a watercraft used or capable of being  
234 used as a means of transportation on water, except:  
235 1. A seaplane;  
236 2. An amphibious vehicle for which a certificate of title  
237 is issued pursuant to chapter 319 or a similar statute of  
238 another state;  
239 3. A watercraft less than 16 feet in length and propelled  
240 solely by sail, paddle, oar, or an engine of less than 10  
241 horsepower;  
242 4. A watercraft that operates only on a permanently fixed,  
243 manufactured course and the movement of which is restricted to  
244 or guided by means of a mechanical device to which the  
245 watercraft is attached or by which the watercraft is controlled;  
246 5. A stationary floating structure that:  
247 a. Does not have and is not designed to have a mode of  
248 propulsion of its own;  
249 b. Is dependent for utilities upon a continuous utility  
250 hookup to a source originating on shore; and  
251 c. Has a permanent, continuous hookup to a shoreside sewage  
252 system;  
253 6. Watercraft owned by the United States, a state, or a  
254 foreign government or a political subdivision of any of them;  
255 and  
256 7. A watercraft used solely as a lifeboat on another  
257 watercraft.  
258 (ff) "Vessel number" means the alphanumeric designation for



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259 a vessel issued pursuant to 46 U.S.C. s. 12301.

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

262 (2) The following definitions and terms also apply to this  
263 part:

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

265 (b) "Buyer in ordinary course of business" as defined in s.  
266 671.201(9).

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

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

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

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

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

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

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

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

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

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

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

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

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

280 Section 3. Section 328.01, Florida Statutes, is amended to  
281 read:

282 328.01 Application for certificate of title.—

283 ~~(1)(a)~~ The owner of a vessel which is required to be titled  
284 shall apply to the county tax collector for a certificate of  
285 title. Except as otherwise provided in ss. 328.045, 328.11,  
286 328.12, 328.215, 328.23, and 328.24, only an owner may apply for  
287 a certificate of title.



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

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

293       (b) The name and mailing address of each other owner of the  
294 vessel;

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

298       (d) The vessel number for the vessel or, if none is issued  
299 by the department, an application for a vessel number;

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

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

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

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

307       4. The overall length of the vessel;

308       5. The vessel type;

309       6. The hull material;

310       7. The propulsion type;

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

312       9. The fuel type, if any;

313       (f) An indication of all security interests in the vessel  
314 known to the applicant and the name and mailing address of each  
315 secured party;

316       (g) A statement that the vessel is not a documented vessel



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317 or a foreign-documented vessel;

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

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

322 (j) If the application is made in connection with a  
323 transfer of ownership, the transferor's name, street address,  
324 and, if different, mailing address, the sales price, if any, and  
325 the date of the transfer; and

326 (k) If the vessel was previously registered or titled in  
327 another jurisdiction, a statement identifying each jurisdiction  
328 known to the applicant in which the vessel was registered or  
329 titled.

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

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

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

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

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

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



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

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

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

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

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



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375 number.

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

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

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

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

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

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

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



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

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

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

427           ~~(f) In making application for the titling of a vessel~~  
428 ~~previously documented by the Federal Government, the current~~  
429 ~~owner shall establish proof of ownership by submitting with the~~  
430 ~~application a copy of the canceled documentation papers or a~~  
431 ~~properly executed release from documentation certificate~~  
432 ~~provided by the United States Coast Guard. In the event such~~



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433 ~~documentation papers or certification are in the name of a~~  
434 ~~person other than the current owner, the current owner shall~~  
435 ~~provide the original copy of all subsequently executed bills of~~  
436 ~~sale applicable to the vessel.~~

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

450 ~~(b) If the application for transfer of title is based upon~~  
451 ~~a contractual default, the recorded lienholder shall establish~~  
452 ~~proof of right to ownership by submitting with the application~~  
453 ~~the original certificate of title and a copy of the applicable~~  
454 ~~contract upon which the claim of ownership is made. If the claim~~  
455 ~~is based upon a court order or judgment, a copy of such document~~  
456 ~~shall accompany the application for transfer of title. If, on~~  
457 ~~the basis of departmental records, there appears to be any other~~  
458 ~~lien on the vessel, the certificate of title must contain a~~  
459 ~~statement of such a lien, unless the application for a~~  
460 ~~certificate of title is either accompanied by proper evidence of~~  
461 ~~the satisfaction or extinction of the lien or contains a~~





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462 ~~statement certifying that any lienholder named on the last~~  
463 ~~issued certificate of title has been sent notice by certified~~  
464 ~~mail, at least 5 days before the application was filed, of the~~  
465 ~~applicant's intention to seek a repossessed title. If such~~  
466 ~~notice is given and no written protest to the department is~~  
467 ~~presented by a subsequent lienholder within 15 days after the~~  
468 ~~date on which the notice was mailed, the certificate of title~~  
469 ~~shall be issued showing no liens. If the former owner or any~~  
470 ~~subsequent lienholder files a written protest under oath within~~  
471 ~~the 15-day period, the department shall not issue the~~  
472 ~~repossessed certificate for 10 days thereafter. If, within the~~  
473 ~~10-day period, no injunction or other order of a court of~~  
474 ~~competent jurisdiction has been served on the department~~  
475 ~~commanding it not to deliver the certificate, the department~~  
476 ~~shall deliver the repossessed certificate to the applicant, or~~  
477 ~~as is otherwise directed in the application, showing no other~~  
478 ~~liens than those shown in the application.~~

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



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491 ~~vessel or an affidavit by the decedent's surviving spouse or~~  
492 ~~heirs establishing or releasing all rights of ownership and a~~  
493 ~~copy of the decedent's death certificate shall be submitted to~~  
494 ~~the department.~~

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

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

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

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



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520           b. The signatures of every coowner or of the respective  
521 personal representatives of the coowners if the vessel is  
522 registered in the names of two or more persons as coowners in  
523 the conjunctive by the use of the word "and."  
524

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

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

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

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

547           ~~(10)-(6)~~ The department ~~of Highway Safety and Motor Vehicles~~  
548 shall prescribe and provide suitable forms for applications,



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549 certificates of title, notices of security interests, and other  
550 notices and forms necessary to carry out the provisions of this  
551 chapter.

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

554 328.015 Duties and operation of the department.-

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

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

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

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



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

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

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

586 or

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

588       (b) With respect to the vessel:

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

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

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

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

601       (5) In responding to a request under this section, the  
602 department may provide the requested information in any medium.  
603 On request, the department shall send the requested information  
604 in a record that is self-authenticating.

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



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607       328.02 Law governing vessel covered by certificate of  
608 title.-

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

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

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

623       328.03 Certificate of title required.-

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

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

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

- 635       (a) A documented vessel;



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- 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 length;~~  
647       ~~(d) A federally documented vessel;~~  
648       (i)~~(e)~~ A vessel already covered by a registration number in  
649 full force and effect which was awarded to it pursuant to a  
650 federally approved numbering system of another state or by the  
651 United States Coast Guard in a state without a federally  
652 approved numbering system, if the vessel is not located in this  
653 state for a period in excess of 90 consecutive days; or  
654       (j)~~(f)~~ A vessel from a country other than the United States  
655 temporarily used, operated, or stored on the waters of this  
656 state for a period that is not in excess of 90 days;  
657       ~~(g) An amphibious vessel for which a vehicle title is~~  
658 ~~issued by the Department of Highway Safety and Motor Vehicles;~~  
659       ~~(h) A vessel used solely for demonstration, testing, or~~  
660 ~~sales promotional purposes by the manufacturer or dealer; or~~  
661       ~~(i) A vessel owned and operated by the state or a political~~  
662 ~~subdivision thereof.~~  
663       (3) The department may not issue, transfer, or renew a  
664 number issued to a vessel pursuant to the requirements of 46



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665 U.S.C. s. 12301 unless the department has created a certificate  
666 of title for the vessel or an application for a certificate for  
667 the vessel and the applicable fee have been delivered to the  
668 department.

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

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

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

690 (5)~~(4)~~ A certificate of title is prima facie evidence of  
691 the accuracy of the information in the record that constitutes  
692 the certificate and of the ownership of the vessel. A  
693 certificate of title is good for the life of the vessel so long





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694 as the certificate is owned or held by the legal holder. If a  
695 titled vessel is destroyed or abandoned, the owner, with the  
696 consent of any recorded lienholders, shall, within 30 days after  
697 the destruction or abandonment, surrender to the department for  
698 cancellation any and all title documents. If a titled vessel is  
699 insured and the insurer has paid the owner for the total loss of  
700 the vessel, the insurer shall obtain the title to the vessel  
701 and, within 30 days after receiving the title, forward the title  
702 to the department ~~of Highway Safety and Motor Vehicles~~ for  
703 cancellation. The insurer may retain the certificate of title  
704 when payment for the loss was made because of the theft of the  
705 vessel.

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

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

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

721 (8) ~~(7)~~ The department ~~of Highway Safety and Motor Vehicles~~  
722 shall charge a fee of \$4 in addition to that charged in



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723 subsection (7) ~~(6)~~ for each initial certificate of title issued  
724 for a vessel previously registered outside this state.

725 (9) ~~(8)~~ The department ~~of Highway Safety and Motor Vehicles~~  
726 shall make regulations necessary and convenient to carry out the  
727 provisions of this chapter.

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

730 328.04 Content of certificate of title.-

731 (1) A certificate of title must contain:

732 (a) The date the certificate was created;

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

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

737 (d) The hull identification number;

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

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

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

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

751 (3) For each title brand indicated on a certificate of



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

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

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

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

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

776 328.045 Title brands.-

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



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781 an owner of the vessel and the person has notice of the damage  
782 at the time of the transfer, the owner shall:

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

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

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

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

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



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

812 328.055 Maintenance of and access to files.-

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

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

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

821 (c) Maintain the files for public inspection subject to  
822 subsection (5); and

823 (d) Index the files of the department as required by  
824 subsection (2).

825 (2) The department shall maintain in its files the  
826 information contained in all certificates of title created under  
827 this part. The information in the files of the department must  
828 be searchable by the hull identification number of the vessel,  
829 the vessel number, the name of the owner of record, and any  
830 other method used by the department.

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

837 (4) Upon request, for safety, security, or law enforcement  
838 purposes, the department shall provide to federal, state, or



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839 local government the information in its files relating to any  
840 vessel for which the department has issued a certificate of  
841 title.

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

845 Section 10. Section 328.06, Florida Statutes, is created to  
846 read:

847 328.06 Action required on creation of certificate of  
848 title.-

849 (1) On creation of a written certificate of title, the  
850 department shall promptly send the certificate to the secured  
851 party of record or, if none, to the owner of record at the  
852 address indicated for that person in the files of the  
853 department. On creation of an electronic certificate of title,  
854 the department shall promptly send a record evidencing the  
855 certificate to the owner of record and, if there is one, to the  
856 secured party of record at the address indicated for each person  
857 in the files of the department. The department may send the  
858 record to the person's mailing address or, if indicated in the  
859 files of the department, an electronic address.

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

865 (3) Before the department creates an electronic certificate  
866 of title, any written certificate for the vessel must be  
867 surrendered to the department. If the department creates an



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868 electronic certificate, the department shall destroy or  
869 otherwise cancel the written certificate for the vessel which  
870 has been surrendered to the department and maintain in the files  
871 of the department the date and time of destruction or other  
872 cancellation. If a written certificate being canceled is not  
873 destroyed, the department shall indicate on the face of the  
874 certificate that it has been canceled.

875 Section 11. Section 328.065, Florida Statutes, is created  
876 to read:

877 328.065 Effect of possession of certificate of title;  
878 judicial process.—Possession of a certificate of title does not  
879 by itself provide a right to obtain possession of a vessel.  
880 Garnishment, attachment, levy, replevin, or other judicial  
881 process against the certificate is not effective to determine  
882 possessory rights to the vessel. This part does not prohibit  
883 enforcement under the laws of this state of a security interest  
884 in, levy on, or foreclosure of a statutory or common-law lien on  
885 a vessel. Absence of an indication of a statutory or common-law  
886 lien on a certificate does not invalidate the lien.

887 Section 12. Section 328.09, Florida Statutes, is amended to  
888 read:

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

891 328.09 Refusal to issue and authority to cancel a  
892 certificate of title or registration.—

893 (1) Unless an application for a certificate of title is  
894 rejected under subsection (3) or subsection (4), the department  
895 shall create a certificate for the vessel in accordance with  
896 subsection (2) not later than 30 days after delivery to the



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897 department of an application that complies with s. 328.01.

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

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

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

907 (b) The application does not contain documentation  
908 sufficient for the department to determine whether the applicant  
909 is entitled to a certificate;

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

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

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

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

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

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

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





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

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

935       328.101 Effect of missing or incorrect information.—Except  
936 as otherwise provided in s. 679.337, a certificate of title or  
937 other record required or authorized by this part is effective  
938 even if it contains unintended scrivener's errors or does not  
939 contain certain required information if such missing information  
940 is determined by the department to be inconsequential to the  
941 issuing of a certificate of title or other record.

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

944       328.11 Duplicate certificate of title.—

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

952       (2) An applicant for a duplicate certificate of title must  
953 sign the application, and, except as otherwise permitted by the  
954 department, the application must comply with s. 328.01. The



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955 application must include the existing certificate unless the  
956 certificate is lost, stolen, mutilated, destroyed, or otherwise  
957 unavailable.

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

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

965 ~~(5)(1) The Department of Highway Safety and Motor Vehicles~~  
966 ~~may issue a duplicate certificate of title upon application by~~  
967 ~~the person entitled to hold such a certificate if the department~~  
968 ~~is satisfied that the original certificate has been lost,~~  
969 ~~destroyed, or mutilated.~~ The department shall charge a fee of \$6  
970 for issuing a duplicate certificate.

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

980 ~~(3) If, following the issuance of an original, duplicate,~~  
981 ~~or corrected certificate of title by the department, the~~  
982 ~~certificate is lost in transit and is not delivered to the~~  
983 ~~addressee, the owner of the vessel or the holder of a lien~~



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984 ~~thereon may, within 180 days after the date of issuance of the~~  
985 ~~title, apply to the department for reissuance of the certificate~~  
986 ~~of title. An additional fee may not be charged for reissuance~~  
987 ~~under this subsection.~~

988 (7)(4) The department shall implement a system to verify  
989 that the application is signed by a person authorized to receive  
990 a duplicate title certificate under this section if the address  
991 shown on the application is different from the address shown for  
992 the applicant on the records of the department.

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

995 328.12 Perfection of security interest.—

996 (1) Except as otherwise provided in this section, a  
997 security interest in a vessel may be perfected only by delivery  
998 to the department of an application for a certificate of title  
999 that identifies the secured party and otherwise complies with s.  
1000 328.01. The security interest is perfected on the later of  
1001 delivery to the department of the application and the applicable  
1002 fee or attachment of the security interest under s. 679.2031.

1003 (2) If the interest of a person named as owner, lessor,  
1004 consignor, or bailor in an application for a certificate of  
1005 title delivered to the department is a security interest, the  
1006 application sufficiently identifies the person as a secured  
1007 party. Identification on the application for a certificate of a  
1008 person as owner, lessor, consignor, or bailor is not by itself a  
1009 factor in determining whether the person's interest is a  
1010 security interest.

1011 (3) If the department has created a certificate of title  
1012 for a vessel, a security interest in the vessel may be perfected



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1013 by delivery to the department of an application, on a form the  
1014 department may require, to have the security interest added to  
1015 the certificate. The application must be signed by an owner of  
1016 the vessel or by the secured party and must include:

- 1017 (a) The name of the owner of record;  
1018 (b) The name and mailing address of the secured party;  
1019 (c) The hull identification number for the vessel; and  
1020 (d) If the department has created a written certificate of  
1021 title for the vessel, the certificate.

1022 (4) A security interest perfected under subsection (3) is  
1023 perfected on the later of delivery to the department of the  
1024 application and all applicable fees or attachment of the  
1025 security interest under s. 679.2031.

1026 (5) On delivery of an application that complies with  
1027 subsection (3) and payment of all applicable fees, the  
1028 department shall create a new certificate of title pursuant to  
1029 s. 328.09 and deliver the new certificate or a record evidencing  
1030 an electronic certificate pursuant to s. 328.06. The department  
1031 shall maintain in the files of the department the date and time  
1032 of delivery of the application to the department.

1033 (6) If a secured party assigns a perfected security  
1034 interest in a vessel, the receipt by the department of a  
1035 statement providing the name of the assignee as secured party is  
1036 not required to continue the perfected status of the security  
1037 interest against creditors of and transferees from the original  
1038 debtor. A purchaser of a vessel subject to a security interest  
1039 who obtains a release from the secured party indicated in the  
1040 files of the department or on the certificate takes free of the  
1041 security interest and of the rights of a transferee unless the



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1042 transfer is indicated in the files of the department or on the  
1043 certificate.

1044 (7) This section does not apply to a security interest:

1045 (a) Created in a vessel by a person during any period in  
1046 which the vessel is inventory held for sale or lease by the  
1047 person or is leased by the person as lessor if the person is in  
1048 the business of selling vessels;

1049 (b) In a barge for which no application for a certificate  
1050 of title has been delivered to the department; or

1051 (c) In a vessel before delivery if the vessel is under  
1052 construction, or completed, pursuant to contract and for which  
1053 no application for a certificate has been delivered to the  
1054 department.

1055 (8) This subsection applies if a certificate of  
1056 documentation for a documented vessel is deleted or canceled. If  
1057 a security interest in the vessel was valid immediately before  
1058 deletion or cancellation against a third party as a result of  
1059 compliance with 46 U.S.C. s. 31321, the security interest is and  
1060 remains perfected until the earlier of 4 months after  
1061 cancellation of the certificate or the time the security  
1062 interest becomes perfected under this part.

1063 (9) A security interest in a vessel arising under s.  
1064 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is  
1065 perfected when it attaches but becomes unperfected when the  
1066 debtor obtains possession of the vessel, unless the security  
1067 interest is perfected pursuant to subsection (1) or subsection  
1068 (3) before the debtor obtains possession.

1069 (10) A security interest in a vessel as proceeds of other  
1070 collateral is perfected to the extent provided in s. 679.3151.



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1071       (11) A security interest in a vessel perfected under the  
1072 law of another jurisdiction is perfected to the extent provided  
1073 in s. 679.3161(4).

1074       (12) For purposes of this section and this part, the  
1075 Department of Revenue shall be treated as a secured party when  
1076 collecting unpaid support.

1077       Section 16. Section 328.125, Florida Statutes, is created  
1078 to read:

1079       328.125 Termination statement.—

1080       (1) A secured party indicated in the files of the  
1081 department as having a security interest in a vessel shall  
1082 deliver a termination statement to the department and, on the  
1083 debtor's request, to the debtor, by the earlier of:

1084       (a) Twenty days after the secured party receives a signed  
1085 demand from an owner for a termination statement and there is no  
1086 obligation secured by the vessel subject to the security  
1087 interest and no commitment to make an advance, incur an  
1088 obligation, or otherwise give value secured by the vessel; or

1089       (b) If the vessel is consumer goods, 30 days after there is  
1090 no obligation secured by the vessel and no commitment to make an  
1091 advance, incur an obligation, or otherwise give value secured by  
1092 the vessel.

1093       (2) If a written certificate of title has been created and  
1094 delivered to a secured party and a termination statement is  
1095 required under subsection (1), the secured party, not later than  
1096 the date required by subsection (1), shall deliver the  
1097 certificate to the debtor or to the department with the  
1098 statement. If the certificate is lost, stolen, mutilated,  
1099 destroyed, or is otherwise unavailable or illegible, the secured



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1100 party shall deliver with the statement, not later than the date  
1101 required by subsection (1), an application for a duplicate  
1102 certificate meeting the requirements of s. 328.11.

1103 (3) On delivery to the department of a termination  
1104 statement authorized by the secured party, the security interest  
1105 to which the statement relates ceases to be perfected. If the  
1106 security interest to which the statement relates was indicated  
1107 on the certificate of title, the department shall create a new  
1108 certificate and deliver the new certificate or a record  
1109 evidencing an electronic certificate. The department shall  
1110 maintain in its files the date and time of delivery to the  
1111 department of the statement.

1112 (4) A secured party that fails to comply with this section  
1113 is liable for any loss that the secured party had reason to know  
1114 might result from its failure to comply and which could not  
1115 reasonably have been prevented and for the cost of an  
1116 application for a certificate of title under s. 328.01 or s.  
1117 328.11.

1118 Section 17. Section 328.14, Florida Statutes, is created to  
1119 read:

1120 328.14 Rights of purchaser other than secured party.-

1121 (1) A buyer in ordinary course of business has the  
1122 protections afforded by ss. 672.403(2) and 679.320(1) even if an  
1123 existing certificate of title was not signed and delivered to  
1124 the buyer or a new certificate listing the buyer as owner of  
1125 record was not created.

1126 (2) Except as otherwise provided in ss. 328.145 and 328.22,  
1127 the rights of a purchaser of a vessel who is not a buyer in  
1128 ordinary course of business or a lien creditor are governed by



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1129 the Uniform Commercial Code.

1130 Section 18. Section 328.145, Florida Statutes, is created  
1131 to read:

1132 328.145 Rights of secured party.-

1133 (1) Subject to subsection (2), the effect of perfection and  
1134 nonperfection of a security interest and the priority of a  
1135 perfected or unperfected security interest with respect to the  
1136 rights of a purchaser or creditor, including a lien creditor, is  
1137 governed by the Uniform Commercial Code.

1138 (2) If, while a security interest in a vessel is perfected  
1139 by any method under this part, the department creates a  
1140 certificate of title that does not indicate that the vessel is  
1141 subject to the security interest or contain a statement that it  
1142 may be subject to security interests not indicated on the  
1143 certificate:

1144 (a) A buyer of the vessel, other than a person in the  
1145 business of selling or leasing vessels of that kind, takes free  
1146 of the security interest if the buyer, acting in good faith and  
1147 without knowledge of the security interest, gives value and  
1148 receives possession of the vessel; and

1149 (b) The security interest is subordinate to a conflicting  
1150 security interest in the vessel that is perfected under s.  
1151 328.12 after creation of the certificate and without the  
1152 conflicting secured party's knowledge of the security interest.

1153 Section 19. Section 328.15, Florida Statutes, is amended to  
1154 read:

1155 328.15 Notice of lien on vessel; recording.-

1156 ~~(1) No lien for purchase money or as security for a debt in~~  
1157 ~~the form of retain title contract, conditional bill of sale,~~





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1158 ~~chattel mortgage, or otherwise on a vessel shall be enforceable~~  
1159 ~~in any of the courts of this state against creditors or~~  
1160 ~~subsequent purchasers for a valuable consideration and without~~  
1161 ~~notice unless a sworn notice of such lien is recorded. The lien~~  
1162 ~~certificate shall contain the following information:~~

- 1163 ~~(a) Name and address of the registered owner;~~
- 1164 ~~(b) Date of lien;~~
- 1165 ~~(c) Description of the vessel to include make, type, motor~~  
1166 ~~and serial number; and~~
- 1167 ~~(d) Name and address of lienholder.~~

1168  
1169 ~~The lien shall be recorded by the Department of Highway Safety~~  
1170 ~~and Motor Vehicles and shall be effective as constructive notice~~  
1171 ~~when filed. The date of filing of the notice of lien is the date~~  
1172 ~~of its receipt by the department's central office in~~  
1173 ~~Tallahassee, if first filed there, or otherwise by the office of~~  
1174 ~~a county tax collector or of the tax collector's agent.~~

1175 ~~(2) (a) The Department of Highway Safety and Motor Vehicles~~  
1176 ~~shall not enter any lien upon its lien records, whether it is a~~  
1177 ~~first lien or a subordinate lien, unless the official~~  
1178 ~~certificate of title issued for the vessel is furnished with the~~  
1179 ~~notice of lien, so that the record of lien, whether original or~~  
1180 ~~subordinate, may be noted upon the face thereof. After the~~  
1181 ~~department records the lien, it shall send the certificate of~~  
1182 ~~title to the holder of the first lien who shall hold such~~  
1183 ~~certificate until the lien is satisfied in full.~~

1184 ~~(b) When a vessel is registered in the names of two or more~~  
1185 ~~persons as coowners in the alternative by the use of the word~~  
1186 ~~"or," whether or not the coowners are husband and wife, each~~



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1187 ~~coowner is considered to have granted to any other coowner the~~  
1188 ~~absolute right to place a lien or encumbrance on the vessel, and~~  
1189 ~~the signature of one coowner constitutes proper execution of the~~  
1190 ~~notice of lien. When a vessel is registered in the names of two~~  
1191 ~~or more persons as coowners in the conjunctive by the use of the~~  
1192 ~~word "and," the signature of each coowner is required in order~~  
1193 ~~to place a lien or encumbrance on the vessel.~~

1194 ~~(c) If the owner of the vessel as shown on the title~~  
1195 ~~certificate or the director of the state child support~~  
1196 ~~enforcement program desires to place a second or subsequent lien~~  
1197 ~~or encumbrance against the vessel when the title certificate is~~  
1198 ~~in the possession of the first lienholder, the owner shall send~~  
1199 ~~a written request to the first lienholder by certified mail and~~  
1200 ~~such first lienholder shall forward the certificate to the~~  
1201 ~~department for endorsement. The department shall return the~~  
1202 ~~certificate to the first lienholder, as indicated in the notice~~  
1203 ~~of lien filed by the first lienholder, after endorsing the~~  
1204 ~~second or subsequent lien on the certificate and on the~~  
1205 ~~duplicate. If the first lienholder fails, neglects, or refuses~~  
1206 ~~to forward the certificate of title to the department within 10~~  
1207 ~~days after the date of the owner's or the director's request,~~  
1208 ~~the department, on written request of the subsequent lienholder~~  
1209 ~~or an assignee thereof, shall demand of the first lienholder the~~  
1210 ~~return of such certificate for the notation of the second or~~  
1211 ~~subsequent lien or encumbrance.~~

1212 ~~(1)(3)~~ Upon the payment of a ~~any~~ such lien, the debtor or  
1213 the registered owner of the motorboat shall be entitled to  
1214 demand and receive from the lienholder a satisfaction of the  
1215 lien which shall likewise be filed with the Department of



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1216 Highway Safety and Motor Vehicles.

1217       ~~(2)-(4)~~ The Department of Highway Safety and Motor Vehicles  
1218 under precautionary rules and regulations to be promulgated by  
1219 it may permit the use, in substitution of the formal  
1220 satisfaction of lien, of other methods of satisfaction, such as  
1221 perforation, appropriate stamp, or otherwise, as it deems  
1222 reasonable and adequate.

1223       ~~(3)-(5)~~(a) The Department of Highway Safety and Motor  
1224 Vehicles shall adopt rules to administer this section. The  
1225 department may by rule require that a notice of satisfaction of  
1226 a lien be notarized. The department shall prepare the forms of  
1227 the notice of lien and the satisfaction of lien to be supplied,  
1228 at a charge not to exceed 50 percent more than cost, to  
1229 applicants for recording the liens or satisfactions and shall  
1230 keep a record of such notices of lien and satisfactions  
1231 available for inspection by the public at all reasonable times.  
1232 The division may furnish certified copies of such satisfactions  
1233 for a fee of \$1, which are admissible in evidence in all courts  
1234 of this state under the same conditions and to the same effect  
1235 as certified copies of other public records.

1236       (b) The department shall establish and administer an  
1237 electronic titling program that requires the recording of vessel  
1238 title information for new, transferred, and corrected  
1239 certificates of title. Lienholders shall electronically transmit  
1240 liens and lien satisfactions to the department in a format  
1241 determined by the department. Individuals and lienholders who  
1242 the department determines are not normally engaged in the  
1243 business or practice of financing vessels are not required to  
1244 participate in the electronic titling program.



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1245       ~~(6) The Department of Highway Safety and Motor Vehicles is~~  
1246 ~~entitled to a fee of \$1 for the recording of each notice of~~  
1247 ~~lien. No fee shall be charged for recording the satisfaction of~~  
1248 ~~a lien. All of the fees collected shall be paid into the Marine~~  
1249 ~~Resources Conservation Trust Fund.~~

1250       (4)~~(7)~~(a) Should any person, firm, or corporation holding  
1251 such lien, which has been recorded by the Department of Highway  
1252 Safety and Motor Vehicles, upon payment of such lien and on  
1253 demand, fail or refuse, within 30 days after such payment and  
1254 demand, to furnish the debtor or the registered owner of such  
1255 vessel a satisfaction of the lien, then, in that event, such  
1256 person, firm, or corporation shall be held liable for all costs,  
1257 damages, and expenses, including reasonable attorney ~~attorney's~~  
1258 fees, lawfully incurred by the debtor or the registered owner of  
1259 such vessel in any suit which may be brought in the courts of  
1260 this state for the cancellation of such lien.

1261       (b) Following satisfaction of a lien, the lienholder shall  
1262 enter a satisfaction thereof in the space provided on the face  
1263 of the certificate of title. If there are no subsequent liens  
1264 shown thereon, the certificate shall be delivered by the  
1265 lienholder to the person satisfying the lien or encumbrance and  
1266 an executed satisfaction on a form provided by the department  
1267 shall be forwarded to the department by the lienholder within 10  
1268 days after satisfaction of the lien.

1269       (c) If the certificate of title shows a subsequent lien not  
1270 then being discharged, an executed satisfaction of the first  
1271 lien shall be delivered by the lienholder to the person  
1272 satisfying the lien and the certificate of title showing  
1273 satisfaction of the first lien shall be forwarded by the



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1274 lienholder to the department within 10 days after satisfaction  
1275 of the lien.

1276 (d) If, upon receipt of a title certificate showing  
1277 satisfaction of the first lien, the department determines from  
1278 its records that there are no subsequent liens or encumbrances  
1279 upon the vessel, the department shall forward to the owner, as  
1280 shown on the face of the title, a corrected certificate showing  
1281 no liens or encumbrances. If there is a subsequent lien not  
1282 being discharged, the certificate of title shall be reissued  
1283 showing the second or subsequent lienholder as the first  
1284 lienholder and shall be delivered to the new first lienholder.  
1285 The first lienholder shall be entitled to retain the certificate  
1286 of title until his or her lien is satisfied. Upon satisfaction  
1287 of the lien, the lienholder shall be subject to the procedures  
1288 required of a first lienholder in this subsection ~~and in~~  
1289 ~~subsection (2)~~.

1290 ~~(5)(8)~~ When the original certificate of title cannot be  
1291 returned to the department by the lienholder and evidence  
1292 satisfactory to the department is produced that all liens or  
1293 encumbrances have been satisfied, upon application by the owner  
1294 for a duplicate copy of the certificate of title, upon the form  
1295 prescribed by the department, accompanied by the fee prescribed  
1296 in this chapter, a duplicate copy of the certificate of title  
1297 without statement of liens or encumbrances shall be issued by  
1298 the department and delivered to the owner.

1299 ~~(6)(9)~~ Any person who fails, within 10 days after receipt  
1300 of a demand by the department by certified mail, to return a  
1301 certificate of title to the department ~~as required by paragraph~~  
1302 ~~(2)(e)~~ or who, upon satisfaction of a lien, fails within 10 days



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1303 after receipt of such demand to forward the appropriate document  
1304 to the department as required by paragraph (4) (b) ~~(7) (b)~~ or  
1305 paragraph (4) (c) ~~(7) (e)~~ commits a misdemeanor of the second  
1306 degree, punishable as provided in s. 775.082 or s. 775.083.

1307 (7) (10) The department shall use the last known address as  
1308 shown by its records when sending any notice required by this  
1309 section.

1310 (8) (11) If the original lienholder sells and assigns his or  
1311 her lien to some other person, and if the assignee desires to  
1312 have his or her name substituted on the certificate of title as  
1313 the holder of the lien, he or she may, after delivering the  
1314 original certificate of title to the department and providing a  
1315 sworn statement of the assignment, have his or her name  
1316 substituted as a lienholder. Upon substitution of the assignee's  
1317 name as lienholder, the department shall deliver the certificate  
1318 of title to the assignee as the first lienholder.

1319 (9) Subsections (1), (2), and (4)-(8) shall expire October  
1320 1, 2026.

1321 Section 20. Section 328.16, Florida Statutes, is amended to  
1322 read:

1323 328.16 Issuance in duplicate; delivery; liens, security  
1324 interests, and encumbrances.-

1325 (1) The department shall assign a number to each  
1326 certificate of title and shall issue each certificate of title  
1327 and each corrected certificate in duplicate. The database record  
1328 shall serve as the duplicate title certificate.

1329 (2) An authorized person must sign the original certificate  
1330 of title and each corrected certificate and, if there are no  
1331 liens, security interests, or encumbrances on the vessel, as



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1332 shown in the records of the department or as shown in the  
1333 application, must deliver the certificate to the applicant or to  
1334 another person as directed by the applicant or person, agent, or  
1335 attorney submitting the application. If there are one or more  
1336 liens, security interests, or encumbrances on the vessel, the  
1337 department must deliver the certificate to the first lienholder  
1338 or secured party as shown by department records. The department  
1339 shall deliver to the first lienholder or secured party, along  
1340 with the certificate, a form to be subsequently used by the  
1341 lienholder or secured party as a satisfaction. If the  
1342 application for certificate of title shows the name of a first  
1343 lienholder or secured party which is different from the name of  
1344 the first lienholder or secured party as shown by the records of  
1345 the department, the certificate shall not be issued to any  
1346 person until after the department notifies all parties who  
1347 appear to hold a lien or a security interest and the applicant  
1348 for the certificate, in writing by certified mail. If the  
1349 parties do not amicably resolve the conflict within 10 days  
1350 after the date the notice was mailed, the department shall serve  
1351 notice in writing by certified mail on all persons that appear  
1352 to hold liens or security interests on that particular vessel,  
1353 including the applicant for the certificate, to show cause  
1354 within 15 days after the date the notice is mailed why it should  
1355 not issue and deliver the certificate to the secured party of  
1356 record or person indicated in the notice of lien filed by the  
1357 lienholder whose name appears in the application as the first  
1358 lienholder without showing any lien or liens as outstanding  
1359 other than those appearing in the application or those filed  
1360 subsequent to the filing of the application for the certificate



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1361 of title. If, within the 15-day period, any person other than  
1362 the lienholder or secured party of record shown in the  
1363 application or a party filing a subsequent lien or security  
1364 interest, in answer to the notice to show cause, appears in  
1365 person or by a representative, or responds in writing, and files  
1366 a written statement under oath that his or her lien or security  
1367 interest on that particular vessel is still outstanding, the  
1368 department shall not issue the certificate to anyone until after  
1369 the conflict has been settled by the lien or security interest  
1370 claimants involved or by a court of competent jurisdiction. If  
1371 the conflict is not settled amicably within 10 days after the  
1372 final date for filing an answer to the notice to show cause, the  
1373 complaining party shall have 10 days to obtain a ruling, or a  
1374 stay order, from a court of competent jurisdiction. If a ruling  
1375 or stay order is not issued and served on the department within  
1376 the 10-day period, the department shall issue the certificate  
1377 showing no liens or security interests, except those shown in  
1378 the application or thereafter filed, to the original applicant  
1379 if there are no liens or security interests shown in the  
1380 application and none are thereafter filed, or to the person  
1381 indicated as the secured party of record or in the notice of  
1382 lien filed by the lienholder whose name appears in the  
1383 application as the first lienholder if there are liens shown in  
1384 the application or thereafter filed. A duplicate certificate or  
1385 corrected certificate must show only such security interest or  
1386 interests or lien or liens as were shown in the application and  
1387 subsequently filed liens or security interests that may be  
1388 outstanding.

1389 (3) ~~Except as provided in s. 328.15(11),~~ The certificate of





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1390 title shall be retained by the first lienholder or secured party  
1391 of record. The first lienholder or secured party of record is  
1392 entitled to retain the certificate until the first lien or  
1393 security interest is satisfied.

1394 (4) Notwithstanding any requirements in this section ~~or in~~  
1395 ~~s. 328.15~~ indicating that a lien or security interest on a  
1396 vessel shall be noted on the face of the Florida certificate of  
1397 title, if there are one or more liens, security interests, or  
1398 encumbrances on a vessel, the department shall electronically  
1399 transmit the lien or security interest to the first lienholder  
1400 or secured party and notify the first lienholder or secured  
1401 party of any additional liens or security interests. Subsequent  
1402 lien or security interest satisfactions shall be electronically  
1403 transmitted to the department and must include the name and  
1404 address of the person or entity satisfying the lien or security  
1405 interest. When electronic transmission of liens or security  
1406 interests and lien satisfactions or security interests are used,  
1407 the issuance of a certificate of title may be waived until the  
1408 last lien or security interest is satisfied and a clear  
1409 certificate of title is issued to the owner of the vessel.

1410 (5) The owner of a vessel, upon which a lien or security  
1411 interest has been filed with the department or noted upon a  
1412 certificate of title for a period of 5 years, may apply to the  
1413 department in writing for such lien or security interest to be  
1414 removed from the department files or from the certificate of  
1415 title. The application must be accompanied by evidence  
1416 satisfactory to the department that the applicant has notified  
1417 the lienholder or secured party by certified mail, not less than  
1418 20 days before ~~prior to~~ the date of the application, of his or



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1419 her intention to apply to the department for removal of the lien  
1420 or security interest. Ten days after receipt of the application,  
1421 the department may remove the lien or security interest from its  
1422 files or from the certificate of title, as the case may be, if  
1423 no statement in writing protesting removal of the lien or  
1424 security interest is received by the department from the  
1425 lienholder or secured party within the 10-day period. However,  
1426 if the lienholder or secured party files with the department,  
1427 within the 10-day period, a written statement that the lien or  
1428 security interest is still outstanding, the department may not  
1429 remove the lien or security interest until the lienholder or  
1430 secured party presents a satisfaction of lien or satisfaction of  
1431 security interest to the department.

1432 Section 21. Subsection (1) of section 328.165, Florida  
1433 Statutes, is amended to read:

1434 328.165 Cancellation of certificates.—

1435 (1) If it appears that a certificate of title has been  
1436 improperly issued, the department shall cancel the certificate.  
1437 Upon cancellation of any certificate of title, the department  
1438 shall notify the person to whom the certificate of title was  
1439 issued, and any lienholders or secured parties appearing  
1440 thereon, of the cancellation and shall demand the surrender of  
1441 the certificate of title; however, the cancellation does not  
1442 affect the validity of any lien or security interest noted  
1443 thereon. The holder of the certificate of title shall  
1444 immediately return it to the department. If a certificate of  
1445 registration has been issued to the holder of a certificate of  
1446 title so canceled, the department shall immediately cancel the  
1447 certificate of registration and demand the return of the



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1448 certificate of registration, and the holder of such certificate  
1449 of registration shall immediately return it to the department.

1450 Section 22. Section 328.215, Florida Statutes, is created  
1451 to read:

1452 328.215 Application for transfer of ownership or  
1453 termination of security interest without certificate of title.-

1454 (1) Except as otherwise provided in s. 328.23 or s. 328.24,  
1455 if the department receives, unaccompanied by a signed  
1456 certificate of title, an application for a new certificate that  
1457 includes an indication of a transfer of ownership or a  
1458 termination statement, the department may create a new  
1459 certificate under this section only if:

1460 (a) All other requirements under ss. 328.01 and 328.09 are  
1461 met;

1462 (b) The applicant provides an affidavit stating facts  
1463 showing the applicant is entitled to a transfer of ownership or  
1464 termination statement;

1465 (c) The applicant provides the department with satisfactory  
1466 evidence that notification of the application has been sent to  
1467 the owner of record and all persons indicated in the files of  
1468 the department as having an interest, including a security  
1469 interest, in the vessel; at least 45 days have passed since the  
1470 notification was sent; and the department has not received an  
1471 objection from any of those persons; and

1472 (d) The applicant submits any other information required by  
1473 the department as evidence of the applicant's ownership or right  
1474 to terminate the security interest, and the department has no  
1475 credible information indicating theft, fraud, or an undisclosed  
1476 or unsatisfied security interest, lien, or other claim to an



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1477 interest in the vessel.

1478 (2) The department may indicate in a certificate of title  
1479 created under subsection (1) that the certificate was created  
1480 without submission of a signed certificate or termination  
1481 statement. Unless credible information indicating theft, fraud,  
1482 or an undisclosed or unsatisfied security interest, lien, or  
1483 other claim to an interest in the vessel is delivered to the  
1484 department not later than 1 year after creation of the  
1485 certificate, on request in a form and manner required by the  
1486 department, the department shall remove the indication from the  
1487 certificate.

1488 (3) Before the department creates a certificate of title  
1489 under subsection (1), the department may require the applicant  
1490 to post a reasonable bond or provide an equivalent source of  
1491 indemnity or security. The bond, indemnity, or other security  
1492 must be in a form required by the department and provide for  
1493 indemnification of any owner, purchaser, or other claimant for  
1494 any expense, loss, delay, or damage, including reasonable  
1495 attorney fees and costs, but not including incidental or  
1496 consequential damages, resulting from creation or amendment of  
1497 the certificate.

1498 (4) Unless the department receives a claim for indemnity  
1499 not later than 1 year after creation of a certificate of title  
1500 under subsection (1), on request in a form and manner required  
1501 by the department, the department shall release any bond,  
1502 indemnity, or other security. The department is not liable to a  
1503 person or entity for creating a certificate of title under this  
1504 section when the department issues the certificate of title in  
1505 good faith based on the information provided by an applicant. An



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1506 applicant that submits erroneous or fraudulent information with  
1507 the intent to mislead the department into issuing a certificate  
1508 of title under this section is subject to the penalties  
1509 established in s. 328.045(4) in addition to any other criminal  
1510 or civil penalties provided by law.

1511 Section 23. Section 328.22, Florida Statutes, is created to  
1512 read:

1513 328.22 Transfer of ownership.—

1514 (1) On voluntary transfer of an ownership interest in a  
1515 vessel covered by a certificate of title, the following  
1516 requirements apply:

1517 (a) If the certificate is a written certificate of title  
1518 and the transferor's interest is noted on the certificate, the  
1519 transferor shall promptly sign the certificate and deliver it to  
1520 the transferee. If the transferor does not have possession of  
1521 the certificate, the person in possession of the certificate has  
1522 a duty to facilitate the transferor's compliance with this  
1523 paragraph. A secured party does not have a duty to facilitate  
1524 the transferor's compliance with this paragraph if the proposed  
1525 transfer is prohibited by the security agreement.

1526 (b) If the certificate of title is an electronic  
1527 certificate of title, the transferor shall promptly sign by  
1528 hand, or electronically if available, and deliver to the  
1529 transferee a record evidencing the transfer of ownership to the  
1530 transferee.

1531 (c) The transferee has a right enforceable by specific  
1532 performance to require the transferor to comply with paragraph  
1533 (a) or paragraph (b).

1534 (2) The creation of a certificate of title identifying the



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1535 transferee as owner of record satisfies subsection (1).

1536 (3) A failure to comply with subsection (1) or to apply for  
1537 a new certificate of title does not render a transfer of  
1538 ownership of a vessel ineffective between the parties. Except as  
1539 otherwise provided in s. 328.101, s. 328.14(1), s. 328.145, or  
1540 s. 328.23, a transfer of ownership without compliance with  
1541 subsection (1) is not effective against another person claiming  
1542 an interest in the vessel.

1543 (4) A transferor that complies with subsection (1) is not  
1544 liable as owner of the vessel for an event occurring after the  
1545 transfer, regardless of whether the transferee applies for a new  
1546 certificate of title.

1547 Section 24. Section 328.23, Florida Statutes, is created to  
1548 read:

1549 328.23 Transfer of ownership by secured party's transfer  
1550 statement.—

1551 (1) For the purposes of this section, "secured party's  
1552 transfer statement" means a record signed by the secured party  
1553 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 of  
1562 record and the secured party of record;

1563 (e) The name of the transferee;



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- 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.  
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  
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



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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 to  
1596 read:

1597 328.24 Transfer by operation of law.-

1598 (1) For the purposes of this section, "by operation of law"  
1599 means pursuant to a law or judicial order affecting ownership of  
1600 a vessel:

1601 (a) Because of death, divorce, or other family law  
1602 proceeding, merger, consolidation, dissolution, or bankruptcy;

1603 (b) Through the exercise of the rights of a lien creditor  
1604 or a person having a lien created by statute or rule of law; or

1605 (c) Through other legal process.

1606 (2) A transfer-by-law statement must contain:

1607 (a) The name and last known mailing address of the owner of  
1608 record and the transferee and the other information required by  
1609 s. 328.01;

1610 (b) Documentation sufficient to establish the transferee's  
1611 ownership interest or right to acquire the ownership interest;

1612 (c) A statement that:

1613 1. The certificate of title is an electronic certificate of  
1614 title;

1615 2. The transferee does not have possession of the written  
1616 certificate of title created in the name of the owner of record;  
1617 or

1618 3. The transferee is delivering the written certificate to  
1619 the department with the transfer-by-law statement; and

1620 (d) Except for a transfer described in paragraph (1) (a),  
1621 evidence that notification of the transfer and the intent to





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1622 file the transfer-by-law statement has been sent to all persons  
1623 indicated in the files of the department as having an interest,  
1624 including a security interest, in the vessel.

1625 (3) Unless the department rejects a transfer-by-law  
1626 statement for a reason stated in s. 328.09(3) or because the  
1627 statement does not include documentation satisfactory to the  
1628 department as to the transferee's ownership interest or right to  
1629 acquire the ownership interest, not later than 30 days after  
1630 delivery to the department of the statement and payment of fees  
1631 and taxes payable under the law of this state, other than this  
1632 part, in connection with the statement or with the acquisition  
1633 or use of the vessel, the department shall:

1634 (a) Accept the statement;

1635 (b) Amend the files of the department to reflect the  
1636 transfer; and

1637 (c) If the name of the owner whose ownership interest is  
1638 being transferred is indicated on the certificate of title:

1639 1. Cancel the certificate even if the certificate has not  
1640 been delivered to the department;

1641 2. Create a new certificate indicating the transferee as  
1642 owner;

1643 3. Indicate on the new certificate any security interest  
1644 indicated on the canceled certificate, unless a court order  
1645 provides otherwise; and

1646 4. Deliver the new certificate or a record evidencing an  
1647 electronic certificate.

1648 (4) This section does not apply to a transfer of an  
1649 interest in a vessel by a secured party under part VI of chapter  
1650 679.



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1651           Section 26. Section 328.25, Florida Statutes, is created to  
1652 read:

1653           328.25 Supplemental principles of law and equity.—Unless  
1654 displaced by a provision of this part, the principles of law and  
1655 equity supplement its provisions.

1656           Section 27. Section 328.41, Florida Statutes, is created to  
1657 read:

1658           328.41 Rulemaking.—The department may adopt rules pursuant  
1659 to ss. 120.536(1) and 120.54 to implement this part.

1660           Section 28. Section 409.2575, Florida Statutes, is amended  
1661 to read:

1662           409.2575 Liens on motor vehicles and vessels.—

1663           (1) The director of the state IV-D program, or the  
1664 director's designee, may cause a lien for unpaid and delinquent  
1665 support to be placed upon motor vehicles, as defined in chapter  
1666 320, and upon vessels, as defined in chapter 327, that are  
1667 registered in the name of an obligor who is delinquent in  
1668 support payments, if the title to the property is held by a  
1669 lienholder, in the manner provided in chapter 319 or, if  
1670 applicable in accordance with s. 328.15(9), chapter 328. Notice  
1671 of lien shall not be mailed unless the delinquency in support  
1672 exceeds \$600.

1673           (2) If the first lienholder fails, neglects, or refuses to  
1674 forward the certificate of title to the appropriate department  
1675 as requested pursuant to s. 319.24 or, if applicable in  
1676 accordance with s. 328.15(9), s. 328.15, the director of the IV-  
1677 D program, or the director's designee, may apply to the circuit  
1678 court for an order to enforce the requirements of s. 319.24 or  
1679 s. 328.15, whichever applies.



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1680 Section 29. Subsection (2) of section 705.103, Florida  
1681 Statutes, is amended to read:

1682 705.103 Procedure for abandoned or lost property.—

1683 (2) Whenever a law enforcement officer ascertains that an  
1684 article of lost or abandoned property is present on public  
1685 property and is of such nature that it cannot be easily removed,  
1686 the officer shall cause a notice to be placed upon such article  
1687 in substantially the following form:

1688

1689 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED  
1690 PROPERTY. This property, to wit: ...(setting forth brief  
1691 description)... is unlawfully upon public property known as  
1692 ...(setting forth brief description of location)... and must be  
1693 removed within 5 days; otherwise, it will be removed and  
1694 disposed of pursuant to chapter 705, Florida Statutes. The owner  
1695 will be liable for the costs of removal, storage, and  
1696 publication of notice. Dated this: ...(setting forth the date of  
1697 posting of notice)..., signed: ...(setting forth name, title,  
1698 address, and telephone number of law enforcement officer)....

1699 Such notice shall be not less than 8 inches by 10 inches and  
1700 shall be sufficiently weatherproof to withstand normal exposure  
1701 to the elements. In addition to posting, the law enforcement  
1702 officer shall make a reasonable effort to ascertain the name and  
1703 address of the owner. If such is reasonably available to the  
1704 officer, she or he shall mail a copy of such notice to the owner  
1705 on or before the date of posting. If the property is a motor  
1706 vehicle as defined in s. 320.01(1) or a vessel as defined in s.  
1707 327.02, the law enforcement agency shall contact the Department  
1708 of Highway Safety and Motor Vehicles in order to determine the



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1709 name and address of the owner and any person who has filed a  
1710 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)  
1711 ~~or s. 328.15(1)~~. On receipt of this information, the law  
1712 enforcement agency shall mail a copy of the notice by certified  
1713 mail, return receipt requested, to the owner and to the  
1714 lienholder, if any, except that a law enforcement officer who  
1715 has issued a citation for a violation of s. 823.11 to the owner  
1716 of a derelict vessel is not required to mail a copy of the  
1717 notice by certified mail, return receipt requested, to the  
1718 owner. If, at the end of 5 days after posting the notice and  
1719 mailing such notice, if required, the owner or any person  
1720 interested in the lost or abandoned article or articles  
1721 described has not removed the article or articles from public  
1722 property or shown reasonable cause for failure to do so, the  
1723 following shall apply:

1724 (a) For abandoned property, the law enforcement agency may  
1725 retain any or all of the property for its own use or for use by  
1726 the state or unit of local government, trade such property to  
1727 another unit of local government or state agency, donate the  
1728 property to a charitable organization, sell the property, or  
1729 notify the appropriate refuse removal service.

1730 (b) For lost property, the officer shall take custody and  
1731 the agency shall retain custody of the property for 90 days. The  
1732 agency shall publish notice of the intended disposition of the  
1733 property, as provided in this section, during the first 45 days  
1734 of this time period.

1735 1. If the agency elects to retain the property for use by  
1736 the unit of government, donate the property to a charitable  
1737 organization, surrender such property to the finder, sell the



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1738 property, or trade the property to another unit of local  
1739 government or state agency, notice of such election shall be  
1740 given by an advertisement published once a week for 2  
1741 consecutive weeks in a newspaper of general circulation in the  
1742 county where the property was found if the value of the property  
1743 is more than \$100. If the value of the property is \$100 or less,  
1744 notice shall be given by posting a description of the property  
1745 at the law enforcement agency where the property was turned in.  
1746 The notice must be posted for not less than 2 consecutive weeks  
1747 in a public place designated by the law enforcement agency. The  
1748 notice must describe the property in a manner reasonably  
1749 adequate to permit the rightful owner of the property to claim  
1750 it.

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



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1767 property in a manner reasonably adequate to permit the rightful  
1768 owner of the property to identify it.

1769 Section 30. Paragraph (c) of subsection (2) of section  
1770 721.08, Florida Statutes, is amended to read:

1771 721.08 Escrow accounts; nondisturbance instruments;  
1772 alternate security arrangements; transfer of legal title.-

1773 (2) One hundred percent of all funds or other property  
1774 which is received from or on behalf of purchasers of the  
1775 timeshare plan or timeshare interest prior to the occurrence of  
1776 events required in this subsection shall be deposited pursuant  
1777 to an escrow agreement approved by the division. The funds or  
1778 other property may be released from escrow only as follows:

1779 (c) *Compliance with conditions.-*

1780 1. Timeshare licenses.-If the timeshare plan is one in  
1781 which timeshare licenses are to be sold and no cancellation or  
1782 default has occurred, the escrow agent may release the escrowed  
1783 funds or other property to or on the order of the developer upon  
1784 presentation of:

1785 a. An affidavit by the developer that all of the following  
1786 conditions have been met:

1787 (I) Expiration of the cancellation period.

1788 (II) Completion of construction.

1789 (III) Closing.

1790 (IV) Either:

1791 (A) Execution, delivery, and recordation by each  
1792 interestholder of the nondisturbance and notice to creditors  
1793 instrument, as described in this section; or

1794 (B) Transfer by the developer of legal title to the subject  
1795 accommodations and facilities, or all use rights therein, into a



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1796 trust satisfying the requirements of subparagraph 4. and the  
1797 execution, delivery, and recordation by each other  
1798 interestholder of the nondisturbance and notice to creditors  
1799 instrument, as described in this section.

1800 b. A certified copy of each recorded nondisturbance and  
1801 notice to creditors instrument.

1802 c. One of the following:

1803 (I) A copy of a memorandum of agreement, as defined in s.  
1804 721.05, together with satisfactory evidence that the original  
1805 memorandum of agreement has been irretrievably delivered for  
1806 recording to the appropriate official responsible for  
1807 maintaining the public records in the county in which the  
1808 subject accommodations and facilities are located. The original  
1809 memorandum of agreement must be recorded within 180 days after  
1810 the date on which the purchaser executed her or his purchase  
1811 agreement.

1812 (II) A notice delivered for recording to the appropriate  
1813 official responsible for maintaining the public records in each  
1814 county in which the subject accommodations and facilities are  
1815 located notifying all persons of the identity of an independent  
1816 escrow agent or trustee satisfying the requirements of  
1817 subparagraph 4. that shall maintain separate books and records,  
1818 in accordance with good accounting practices, for the timeshare  
1819 plan in which timeshare licenses are to be sold. The books and  
1820 records shall indicate each accommodation and facility that is  
1821 subject to such a timeshare plan and each purchaser of a  
1822 timeshare license in the timeshare plan.

1823 2. Timeshare estates.—If the timeshare plan is one in which  
1824 timeshare estates are to be sold and no cancellation or default



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1825 has occurred, the escrow agent may release the escrowed funds or  
1826 other property to or on the order of the developer upon  
1827 presentation of:

1828 a. An affidavit by the developer that all of the following  
1829 conditions have been met:

1830 (I) Expiration of the cancellation period.

1831 (II) Completion of construction.

1832 (III) Closing.

1833 b. If the timeshare estate is sold by agreement for deed, a  
1834 certified copy of the recorded nondisturbance and notice to  
1835 creditors instrument, as described in this section.

1836 c. Evidence that each accommodation and facility:

1837 (I) Is free and clear of the claims of any interestholders,  
1838 other than the claims of interestholders that, through a  
1839 recorded instrument, are irrevocably made subject to the  
1840 timeshare instrument and the use rights of purchasers made  
1841 available through the timeshare instrument;

1842 (II) Is the subject of a recorded nondisturbance and notice  
1843 to creditors instrument that complies with subsection (3) and s.  
1844 721.17; or

1845 (III) Has been transferred into a trust satisfying the  
1846 requirements of subparagraph 4.

1847 d. Evidence that the timeshare estate:

1848 (I) Is free and clear of the claims of any interestholders,  
1849 other than the claims of interestholders that, through a  
1850 recorded instrument, are irrevocably made subject to the  
1851 timeshare instrument and the use rights of purchasers made  
1852 available through the timeshare instrument; or

1853 (II) Is the subject of a recorded nondisturbance and notice





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1854 to creditors instrument that complies with subsection (3) and s.  
1855 721.17.

1856 3. Personal property timeshare interests.—If the timeshare  
1857 plan is one in which personal property timeshare interests are  
1858 to be sold and no cancellation or default has occurred, the  
1859 escrow agent may release the escrowed funds or other property to  
1860 or on the order of the developer upon presentation of:

1861 a. An affidavit by the developer that all of the following  
1862 conditions have been met:

1863 (I) Expiration of the cancellation period.

1864 (II) Completion of construction.

1865 (III) Closing.

1866 b. If the personal property timeshare interest is sold by  
1867 agreement for transfer, evidence that the agreement for transfer  
1868 complies fully with s. 721.06 and this section.

1869 c. Evidence that one of the following has occurred:

1870 (I) Transfer by the owner of the underlying personal  
1871 property of legal title to the subject accommodations and  
1872 facilities or all use rights therein into a trust satisfying the  
1873 requirements of subparagraph 4.; or

1874 (II) Transfer by the owner of the underlying personal  
1875 property of legal title to the subject accommodations and  
1876 facilities or all use rights therein into an owners' association  
1877 satisfying the requirements of subparagraph 5.

1878 d. Evidence of compliance with the provisions of  
1879 subparagraph 6., if required.

1880 e. If a personal property timeshare plan is created with  
1881 respect to accommodations and facilities that are located on or  
1882 in an oceangoing vessel, including a "documented vessel" or a



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1883 "foreign vessel," as defined and governed by 46 U.S.C. chapter  
1884 301:

1885 (I) In making the transfer required in sub-subparagraph c.,  
1886 the developer shall use as its transfer instrument a document  
1887 that establishes and protects the continuance of the use rights  
1888 in the subject accommodations and facilities in a manner that is  
1889 enforceable by the trust or owners' association.

1890 (II) The transfer instrument shall comply fully with the  
1891 provisions of this chapter, shall be part of the timeshare  
1892 instrument, and shall contain specific provisions that:

1893 (A) Prohibit the vessel owner, the developer, any manager  
1894 or operator of the vessel, the owners' association or the  
1895 trustee, the managing entity, or any other person from incurring  
1896 any liens against the vessel except for liens that are required  
1897 for the operation and upkeep of the vessel, including liens for  
1898 fuel expenditures, repairs, crews' wages, and salvage, and  
1899 except as provided in sub-sub-subparagraphs 4.b.(III) and  
1900 5.b.(III). All expenses, fees, and taxes properly incurred in  
1901 connection with the creation, satisfaction, and discharge of any  
1902 such permitted lien, or a prorated portion thereof if less than  
1903 all of the accommodations on the vessel are subject to the  
1904 timeshare plan, shall be common expenses of the timeshare plan.

1905 (B) Grant a lien against the vessel in favor of the owners'  
1906 association or trustee to secure the full and faithful  
1907 performance of the vessel owner and developer of all of their  
1908 obligations to the purchasers.

1909 (C) Establish governing law in a jurisdiction that  
1910 recognizes and will enforce the timeshare instrument and the  
1911 laws of the jurisdiction of registry of the vessel.



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1912 (D) Require that a description of the use rights of  
1913 purchasers be posted and displayed on the vessel in a manner  
1914 that will give notice of such rights to any party examining the  
1915 vessel. This notice must identify the owners' association or  
1916 trustee and include a statement disclosing the limitation on  
1917 incurring liens against the vessel described in sub-sub-sub-  
1918 subparagraph (A).

1919 (E) Include the nondisturbance and notice to creditors  
1920 instrument for the vessel owner and any other interestholders.

1921 (F) The owners' association created under subparagraph 5.  
1922 or trustee created under subparagraph 4. shall have access to  
1923 any certificates of classification in accordance with the  
1924 timeshare instrument.

1925 (III) If the vessel is a foreign vessel, the vessel must be  
1926 registered in a jurisdiction that permits a filing evidencing  
1927 the use rights of purchasers in the subject accommodations and  
1928 facilities, offers protection for such use rights against  
1929 unfiled and inferior claims, and recognizes the document or  
1930 instrument creating such use rights as a lien against the  
1931 vessel.

1932 (IV) In addition to the disclosures required by s.  
1933 721.07(5), the public offering statement and purchase contract  
1934 must contain a disclosure in conspicuous type in substantially  
1935 the following form:

1936  
1937 *The laws of the State of Florida govern the offering of this*  
1938 *timeshare plan in this state. There are inherent risks in*  
1939 *purchasing a timeshare interest in this timeshare plan because*  
1940 *the accommodations and facilities of the timeshare plan are*



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1941 *located on a vessel that will sail into international waters and*  
1942 *into waters governed by many different jurisdictions. Therefore,*  
1943 *the laws of the State of Florida cannot fully protect your*  
1944 *purchase of an interest in this timeshare plan. Specifically,*  
1945 *management and operational issues may need to be addressed in*  
1946 *the jurisdiction in which the vessel is registered, which is*  
1947 *(insert jurisdiction in which vessel is registered). Concerns of*  
1948 *purchasers may be sent to (insert name of applicable regulatory*  
1949 *agency and address).*

1950

1951 4. Trust.—

1952 a. If the subject accommodations or facilities, or all use  
1953 rights therein, are to be transferred into a trust in order to  
1954 comply with this paragraph, such transfer shall take place  
1955 pursuant to this subparagraph. If the accommodations or  
1956 facilities included in such transfer are subject to a lease, the  
1957 unexpired term of the lease must be disclosed as the term of the  
1958 timeshare plan pursuant to s. 721.07(5)(f)4.

1959 b. Prior to the transfer of the subject accommodations and  
1960 facilities, or all use rights therein, to a trust, any lien or  
1961 other encumbrance against such accommodations and facilities, or  
1962 use rights therein, shall be made subject to a nondisturbance  
1963 and notice to creditors instrument pursuant to subsection (3).  
1964 No transfer pursuant to this subparagraph shall become effective  
1965 until the trustee accepts such transfer and the responsibilities  
1966 set forth herein. A trust established pursuant to this  
1967 subparagraph shall comply with the following provisions:

1968 (I) The trustee shall be an individual or a business entity  
1969 authorized and qualified to conduct trust business in this



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1970 state. Any corporation authorized to do business in this state  
1971 may act as trustee in connection with a timeshare plan pursuant  
1972 to this chapter. The trustee must be independent from any  
1973 developer or managing entity of the timeshare plan or any  
1974 interestholder of any accommodation or facility of such plan.

1975 (II) The trust shall be irrevocable so long as any  
1976 purchaser has a right to occupy any portion of the timeshare  
1977 property pursuant to the timeshare plan.

1978 (III) The trustee shall not convey, hypothecate, mortgage,  
1979 assign, lease, or otherwise transfer or encumber in any fashion  
1980 any interest in or portion of the timeshare property with  
1981 respect to which any purchaser has a right of use or occupancy  
1982 unless the timeshare plan is terminated pursuant to the  
1983 timeshare instrument, or such conveyance, hypothecation,  
1984 mortgage, assignment, lease, transfer, or encumbrance is  
1985 approved by a vote of two-thirds of all voting interests of the  
1986 timeshare plan. Subject to s. 721.552, a vote of the voting  
1987 interests of the timeshare plan is not required for substitution  
1988 or automatic deletion of accommodations or facilities.

1989 (IV) All purchasers of the timeshare plan or the owners'  
1990 association of the timeshare plan shall be the express  
1991 beneficiaries of the trust. The trustee shall act as a fiduciary  
1992 to the beneficiaries of the trust. The personal liability of the  
1993 trustee shall be governed by ss. 736.08125, 736.08163, 736.1013,  
1994 and 736.1015. The agreement establishing the trust shall set  
1995 forth the duties of the trustee. The trustee shall be required  
1996 to furnish promptly to the division upon request a copy of the  
1997 complete list of the names and addresses of the owners in the  
1998 timeshare plan and a copy of any other books and records of the



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1999 timeshare plan required to be maintained pursuant to s. 721.13  
2000 that are in the possession, custody, or control of the trustee.  
2001 All expenses reasonably incurred by the trustee in the  
2002 performance of its duties, together with any reasonable  
2003 compensation of the trustee, shall be common expenses of the  
2004 timeshare plan.

2005 (V) The trustee shall not resign upon less than 90 days'  
2006 prior written notice to the managing entity and the division. No  
2007 resignation shall become effective until a substitute trustee,  
2008 approved by the division, is appointed by the managing entity  
2009 and accepts the appointment.

2010 (VI) The documents establishing the trust arrangement shall  
2011 constitute a part of the timeshare instrument.

2012 (VII) For trusts holding property in a timeshare plan  
2013 located outside this state, the trust and trustee holding such  
2014 property shall be deemed in compliance with the requirements of  
2015 this subparagraph if such trust and trustee are authorized and  
2016 qualified to conduct trust business under the laws of such  
2017 jurisdiction and the agreement or law governing such trust  
2018 arrangement provides substantially similar protections for the  
2019 purchaser as are required in this subparagraph for trusts  
2020 holding property in a timeshare plan in this state.

2021 (VIII) The trustee shall have appointed a registered agent  
2022 in this state for service of process. In the event such a  
2023 registered agent is not appointed, service of process may be  
2024 served pursuant to s. 721.265.

2025 5. Owners' association.—

2026 a. If the subject accommodations or facilities, or all use  
2027 rights therein, are to be transferred into an owners'



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2028 association in order to comply with this paragraph, such  
2029 transfer shall take place pursuant to this subparagraph.

2030       b. Before the transfer of the subject accommodations and  
2031 facilities, or all use rights therein, to an owners'  
2032 association, any lien or other encumbrance against such  
2033 accommodations and facilities, or use rights therein, shall be  
2034 made subject to a nondisturbance and notice to creditors  
2035 instrument pursuant to subsection (3). No transfer pursuant to  
2036 this subparagraph shall become effective until the owners'  
2037 association accepts such transfer and the responsibilities set  
2038 forth herein. An owners' association established pursuant to  
2039 this subparagraph shall comply with the following provisions:

2040       (I) The owners' association shall be a business entity  
2041 authorized and qualified to conduct business in this state.  
2042 Control of the board of directors of the owners' association  
2043 must be independent from any developer or managing entity of the  
2044 timeshare plan or any interestholder.

2045       (II) The bylaws of the owners' association shall provide  
2046 that the corporation may not be voluntarily dissolved without  
2047 the unanimous vote of all owners of personal property timeshare  
2048 interests so long as any purchaser has a right to occupy any  
2049 portion of the timeshare property pursuant to the timeshare  
2050 plan.

2051       (III) The owners' association shall not convey,  
2052 hypothecate, mortgage, assign, lease, or otherwise transfer or  
2053 encumber in any fashion any interest in or portion of the  
2054 timeshare property with respect to which any purchaser has a  
2055 right of use or occupancy, unless the timeshare plan is  
2056 terminated pursuant to the timeshare instrument, or unless such



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2057 conveyance, hypothecation, mortgage, assignment, lease,  
2058 transfer, or encumbrance is approved by a vote of two-thirds of  
2059 all voting interests of the association and such decision is  
2060 declared by a court of competent jurisdiction to be in the best  
2061 interests of the purchasers of the timeshare plan. The owners'  
2062 association shall notify the division in writing within 10 days  
2063 after receiving notice of the filing of any petition relating to  
2064 obtaining such a court order. The division shall have standing  
2065 to advise the court of the division's interpretation of the  
2066 statute as it relates to the petition.

2067 (IV) All purchasers of the timeshare plan shall be members  
2068 of the owners' association and shall be entitled to vote on  
2069 matters requiring a vote of the owners' association as provided  
2070 in this chapter or the timeshare instrument. The owners'  
2071 association shall act as a fiduciary to the purchasers of the  
2072 timeshare plan. The articles of incorporation establishing the  
2073 owners' association shall set forth the duties of the owners'  
2074 association. All expenses reasonably incurred by the owners'  
2075 association in the performance of its duties, together with any  
2076 reasonable compensation of the officers or directors of the  
2077 owners' association, shall be common expenses of the timeshare  
2078 plan.

2079 (V) The documents establishing the owners' association  
2080 shall constitute a part of the timeshare instrument.

2081 (VI) For owners' associations holding property in a  
2082 timeshare plan located outside this state, the owners'  
2083 association holding such property shall be deemed in compliance  
2084 with the requirements of this subparagraph if such owners'  
2085 association is authorized and qualified to conduct owners'





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2086 association business under the laws of such jurisdiction and the  
2087 agreement or law governing such arrangement provides  
2088 substantially similar protections for the purchaser as are  
2089 required in this subparagraph for owners' associations holding  
2090 property in a timeshare plan in this state.

2091 (VII) The owners' association shall have appointed a  
2092 registered agent in this state for service of process. In the  
2093 event such a registered agent cannot be located, service of  
2094 process may be made pursuant to s. 721.265.

2095 6. Personal property subject to certificate of title.—If  
2096 any personal property that is an accommodation or facility of a  
2097 timeshare plan is subject to a certificate of title in this  
2098 state pursuant to chapter 319 or chapter 328, the following  
2099 notation must be made on such certificate of title pursuant to  
2100 s. 319.27(1) or s. 328.15 ~~s. 328.15(1)~~:

2101  
2102 *The further transfer or encumbrance of the property subject to*  
2103 *this certificate of title, or any lien or encumbrance thereon,*  
2104 *is subject to the requirements of section 721.17, Florida*  
2105 *Statutes, and the transferee or lienor agrees to be bound by all*  
2106 *of the obligations set forth therein.*

2107  
2108 7. If the developer has previously provided a certified  
2109 copy of any document required by this paragraph, she or he may  
2110 for all subsequent disbursements substitute a true and correct  
2111 copy of the certified copy, provided no changes to the document  
2112 have been made or are required to be made.

2113 8. In the event that use rights relating to an  
2114 accommodation or facility are transferred into a trust pursuant



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2115 to subparagraph 4. or into an owners' association pursuant to  
2116 subparagraph 5., all other interestholders, including the owner  
2117 of the underlying fee or underlying personal property, must  
2118 execute a nondisturbance and notice to creditors instrument  
2119 pursuant to subsection (3).

2120 Section 31. (1) The rights, duties, and interests flowing  
2121 from a transaction, certificate of title, or record relating to  
2122 a vessel which was validly entered into or created before the  
2123 effective date of this act and would be subject to this act if  
2124 it had been entered into or created on or after the effective  
2125 date of this act remain valid on and after the effective date of  
2126 this act.

2127 (2) This act does not affect an action or a proceeding  
2128 commenced before the effective date of this act.

2129 (3) Except as otherwise provided in subsection (4), a  
2130 security interest that is enforceable immediately before the  
2131 effective date of this act and would have priority over the  
2132 rights of a person who becomes a lien creditor at that time is a  
2133 perfected security interest under this act.

2134 (4) A security interest perfected immediately before the  
2135 effective date of this act remains perfected until the earlier  
2136 of:

2137 (a) The time perfection would have ceased under the law  
2138 under which the security interest was perfected; or

2139 (b) Three years after the effective date of this act.

2140 (5) This act does not affect the priority of a security  
2141 interest in a vessel if immediately before the effective date of  
2142 this act the security interest is enforceable and perfected, and  
2143 that priority is established.



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2144           Section 32. Subject to section 25, this act applies to any  
2145 transaction, certificate of title, or record relating to a  
2146 vessel, even if the transaction, certificate of title, or record  
2147 was entered into or created before the effective date of this  
2148 act.

2149           Section 33. This act shall take effect July 1, 2023.