

By Senator Hooper

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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.; defining terms; amending  
5       s. 328.01, F.S.; revising requirements for application  
6       for, and information to be included in, a certificate  
7       of title for a vessel; creating s. 328.015, F.S.;  
8       requiring the Department of Highway Safety and Motor  
9       Vehicles to retain certain information relating to  
10      ownership and titling of vessels; requiring the  
11      department to furnish certain information upon  
12      request; creating s. 328.02, F.S.; providing that  
13      local law governs all issues relating to a certificate  
14      of title; specifying when a vessel becomes covered by  
15      such certificate; amending s. 328.03, F.S.; requiring  
16      a vessel owner to deliver an application for a  
17      certificate of title to the department by a specified  
18      time; revising circumstances under which a vessel must  
19      be titled by this state; providing requirements for  
20      issuing, transferring, or renewing the number of an  
21      undocumented vessel issued under certain federal  
22      provisions; deleting provisions relating to operation,  
23      use, or storage of a vessel; deleting provisions  
24      relating to selling, assigning, or transferring a  
25      vessel; specifying that a certificate of title is  
26      prima facie evidence of the accuracy of the  
27      information in the record that constitutes the  
28      certificate; creating s. 328.04, F.S.; providing  
29      requirements for the content of a certificate of

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30 title; creating s. 328.045, F.S.; providing the  
31 respective responsibilities of an owner and insurer of  
32 a hull-damaged vessel when transferring an ownership  
33 interest in the vessel; requiring the department to  
34 create a new certificate of title indicating such  
35 damage; providing a civil penalty; creating s.  
36 328.055, F.S.; requiring the department to maintain  
37 certain information in its files and to provide  
38 certain information to governmental entities;  
39 specifying that certain information is a public  
40 record; creating s. 328.06, F.S.; providing  
41 responsibilities of the department when creating a  
42 certificate of title; creating s. 328.065, F.S.;

43 specifying effect of possession of a certificate of  
44 title; providing construction; amending s. 328.09,  
45 F.S.; providing duties of the department relating to  
46 creation, issuance, refusal to issue, or cancellation  
47 of a certificate of title; providing for a hearing;  
48 creating s. 328.101, F.S.; specifying that a  
49 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 the  
54 determination and the perfection of a security  
55 interest in a vessel; providing applicability;  
56 requiring the department to adopt rules; creating s.  
57 328.125, F.S.; providing requirements for the delivery  
58 of a statement of termination of a security interest;

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59 providing duties of the department; providing  
60 liability for noncompliance; creating s. 328.14, F.S.;  
61 providing for the rights of a purchaser of a vessel  
62 who is not a secured party; creating s. 328.145, F.S.;  
63 providing for the rights of a secured party; amending  
64 s. 328.15, F.S.; deleting certain provisions relating  
65 to notice of a lien; providing for future repeal of  
66 certain provisions; amending ss. 328.16 and 328.165,  
67 F.S.; conforming provisions to changes made by the  
68 act; creating s. 328.215, F.S.; specifying  
69 circumstances under which the department may create a  
70 new certificate of title after receipt of an  
71 application for a transfer of ownership or termination  
72 of a security interest unaccompanied by a certificate  
73 of title; authorizing the department to indicate  
74 certain information on the new certificate;  
75 authorizing the department to require a bond,  
76 indemnity, or other security under certain  
77 circumstances; providing for the release of such bond,  
78 indemnity, or other security; creating s. 328.22,  
79 F.S.; providing rules for the transfer of ownership in  
80 a vessel; providing effect of noncompliance; creating  
81 s. 328.23, F.S.; defining the term "secured party's  
82 transfer statement"; providing duties of the  
83 department upon receipt of a secured party's transfer  
84 statement; providing construction; creating s. 328.24,  
85 F.S.; defining the term "by operation of law";  
86 providing requirements for a transfer of ownership by  
87 operation of law; providing duties of the department;

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88 providing applicability; creating s. 328.25, F.S.;

89 providing that the principles and law of equity

90 supplement the provisions of the act; amending ss.

91 409.2575, 705.103, and 721.08, F.S.; conforming

92 provisions and cross-references to changes made by the

93 act; providing construction and applicability

94 regarding transactions, certificates of title, and

95 records entered into or created, actions or

96 proceedings commenced, and security interests

97 perfected before the effective date of the act;

98 providing applicability; providing an effective date.

99

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

101

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

103 read:

104 328.001 Short title.—This part may be cited as the “Uniform

105 Certificate of Title for Vessels Act.”

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

107 to read:

108 328.0015 Definitions.—

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

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

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

112 (b) “Builder’s certificate” means a certificate of the

113 facts of the build of a vessel as described in 46 C.F.R. s.

114 67.99.

115 (c) “Buyer” means a person who buys or contracts to buy a

116 vessel.

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

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

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

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

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

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

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

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

143 (l) "Foreign-documented vessel" means a vessel of which the  
144 ownership is recorded in a registry maintained by a country  
145 other than the United States which identifies each person who

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146 has an ownership interest in a vessel and includes a unique  
147 alphanumeric designation for the vessel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

193 (y) "Security interest" means an interest in a vessel which  
194 secures payment or performance of an obligation if the interest  
195 is created by contract or arises under s. 672.401, s. 672.505,  
196 s. 672.711(3), or s. 680.508(5). The term includes any interest  
197 of a consignor in a vessel in a transaction that is subject to  
198 chapter 679. The term does not include the special property  
199 interest of a buyer of a vessel on identification of that vessel  
200 to a contract for sale under s. 672.501, but a buyer also may  
201 acquire a security interest by complying with chapter 679.  
202 Except as otherwise provided in s. 672.505, the right of a  
203 seller or lessor of a vessel under chapter 672 or chapter 680 to

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

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

214 1. Make or adopt a tangible symbol; or

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

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

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

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

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

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



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- 233       1. A seaplane.
- 234       2. An amphibious vehicle for which a certificate of title  
235 is issued pursuant to chapter 319 or a similar statute of  
236 another state.
- 237       3. Watercraft less than 16 feet in length and propelled  
238 solely by sail, paddle, oar, or an engine of less than 10  
239 horsepower.
- 240       4. Watercraft that operate only on a permanently fixed,  
241 manufactured course and the movement of which is restricted to  
242 or guided by means of a mechanical device to which the  
243 watercraft is attached or by which the watercraft is controlled.
- 244       5. A stationary floating structure that:
- 245       a. Does not have and is not designed to have a mode of  
246 propulsion of its own;
- 247       b. Is dependent for utilities upon a continuous utility  
248 hookup to a source originating on shore; and
- 249       c. Has a permanent, continuous hookup to a shoreside sewage  
250 system.
- 251       6. Watercraft owned by the United States, a state, or a  
252 foreign government or a political subdivision of the United  
253 States, a state, or a foreign government.
- 254       7. Watercraft used solely as a lifeboat on another  
255 watercraft.
- 256       (ff) "Vessel number" means the alphanumeric designation for  
257 a vessel issued pursuant to 46 U.S.C. s. 12301.
- 258       (gg) "Written certificate of title" means a certificate of  
259 title consisting of information inscribed on a tangible medium.
- 260       (2) The following definitions and terms also apply to this  
261 part:

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- 262       (a) "Agreement" as defined in s. 671.201(3).  
263       (b) "Buyer in ordinary course of business" as defined in s.  
264 671.201(9).  
265       (c) "Conspicuous" as defined in s. 671.201(10).  
266       (d) "Consumer goods" as defined in s. 679.1021(1)(w).  
267       (e) "Debtor" as defined in s. 679.1021(1)(bb).  
268       (f) "Knowledge" as defined in s. 671.209.  
269       (g) "Lease" as defined in s. 680.1031(1)(j).  
270       (h) "Lessor" as defined in 680.1031(1)(p).  
271       (i) "Notice" as defined s. 671.209.  
272       (j) "Representative" as defined in s. 671.201(36).  
273       (k) "Sale" as defined in s. 672.106(1).  
274       (l) "Security agreement" as defined in s. 679.1021(1)(uuu).  
275       (m) "Seller" as defined in s. 672.103(1)(d).  
276       (n) "Send" as defined in s. 671.201(39).  
277       (o) "Value" as defined in s. 671.211.

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

280       328.01 Application for certificate of title.—

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

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

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

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

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

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

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

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

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

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

305 4. The overall length of the vessel;

306 5. The vessel type;

307 6. The hull material;

308 7. The propulsion type;

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

310 9. The fuel type, if any;

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

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

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

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

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

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

329 (3) In addition to the information required by subsection  
330 (2), an application for a certificate of title may contain an  
331 electronic communication address of the owner, transferor, or  
332 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 that is signed by the owner  
337 shown on the certificate and that:

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 which identifies the applicant as  
345 the owner;

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 which identifies the

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

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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~~

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~~

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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~~  
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~~

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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~~  
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~~



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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~~  
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~~

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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

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

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

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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 by or  
572 the submission was accepted by the department. A request under  
573 this section must contain the hull identification number and be  
574 delivered by means 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:

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,

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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:

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

609 (1) The local law of the jurisdiction under whose

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610 certificate of title a vessel is covered governs all issues  
611 relating to the certificate from the time the vessel becomes  
612 covered by the certificate until the vessel becomes covered by  
613 another certificate or becomes a documented vessel, even if no  
614 other relationship exists between the jurisdiction and the  
615 vessel or its 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 20 days after the later of:

631 (a) The date of a transfer of ownership.

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;

636 (b) A foreign-documented vessel;

637 (c) A barge;

638 (d) A vessel before delivery if the vessel is under

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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 certificate of number for a vessel issued pursuant to the  
665 requirements of 46 U.S.C. s. 12301, unless the department has  
666 created a certificate of title for the vessel or an application  
667 for a certificate for the vessel and the applicable fee have

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668 been delivered to the 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 20-day ~~30-day~~ period. The county tax  
689 collector shall be entitled to retain \$5 of the additional  
690 amount.

691 (5)~~(4)~~ A certificate of title is prima facie evidence of  
692 the accuracy of the information in the record that constitutes  
693 the certificate and of the ownership of the vessel. A  
694 certificate of title is good for the life of the vessel so long  
695 as the certificate is owned or held by the legal holder. If a  
696 titled vessel is destroyed or abandoned, the owner, with the



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

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

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

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

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

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

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

731 328.04 Content of certificate of title.—

732 (1) A certificate of title must contain:

733 (a) The date the certificate was created;

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

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

738 (d) The hull identification number;

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

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

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

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

752 (3) For each title brand indicated on a certificate of  
753 title, the certificate must identify the jurisdiction under  
754 whose law the title brand was created or the jurisdiction that

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

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

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

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

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

777 328.045 Title brands.—

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

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

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

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

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

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

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

811 328.055 Maintenance of and access to files.—

812 (1) For each record relating to a certificate of title

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813 submitted to the department, the department shall:

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

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

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

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

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

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

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

841 (5) Except as otherwise provided by the laws of this state

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842 other than this part, the information required under s. 328.04  
843 is a public record.

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

846 328.06 Action required on creation of certificate of  
847 title.—

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

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

864 (3) Before the department creates an electronic certificate  
865 of title, any written certificate for the vessel must be  
866 surrendered to the department. If the department creates an  
867 electronic certificate, the department must destroy or otherwise  
868 cancel the written certificate for the vessel which has been  
869 surrendered to the department and maintain in the department's  
870 files the date and time of destruction or other cancellation. If

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871 a written certificate being canceled is not destroyed, the  
872 department shall indicate on the face of the certificate that it  
873 has been canceled.

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

876 328.065 Effect of possession of certificate of title;  
877 judicial process.—Possession of a certificate of title does not  
878 by itself provide a right to obtain possession of a vessel.  
879 Garnishment, attachment, levy, replevin, or other judicial  
880 process against the certificate is not effective to determine  
881 possessory rights to the vessel. This part does not prohibit  
882 enforcement under the laws of this state of a security interest  
883 in, levy on, or foreclosure of a statutory or common-law lien on  
884 a vessel. Absence of an indication of a statutory or common-law  
885 lien on a certificate does not invalidate the lien.

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

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

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

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

897 (2) If the department creates electronic certificates of  
898 title, the department shall create an electronic certificate  
899 unless in the application the secured party of record or, if

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900 none, the owner of record requests that the department create a  
901 written certificate.

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

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

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

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

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

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

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

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

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

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

925 (6) The department shall provide an opportunity for a  
926 hearing pursuant to ss. 120.569 and 120.57 at which the owner  
927 and any other interested party may present evidence in support  
928 of or opposition to cancellation of a certificate of title.



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

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

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

938 328.11 Duplicate certificate of title.—

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

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

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

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

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958 certificate of title.

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

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

974 ~~(3) If, following the issuance of an original, duplicate,~~  
975 ~~or corrected certificate of title by the department, the~~  
976 ~~certificate is lost in transit and is not delivered to the~~  
977 ~~addressee, the owner of the vessel or the holder of a lien~~  
978 ~~thereon may, within 180 days after the date of issuance of the~~  
979 ~~title, apply to the department for reissuance of the certificate~~  
980 ~~of title. An additional fee may not be charged for reissuance~~  
981 ~~under this subsection.~~

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

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

989 328.12 Perfection of security interest.-

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

997 (2) If the interest of a person named as owner, lessor,  
998 consignor, or bailor in an application for a certificate of  
999 title delivered to the department is a security interest, the  
1000 application sufficiently identifies the person as a secured  
1001 party. Identification on the application for a certificate of a  
1002 person as owner, lessor, consignor, or bailor is not by itself a  
1003 factor in determining whether the person's interest is a  
1004 security interest.

1005 (3) If the department has created a certificate of title  
1006 for a vessel, a security interest in the vessel may be perfected  
1007 by delivery to the department of an application, on a form the  
1008 department may require, to have the security interest added to  
1009 the certificate. The application must be signed by an owner of  
1010 the vessel or by the secured party and must include:

1011 (a) The name of the owner of record;

1012 (b) The name and mailing address of the secured party;

1013 (c) The hull identification number for the vessel; and

1014 (d) If the department has created a written certificate of  
1015 title for the vessel, the certificate.

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1016 (4) A security interest perfected under subsection (3) is  
1017 perfected on the later of delivery to the department of the  
1018 application and all applicable fees or attachment of the  
1019 security interest under s. 679.2031.

1020 (5) Upon delivery of an application that complies with  
1021 subsection (3) and payment of all applicable fees, the  
1022 department shall create a new certificate of title pursuant to  
1023 s. 328.09 and deliver the new certificate or a record evidencing  
1024 an electronic certificate pursuant to s. 328.06. The department  
1025 shall maintain in the department's files the date and time of  
1026 delivery of the application to the department.

1027 (6) If a secured party assigns a perfected security  
1028 interest in a vessel, the receipt by the department of a  
1029 statement providing the name of the assignee as secured party is  
1030 not required to continue the perfected status of the security  
1031 interest against creditors of and transferees from the original  
1032 debtor. A purchaser of a vessel subject to a security interest  
1033 who obtains a release from the secured party indicated in the  
1034 files of the department or on the certificate takes free of the  
1035 security interest and of the rights of a transferee unless the  
1036 transfer is indicated in the files of the department or on the  
1037 certificate.

1038 (7) This section does not apply to a security interest:

1039 (a) Created in a vessel by a person during any period in  
1040 which the vessel is inventory held for sale or lease by the  
1041 person or is leased by the person as lessor if the person is in  
1042 the business of selling vessels;

1043 (b) In a barge for which no application for a certificate  
1044 of title has been delivered to the department; or

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1045 (c) In a vessel before delivery if the vessel is under  
1046 construction, or completed, pursuant to contract and for which  
1047 no application for a certificate has been delivered to the  
1048 department.

1049 (8) This subsection applies if a certificate of  
1050 documentation for a documented vessel is deleted or canceled. If  
1051 a security interest in the vessel was valid immediately before  
1052 deletion or cancellation against a third party as a result of  
1053 compliance with 46 U.S.C. s. 31321, the security interest is and  
1054 remains perfected until the earlier of 4 months after  
1055 cancellation of the certificate or the time the security  
1056 interest becomes perfected under this part.

1057 (9) A security interest in a vessel arising under s.  
1058 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is  
1059 perfected when it attaches, but becomes unperfected when the  
1060 debtor obtains possession of the vessel, unless the security  
1061 interest is perfected pursuant to subsection (1) or subsection  
1062 (3) before the debtor obtains possession.

1063 (10) A security interest in a vessel as proceeds of other  
1064 collateral is perfected to the extent provided in s. 679.3151.

1065 (11) A security interest in a vessel perfected under the  
1066 law of another jurisdiction is perfected to the extent provided  
1067 in s. 679.3161(4).

1068 (12) The department shall adopt rules to administer this  
1069 section.

1070 Section 16. Section 328.125, Florida Statutes, is created  
1071 to read:

1072 328.125 Termination statement.—

1073 (1) A secured party indicated in the department's files as

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1074 having a security interest in a vessel shall deliver a  
1075 termination statement to the department and, on the debtor's  
1076 request, to the debtor, by the earlier of:

1077 (a) Twenty days after the secured party receives a signed  
1078 demand from an owner for a termination statement and there is no  
1079 obligation secured by the vessel subject to the security  
1080 interest and no commitment to make an advance, incur an  
1081 obligation, or otherwise give value secured by the vessel; or

1082 (b) If the vessel is consumer goods, 30 days after there is  
1083 no obligation secured by the vessel and no commitment to make an  
1084 advance, incur an obligation, or otherwise give value secured by  
1085 the vessel.

1086 (2) If a written certificate of title has been created and  
1087 delivered to a secured party and a termination statement is  
1088 required under subsection (1), the secured party, not later than  
1089 the date required by subsection (1), shall deliver the  
1090 certificate to the debtor or to the department with the  
1091 statement. If the certificate is lost, stolen, mutilated,  
1092 destroyed, or is otherwise unavailable or illegible, the secured  
1093 party shall deliver with the statement, not later than the date  
1094 required by subsection (1), an application for a duplicate  
1095 certificate which meets the requirements of s. 328.11.

1096 (3) Upon delivery to the department of a termination  
1097 statement authorized by the secured party, the security interest  
1098 to which the statement relates ceases to be perfected. If the  
1099 security interest to which the statement relates is indicated on  
1100 the certificate of title, the department shall create a new  
1101 certificate and deliver the new certificate or a record  
1102 evidencing an electronic certificate. The department shall

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1103 maintain in its files the date and time of delivery to the  
1104 department of the statement.

1105 (4) A secured party who fails to comply with this section  
1106 is liable for any loss that the secured party had reason to know  
1107 might result from its failure to comply and which could not  
1108 reasonably have been prevented and for the cost of an  
1109 application for a certificate of title under s. 328.01 or s.  
1110 328.11.

1111 Section 17. Section 328.14, Florida Statutes, is created to  
1112 read:

1113 328.14 Rights of purchaser other than secured party.-

1114 (1) A buyer in ordinary course of business has the  
1115 protections afforded by ss. 672.403(2) and 679.320(1), even if  
1116 an existing certificate of title was not signed and delivered to  
1117 the buyer or a new certificate listing the buyer as owner of  
1118 record was not created.

1119 (2) Except as otherwise provided in ss. 328.145 and 328.22,  
1120 the rights of a purchaser of a vessel who is not a buyer in  
1121 ordinary course of business or a lien creditor are governed by  
1122 the Uniform Commercial Code.

1123 Section 18. Section 328.145, Florida Statutes, is created  
1124 to read:

1125 328.145 Rights of secured party.-

1126 (1) Subject to subsection (2), the effect of perfection and  
1127 nonperfection of a security interest and the priority of a  
1128 perfected or unperfected security interest with respect to the  
1129 rights of a purchaser or creditor, including a lien creditor, is  
1130 governed by the Uniform Commercial Code.

1131 (2) If, while a security interest in a vessel is perfected

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1132 by any method under this part, the department creates a  
 1133 certificate of title that does not indicate that the vessel is  
 1134 subject to the security interest or contain a statement that it  
 1135 may be subject to security interests not indicated on the  
 1136 certificate:

1137 (a) A buyer of the vessel, other than a person in the  
 1138 business of selling or leasing vessels of that kind, takes free  
 1139 of the security interest if the buyer, acting in good faith and  
 1140 without knowledge of the security interest, gives value and  
 1141 receives possession of the vessel; and

1142 (b) The security interest is subordinate to a conflicting  
 1143 security interest in the vessel that is perfected under s.  
 1144 328.12 after creation of the certificate and without the  
 1145 conflicting secured party's knowledge of the security interest.

1146 Section 19. Section 328.15, Florida Statutes, is amended to  
 1147 read:

1148 328.15 Notice of lien on vessel; recording.-

1149 ~~(1) No lien for purchase money or as security for a debt in~~  
 1150 ~~the form of retain title contract, conditional bill of sale,~~  
 1151 ~~chattel mortgage, or otherwise on a vessel shall be enforceable~~  
 1152 ~~in any of the courts of this state against creditors or~~  
 1153 ~~subsequent purchasers for a valuable consideration and without~~  
 1154 ~~notice unless a sworn notice of such lien is recorded. The lien~~  
 1155 ~~certificate shall contain the following information:~~

1156 ~~(a) Name and address of the registered owner;~~

1157 ~~(b) Date of lien;~~

1158 ~~(c) Description of the vessel to include make, type, motor~~  
 1159 ~~and serial number; and~~

1160 ~~(d) Name and address of lienholder.~~



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1161  
1162 ~~The lien shall be recorded by the Department of Highway Safety~~  
1163 ~~and Motor Vehicles and shall be effective as constructive notice~~  
1164 ~~when filed. The date of filing of the notice of lien is the date~~  
1165 ~~of its receipt by the department's central office in~~  
1166 ~~Tallahassee, if first filed there, or otherwise by the office of~~  
1167 ~~a county tax collector or of the tax collector's agent.~~

1168 ~~(2) (a) The Department of Highway Safety and Motor Vehicles~~  
1169 ~~shall not enter any lien upon its lien records, whether it is a~~  
1170 ~~first lien or a subordinate lien, unless the official~~  
1171 ~~certificate of title issued for the vessel is furnished with the~~  
1172 ~~notice of lien, so that the record of lien, whether original or~~  
1173 ~~subordinate, may be noted upon the face thereof. After the~~  
1174 ~~department records the lien, it shall send the certificate of~~  
1175 ~~title to the holder of the first lien who shall hold such~~  
1176 ~~certificate until the lien is satisfied in full.~~

1177 ~~(b) When a vessel is registered in the names of two or more~~  
1178 ~~persons as coowners in the alternative by the use of the word~~  
1179 ~~"or," whether or not the coowners are husband and wife, each~~  
1180 ~~coowner is considered to have granted to any other coowner the~~  
1181 ~~absolute right to place a lien or encumbrance on the vessel, and~~  
1182 ~~the signature of one coowner constitutes proper execution of the~~  
1183 ~~notice of lien. When a vessel is registered in the names of two~~  
1184 ~~or more persons as coowners in the conjunctive by the use of the~~  
1185 ~~word "and," the signature of each coowner is required in order~~  
1186 ~~to place a lien or encumbrance on the vessel.~~

1187 ~~(c) If the owner of the vessel as shown on the title~~  
1188 ~~certificate or the director of the state child support~~  
1189 ~~enforcement program desires to place a second or subsequent lien~~

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1190 or encumbrance against the vessel when the title certificate is  
1191 in the possession of the first lienholder, the owner shall send  
1192 a written request to the first lienholder by certified mail and  
1193 such first lienholder shall forward the certificate to the  
1194 department for endorsement. The department shall return the  
1195 certificate to the first lienholder, as indicated in the notice  
1196 of lien filed by the first lienholder, after endorsing the  
1197 second or subsequent lien on the certificate and on the  
1198 duplicate. If the first lienholder fails, neglects, or refuses  
1199 to forward the certificate of title to the department within 10  
1200 days after the date of the owner's or the director's request,  
1201 the department, on written request of the subsequent lienholder  
1202 or an assignee thereof, shall demand of the first lienholder the  
1203 return of such certificate for the notation of the second or  
1204 subsequent lien or encumbrance.

1205 (1)~~(3)~~ Upon the payment of a ~~any~~ such lien, the debtor or  
1206 the registered owner of the motorboat shall be entitled to  
1207 demand and receive from the lienholder a satisfaction of the  
1208 lien which shall likewise be filed with the Department of  
1209 Highway Safety and Motor Vehicles.

1210 (2)~~(4)~~ The Department of Highway Safety and Motor Vehicles  
1211 under precautionary rules and regulations to be promulgated by  
1212 it may permit the use, in substitution of the formal  
1213 satisfaction of lien, of other methods of satisfaction, such as  
1214 perforation, appropriate stamp, or otherwise, as it deems  
1215 reasonable and adequate.

1216 (3)~~(5)~~(a) The Department of Highway Safety and Motor  
1217 Vehicles shall adopt rules to administer this section. The  
1218 department may by rule require that a notice of satisfaction of

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1219 a lien be notarized. The department shall prepare the forms of  
1220 the notice of lien and the satisfaction of lien to be supplied,  
1221 at a charge not to exceed 50 percent more than cost, to  
1222 applicants for recording the liens or satisfactions and shall  
1223 keep a record of such notices of lien and satisfactions  
1224 available for inspection by the public at all reasonable times.  
1225 The division may furnish certified copies of such satisfactions  
1226 for a fee of \$1, which are admissible in evidence in all courts  
1227 of this state under the same conditions and to the same effect  
1228 as certified copies of other public records.

1229 (b) The department shall establish and administer an  
1230 electronic titling program that requires the recording of vessel  
1231 title information for new, transferred, and corrected  
1232 certificates of title. Lienholders shall electronically transmit  
1233 liens and lien satisfactions to the department in a format  
1234 determined by the department. Individuals and lienholders who  
1235 the department determines are not normally engaged in the  
1236 business or practice of financing vessels are not required to  
1237 participate in the electronic titling program.

1238 ~~(6) The Department of Highway Safety and Motor Vehicles is~~  
1239 ~~entitled to a fee of \$1 for the recording of each notice of~~  
1240 ~~lien. No fee shall be charged for recording the satisfaction of~~  
1241 ~~a lien. All of the fees collected shall be paid into the Marine~~  
1242 ~~Resources Conservation Trust Fund.~~

1243 (4)~~(7)~~(a) Should any person, firm, or corporation holding  
1244 such lien, which has been recorded by the Department of Highway  
1245 Safety and Motor Vehicles, upon payment of such lien and on  
1246 demand, fail or refuse, within 30 days after such payment and  
1247 demand, to furnish the debtor or the registered owner of such

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1248 vessel a satisfaction of the lien, then, in that event, such  
1249 person, firm, or corporation shall be held liable for all costs,  
1250 damages, and expenses, including reasonable attorney ~~attorney's~~  
1251 fees, lawfully incurred by the debtor or the registered owner of  
1252 such vessel in any suit which may be brought in the courts of  
1253 this state for the cancellation of such lien.

1254 (b) Following satisfaction of a lien, the lienholder shall  
1255 enter a satisfaction thereof in the space provided on the face  
1256 of the certificate of title. If there are no subsequent liens  
1257 shown thereon, the certificate shall be delivered by the  
1258 lienholder to the person satisfying the lien or encumbrance and  
1259 an executed satisfaction on a form provided by the department  
1260 shall be forwarded to the department by the lienholder within 10  
1261 days after satisfaction of the lien.

1262 (c) If the certificate of title shows a subsequent lien not  
1263 then being discharged, an executed satisfaction of the first  
1264 lien shall be delivered by the lienholder to the person  
1265 satisfying the lien and the certificate of title showing  
1266 satisfaction of the first lien shall be forwarded by the  
1267 lienholder to the department within 10 days after satisfaction  
1268 of the lien.

1269 (d) If, upon receipt of a title certificate showing  
1270 satisfaction of the first lien, the department determines from  
1271 its records that there are no subsequent liens or encumbrances  
1272 upon the vessel, the department shall forward to the owner, as  
1273 shown on the face of the title, a corrected certificate showing  
1274 no liens or encumbrances. If there is a subsequent lien not  
1275 being discharged, the certificate of title shall be reissued  
1276 showing the second or subsequent lienholder as the first

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1277 lienholder and shall be delivered to the new first lienholder.  
1278 The first lienholder shall be entitled to retain the certificate  
1279 of title until his or her lien is satisfied. Upon satisfaction  
1280 of the lien, the lienholder shall be subject to the procedures  
1281 required of a first lienholder in this subsection ~~and in~~  
1282 ~~subsection (2)~~.

1283 (5)~~(8)~~ When the original certificate of title cannot be  
1284 returned to the department by the lienholder and evidence  
1285 satisfactory to the department is produced that all liens or  
1286 encumbrances have been satisfied, upon application by the owner  
1287 for a duplicate copy of the certificate of title, upon the form  
1288 prescribed by the department, accompanied by the fee prescribed  
1289 in this chapter, a duplicate copy of the certificate of title  
1290 without statement of liens or encumbrances shall be issued by  
1291 the department and delivered to the owner.

1292 (6)~~(9)~~ Any person who fails, within 10 days after receipt  
1293 of a demand by the department by certified mail, to return a  
1294 certificate of title to the department ~~as required by paragraph~~  
1295 ~~(2)(e)~~ or who, upon satisfaction of a lien, fails within 10 days  
1296 after receipt of such demand to forward the appropriate document  
1297 to the department as required by paragraph (4)(b) ~~(7)(b)~~ or  
1298 paragraph (4)(c) ~~(7)(e)~~ commits a misdemeanor of the second  
1299 degree, punishable as provided in s. 775.082 or s. 775.083.

1300 (7)~~(10)~~ The department shall use the last known address as  
1301 shown by its records when sending any notice required by this  
1302 section.

1303 (8)~~(11)~~ If the original lienholder sells and assigns his or  
1304 her lien to some other person, and if the assignee desires to  
1305 have his or her name substituted on the certificate of title as

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1306 the holder of the lien, he or she may, after delivering the  
1307 original certificate of title to the department and providing a  
1308 sworn statement of the assignment, have his or her name  
1309 substituted as a lienholder. Upon substitution of the assignee's  
1310 name as lienholder, the department shall deliver the certificate  
1311 of title to the assignee as the first lienholder.

1312 (9) Subsections (1), (2), and (4)-(8) shall expire on  
1313 October 1, 2022.

1314 Section 20. Section 328.16, Florida Statutes, is amended to  
1315 read:

1316 328.16 Issuance in duplicate; delivery; liens, security  
1317 interests, and encumbrances.—

1318 (1) The department shall assign a number to each  
1319 certificate of title and shall issue each certificate of title  
1320 and each corrected certificate in duplicate. The database record  
1321 shall serve as the duplicate title certificate.

1322 (2) An authorized person must sign the original certificate  
1323 of title and each corrected certificate and, if there are no  
1324 liens, security interests, or encumbrances on the vessel, as  
1325 shown in the records of the department or as shown in the  
1326 application, must deliver the certificate to the applicant or to  
1327 another person as directed by the applicant or person, agent, or  
1328 attorney submitting the application. If there are one or more  
1329 liens, security interests, or encumbrances on the vessel, the  
1330 department must deliver the certificate to the first lienholder  
1331 or secured party as shown by department records. The department  
1332 shall deliver to the first lienholder or secured party, along  
1333 with the certificate, a form to be subsequently used by the  
1334 lienholder or secured party as a satisfaction. If the

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1335 application for certificate of title shows the name of a first  
1336 lienholder or secured party which is different from the name of  
1337 the first lienholder or secured party as shown by the records of  
1338 the department, the certificate shall not be issued to any  
1339 person until after the department notifies all parties who  
1340 appear to hold a lien or a security interest and the applicant  
1341 for the certificate, in writing by certified mail. If the  
1342 parties do not amicably resolve the conflict within 10 days  
1343 after the date the notice was mailed, the department shall serve  
1344 notice in writing by certified mail on all persons that appear  
1345 to hold liens or security interests on that particular vessel,  
1346 including the applicant for the certificate, to show cause  
1347 within 15 days after the date the notice is mailed why it should  
1348 not issue and deliver the certificate to the secured party of  
1349 record or person indicated in the notice of lien filed by the  
1350 lienholder whose name appears in the application as the first  
1351 lienholder without showing any lien or liens as outstanding  
1352 other than those appearing in the application or those filed  
1353 subsequent to the filing of the application for the certificate  
1354 of title. If, within the 15-day period, any person other than  
1355 the lienholder or secured party of record shown in the  
1356 application or a party filing a subsequent lien or security  
1357 interest, in answer to the notice to show cause, appears in  
1358 person or by a representative, or responds in writing, and files  
1359 a written statement under oath that his or her lien or security  
1360 interest on that particular vessel is still outstanding, the  
1361 department shall not issue the certificate to anyone until after  
1362 the conflict has been settled by the lien or security interest  
1363 claimants involved or by a court of competent jurisdiction. If

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1364 the conflict is not settled amicably within 10 days after the  
1365 final date for filing an answer to the notice to show cause, the  
1366 complaining party shall have 10 days to obtain a ruling, or a  
1367 stay order, from a court of competent jurisdiction. If a ruling  
1368 or stay order is not issued and served on the department within  
1369 the 10-day period, the department shall issue the certificate  
1370 showing no liens or security interests, except those shown in  
1371 the application or thereafter filed, to the original applicant  
1372 if there are no liens or security interests shown in the  
1373 application and none are thereafter filed, or to the person  
1374 indicated as the secured party of record or in the notice of  
1375 lien filed by the lienholder whose name appears in the  
1376 application as the first lienholder if there are liens shown in  
1377 the application or thereafter filed. A duplicate certificate or  
1378 corrected certificate must show only such security interest or  
1379 interests or lien or liens as were shown in the application and  
1380 subsequently filed liens or security interests that may be  
1381 outstanding.

1382 (3) ~~Except as provided in s. 328.15(11),~~ The certificate of  
1383 title shall be retained by the first lienholder or secured party  
1384 of record. The first lienholder or secured party of record is  
1385 entitled to retain the certificate until the first lien or  
1386 security interest is satisfied.

1387 (4) Notwithstanding any requirements in this section ~~or in~~  
1388 ~~s. 328.15~~ indicating that a lien or security interest on a  
1389 vessel shall be noted on the face of the Florida certificate of  
1390 title, if there are one or more liens, security interests, or  
1391 encumbrances on a vessel, the department shall electronically  
1392 transmit the lien or security interest to the first lienholder



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1393 or secured party and notify the first lienholder or secured  
1394 party of any additional liens or security interests. Subsequent  
1395 lien or security interest satisfactions shall be electronically  
1396 transmitted to the department and must include the name and  
1397 address of the person or entity satisfying the lien or security  
1398 interest. When electronic transmission of liens or security  
1399 interest and lien satisfactions or security interest are used,  
1400 the issuance of a certificate of title may be waived until the  
1401 last lien or security interest is satisfied and a clear  
1402 certificate of title is issued to the owner of the vessel.

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

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1422 remove the lien or security interest until the lienholder or  
1423 secured party presents a satisfaction of lien or satisfaction of  
1424 security interest to the department.

1425 Section 21. Subsection (1) of section 328.165, Florida  
1426 Statutes, is amended to read:

1427 328.165 Cancellation of certificates.—

1428 (1) If it appears that a certificate of title has been  
1429 improperly issued, the department shall cancel the certificate.  
1430 Upon cancellation of any certificate of title, the department  
1431 shall notify the person to whom the certificate of title was  
1432 issued, and any lienholders or secured parties appearing  
1433 thereon, of the cancellation and shall demand the surrender of  
1434 the certificate of title; however, the cancellation does not  
1435 affect the validity of any lien or security interest noted  
1436 thereon. The holder of the certificate of title shall  
1437 immediately return it to the department. If a certificate of  
1438 registration has been issued to the holder of a certificate of  
1439 title so canceled, the department shall immediately cancel the  
1440 certificate of registration and demand the return of the  
1441 certificate of registration, and the holder of such certificate  
1442 of registration shall immediately return it to the department.

1443 Section 22. Section 328.215, Florida Statutes, is created  
1444 to read:

1445 328.215 Application for transfer of ownership or  
1446 termination of security interest without certificate of title.—

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

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1451 termination statement, the department may create a new  
1452 certificate under this section only if:

1453 (a) All other requirements under ss. 328.01 and 328.09 are  
1454 met;

1455 (b) The applicant provides an affidavit stating facts  
1456 showing the applicant is entitled to a transfer of ownership or  
1457 termination statement;

1458 (c) The applicant provides the department with satisfactory  
1459 evidence that notification of the application has been sent to  
1460 the owner of record and all persons indicated in the  
1461 department's files as having an interest, including a security  
1462 interest, in the vessel; at least 45 days have passed since the  
1463 notification was sent; and the department has not received an  
1464 objection from any of those persons; and

1465 (d) The applicant submits any other information required by  
1466 the department as evidence of the applicant's ownership or right  
1467 to terminate the security interest, and the department has no  
1468 credible information indicating theft, fraud, or an undisclosed  
1469 or unsatisfied security interest, lien, or other claim to an  
1470 interest in the vessel.

1471 (2) The department may indicate in a certificate of title  
1472 created under subsection (1) that the certificate was created  
1473 without submission of a signed certificate or termination  
1474 statement. Unless credible information indicating theft, fraud,  
1475 or an undisclosed or unsatisfied security interest, lien, or  
1476 other claim to an interest in the vessel is delivered to the  
1477 department not later than 1 year after creation of the  
1478 certificate, on request in a form and manner required by the  
1479 department, the department shall remove the indication from the

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1480 certificate.

1481 (3) Unless the department determines that the value of a  
1482 vessel is less than \$5,000, before the department creates a  
1483 certificate of title under subsection (1), the department may  
1484 require the applicant to post a bond or provide an equivalent  
1485 source of indemnity or security. The bond, indemnity, or other  
1486 security may not exceed twice the value of the vessel as  
1487 determined by the department. The bond, indemnity, or other  
1488 security must be in a form required by the department and  
1489 provide for indemnification of any owner, purchaser, or other  
1490 claimant for any expense, loss, delay, or damage, including  
1491 reasonable attorney fees and costs, but not including incidental  
1492 or consequential damages, resulting from creation or amendment  
1493 of the certificate.

1494 (4) Unless the department receives a claim for indemnity  
1495 not later than 1 year after creation of a certificate of title  
1496 under subsection (1), on request in a form and manner required  
1497 by the department, the department shall release any bond,  
1498 indemnity, or other security.

1499 Section 23. Section 328.22, Florida Statutes, is created to  
1500 read:

1501 328.22 Transfer of ownership.—

1502 (1) On voluntary transfer of an ownership interest in a  
1503 vessel covered by a certificate of title, the following rules  
1504 apply:

1505 (a) If the certificate is a written certificate of title  
1506 and the transferor's interest is noted on the certificate, the  
1507 transferor shall promptly sign the certificate and deliver it to  
1508 the transferee. If the transferor does not have possession of

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1509 the certificate, the person in possession of the certificate has  
1510 a duty to facilitate the transferor's compliance with this  
1511 paragraph. A secured party does not have a duty to facilitate  
1512 the transferor's compliance with this paragraph if the proposed  
1513 transfer is prohibited by the security agreement.

1514 (b) If the certificate of title is an electronic  
1515 certificate of title, the transferor shall promptly sign and  
1516 deliver to the transferee a record evidencing the transfer of  
1517 ownership to the transferee.

1518 (c) The transferee has a right enforceable by specific  
1519 performance to require the transferor to comply with paragraph  
1520 (a) or paragraph (b).

1521 (2) The creation of a certificate of title identifying the  
1522 transferee as owner of record satisfies subsection (1).

1523 (3) A failure to comply with subsection (1) or to apply for  
1524 a new certificate of title does not render a transfer of  
1525 ownership of a vessel ineffective between the parties. Except as  
1526 otherwise provided in s. 328.101, s. 328.14(1), s. 328.145, or  
1527 s. 328.23, a transfer of ownership without compliance with  
1528 subsection (1) is not effective against another person claiming  
1529 an interest in the vessel.

1530 (4) A transferor that complies with subsection (1) is not  
1531 liable as owner of the vessel for an event occurring after the  
1532 transfer, regardless of whether the transferee applies for a new  
1533 certificate of title.

1534 Section 24. Section 328.23, Florida Statutes, is created to  
1535 read:

1536 328.23 Transfer of ownership by secured party's transfer  
1537 statement.—

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- 1538       (1) In this section, "secured party's transfer statement"  
1539 means a record signed by the secured party of record stating:  
1540       (a) That there has been a default on an obligation secured  
1541 by the vessel;  
1542       (b) That the secured party of record is exercising or has  
1543 exercised post-default remedies with respect to the vessel;  
1544       (c) That by reason of the exercise, the secured party of  
1545 record has the right to transfer the ownership interest of an  
1546 owner, and the name of the owner;  
1547       (d) The name and last known mailing address of the owner of  
1548 record and the secured party of record;  
1549       (e) The name of the transferee;  
1550       (f) Other information required by s. 328.01(2); and  
1551       (g) One of the following:  
1552           1. The certificate of title is an electronic certificate.  
1553           2. The secured party does not have possession of the  
1554 written certificate of title created in the name of the owner of  
1555 record.  
1556           3. The secured party is delivering the written certificate  
1557 of title to the department with the secured party's transfer  
1558 statement.  
1559       (2) Unless the department rejects a secured party's  
1560 transfer statement for a reason stated in s. 328.09(3), not  
1561 later than 20 days after delivery to the department of the  
1562 statement and payment of fees and taxes payable under the laws  
1563 of this state other than this part in connection with the  
1564 statement or the acquisition or use of the vessel, the  
1565 department shall:  
1566       (a) Accept the statement;

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1567 (b) Amend the files of the department to reflect the  
1568 transfer; and

1569 (c) If the name of the owner whose ownership interest is  
1570 being transferred is indicated on the certificate of title:

1571 1. Cancel the certificate even if the certificate has not  
1572 been delivered to the department;

1573 2. Create a new certificate indicating the transferee as  
1574 owner; and

1575 3. Deliver the new certificate or a record evidencing an  
1576 electronic certificate.

1577 (3) An application under subsection (1) or the creation of  
1578 a certificate of title under subsection (2) is not by itself a  
1579 disposition of the vessel and does not by itself relieve the  
1580 secured party of its duties under chapter 679.

1581 Section 25. Section 328.24, Florida Statutes, is created to  
1582 read:

1583 328.24 Transfer by operation of law.—

1584 (1) In this section, "by operation of law" means pursuant  
1585 to a law or judicial order affecting ownership of a vessel:

1586 (a) Because of death, divorce, or other family law  
1587 proceeding, merger, consolidation, dissolution, or bankruptcy;

1588 (b) Through the exercise of the rights of a lien creditor  
1589 or a person having a lien created by statute or rule of law; or

1590 (c) Through other legal process.

1591 (2) A transfer-by-law statement must contain:

1592 (a) The name and last known mailing address of the owner of  
1593 record and the transferee and the other information required by  
1594 s. 328.01;

1595 (b) Documentation sufficient to establish the transferee's

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1596 ownership interest or right to acquire the ownership interest;

1597 (c) A statement that:

1598 1. The certificate of title is an electronic certificate of  
1599 title;

1600 2. The transferee does not have possession of the written  
1601 certificate of title created in the name of the owner of record;  
1602 or

1603 3. The transferee is delivering the written certificate to  
1604 the department with the transfer-by-law statement; and

1605 (d) Except for a transfer described in paragraph (1) (a),  
1606 evidence that notification of the transfer and the intent to  
1607 file the transfer-by-law statement has been sent to all persons  
1608 indicated in the department's files as having an interest,  
1609 including a security interest, in the vessel.

1610 (3) Unless the department rejects a transfer-by-law  
1611 statement for a reason stated in s. 328.09(3) or because the  
1612 statement does not include documentation satisfactory to the  
1613 department as to the transferee's ownership interest or right to  
1614 acquire the ownership interest, not later than 20 days after  
1615 delivery to the department of the statement and payment of fees  
1616 and taxes payable under the law of this state other than this  
1617 part in connection with the statement or with the acquisition or  
1618 use of the vessel, the department shall:

1619 (a) Accept the statement;

1620 (b) Amend the files of the department to reflect the  
1621 transfer; and

1622 (c) If the name of the owner whose ownership interest is  
1623 being transferred is indicated on the certificate of title:

1624 1. Cancel the certificate even if the certificate has not



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1625 been delivered to the department;

1626 2. Create a new certificate indicating the transferee as  
1627 owner;

1628 3. Indicate on the new certificate any security interest  
1629 indicated on the canceled certificate, unless a court order  
1630 provides otherwise; and

1631 4. Deliver the new certificate or a record evidencing an  
1632 electronic certificate.

1633 (4) This section does not apply to a transfer of an  
1634 interest in a vessel by a secured party under part VI of chapter  
1635 679.

1636 Section 26. Section 328.25, Florida Statutes, is created to  
1637 read:

1638 328.25 Supplemental principles of law and equity.—Unless  
1639 displaced by a provision of this part, the principles of law and  
1640 equity supplement its provisions.

1641 Section 27. Section 409.2575, Florida Statutes, is amended  
1642 to read:

1643 409.2575 Liens on motor vehicles and vessels.—

1644 (1) The director of the state IV-D program, or the  
1645 director's designee, may cause a lien for unpaid and delinquent  
1646 support to be placed upon motor vehicles, as defined in chapter  
1647 320, and upon vessels, as defined in chapter 327, that are  
1648 registered in the name of an obligor who is delinquent in  
1649 support payments, if the title to the property is held by a  
1650 lienholder, in the manner provided in chapter 319 or, if  
1651 applicable in accordance with s. 328.15(9), chapter 328. Notice  
1652 of lien may ~~shall~~ not be mailed unless the delinquency in  
1653 support exceeds \$600.

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1654 (2) If the first lienholder fails, neglects, or refuses to  
1655 forward the certificate of title to the appropriate department  
1656 as requested pursuant to s. 319.24 or, if applicable in  
1657 accordance with s. 328.15(9), s. 328.15, the director of the IV-  
1658 D program, or the director's designee, may apply to the circuit  
1659 court for an order to enforce the requirements of s. 319.24 or  
1660 s. 328.15, whichever applies.

1661 Section 28. Subsection (2) of section 705.103, Florida  
1662 Statutes, is amended to read:

1663 705.103 Procedure for abandoned or lost property.—

1664 (2) Whenever a law enforcement officer ascertains that an  
1665 article of lost or abandoned property is present on public  
1666 property and is of such nature that it cannot be easily removed,  
1667 the officer shall cause a notice to be placed upon such article  
1668 in substantially the following form:

1669  
1670 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED  
1671 PROPERTY. This property, to wit: ...(setting forth brief  
1672 description)... is unlawfully upon public property known as  
1673 ...(setting forth brief description of location)... and must be  
1674 removed within 5 days; otherwise, it will be removed and  
1675 disposed of pursuant to chapter 705, Florida Statutes. The owner  
1676 will be liable for the costs of removal, storage, and  
1677 publication of notice. Dated this: ...(setting forth the date of  
1678 posting of notice)..., signed: ...(setting forth name, title,  
1679 address, and telephone number of law enforcement officer)....

1680  
1681 Such notice shall be not less than 8 inches by 10 inches and  
1682 shall be sufficiently weatherproof to withstand normal exposure

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1683 to the elements. In addition to posting, the law enforcement  
1684 officer shall make a reasonable effort to ascertain the name and  
1685 address of the owner. If such is reasonably available to the  
1686 officer, she or he shall mail a copy of such notice to the owner  
1687 on or before the date of posting. If the property is a motor  
1688 vehicle as defined in s. 320.01(1) or a vessel as defined in s.  
1689 327.02, the law enforcement agency shall contact the Department  
1690 of Highway Safety and Motor Vehicles in order to determine the  
1691 name and address of the owner and any person who has filed a  
1692 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)  
1693 ~~or s. 328.15(1)~~. On receipt of this information, the law  
1694 enforcement agency shall mail a copy of the notice by certified  
1695 mail, return receipt requested, to the owner and to the  
1696 lienholder, if any, except that a law enforcement officer who  
1697 has issued a citation for a violation of s. 823.11 to the owner  
1698 of a derelict vessel is not required to mail a copy of the  
1699 notice by certified mail, return receipt requested, to the  
1700 owner. If, at the end of 5 days after posting the notice and  
1701 mailing such notice, if required, the owner or any person  
1702 interested in the lost or abandoned article or articles  
1703 described has not removed the article or articles from public  
1704 property or shown reasonable cause for failure to do so, the  
1705 following shall apply:

1706 (a) For abandoned property, the law enforcement agency may  
1707 retain any or all of the property for its own use or for use by  
1708 the state or unit of local government, trade such property to  
1709 another unit of local government or state agency, donate the  
1710 property to a charitable organization, sell the property, or  
1711 notify the appropriate refuse removal service.

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1712 (b) For lost property, the officer shall take custody and  
1713 the agency shall retain custody of the property for 90 days. The  
1714 agency shall publish notice of the intended disposition of the  
1715 property, as provided in this section, during the first 45 days  
1716 of this time period.

1717 1. If the agency elects to retain the property for use by  
1718 the unit of government, donate the property to a charitable  
1719 organization, surrender such property to the finder, sell the  
1720 property, or trade the property to another unit of local  
1721 government or state agency, notice of such election shall be  
1722 given by an advertisement published once a week for 2  
1723 consecutive weeks in a newspaper of general circulation in the  
1724 county where the property was found if the value of the property  
1725 is more than \$100. If the value of the property is \$100 or less,  
1726 notice shall be given by posting a description of the property  
1727 at the law enforcement agency where the property was turned in.  
1728 The notice must be posted for not less than 2 consecutive weeks  
1729 in a public place designated by the law enforcement agency. The  
1730 notice must describe the property in a manner reasonably  
1731 adequate to permit the rightful owner of the property to claim  
1732 it.

1733 2. If the agency elects to sell the property, it must do so  
1734 at public sale by competitive bidding. Notice of the time and  
1735 place of the sale shall be given by an advertisement of the sale  
1736 published once a week for 2 consecutive weeks in a newspaper of  
1737 general circulation in the county where the sale is to be held.  
1738 The notice shall include a statement that the sale shall be  
1739 subject to any and all liens. The sale must be held at the  
1740 nearest suitable place to that where the lost or abandoned

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1741 property is held or stored. The advertisement must include a  
1742 description of the goods and the time and place of the sale. The  
1743 sale may take place no earlier than 10 days after the final  
1744 publication. If there is no newspaper of general circulation in  
1745 the county where the sale is to be held, the advertisement shall  
1746 be posted at the door of the courthouse and at three other  
1747 public places in the county at least 10 days prior to sale.  
1748 Notice of the agency's intended disposition shall describe the  
1749 property in a manner reasonably adequate to permit the rightful  
1750 owner of the property to identify it.

1751 Section 29. Paragraph (c) of subsection (2) of section  
1752 721.08, Florida Statutes, is amended to read:

1753 721.08 Escrow accounts; nondisturbance instruments;  
1754 alternate security arrangements; transfer of legal title.-

1755 (2) One hundred percent of all funds or other property  
1756 which is received from or on behalf of purchasers of the  
1757 timeshare plan or timeshare interest prior to the occurrence of  
1758 events required in this subsection shall be deposited pursuant  
1759 to an escrow agreement approved by the division. The funds or  
1760 other property may be released from escrow only as follows:

1761 (c) *Compliance with conditions.-*

1762 1. Timeshare licenses.-If the timeshare plan is one in  
1763 which timeshare licenses are to be sold and no cancellation or  
1764 default has occurred, the escrow agent may release the escrowed  
1765 funds or other property to or on the order of the developer upon  
1766 presentation of:

1767 a. An affidavit by the developer that all of the following  
1768 conditions have been met:

1769 (I) Expiration of the cancellation period.

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1770 (II) Completion of construction.  
1771 (III) Closing.  
1772 (IV) Either:  
1773 (A) Execution, delivery, and recordation by each  
1774 interestholder of the nondisturbance and notice to creditors  
1775 instrument, as described in this section; or  
1776 (B) Transfer by the developer of legal title to the subject  
1777 accommodations and facilities, or all use rights therein, into a  
1778 trust satisfying the requirements of subparagraph 4. and the  
1779 execution, delivery, and recordation by each other  
1780 interestholder of the nondisturbance and notice to creditors  
1781 instrument, as described in this section.  
1782 b. A certified copy of each recorded nondisturbance and  
1783 notice to creditors instrument.  
1784 c. One of the following:  
1785 (I) A copy of a memorandum of agreement, as defined in s.  
1786 721.05, together with satisfactory evidence that the original  
1787 memorandum of agreement has been irretrievably delivered for  
1788 recording to the appropriate official responsible for  
1789 maintaining the public records in the county in which the  
1790 subject accommodations and facilities are located. The original  
1791 memorandum of agreement must be recorded within 180 days after  
1792 the date on which the purchaser executed her or his purchase  
1793 agreement.  
1794 (II) A notice delivered for recording to the appropriate  
1795 official responsible for maintaining the public records in each  
1796 county in which the subject accommodations and facilities are  
1797 located notifying all persons of the identity of an independent  
1798 escrow agent or trustee satisfying the requirements of

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1799 subparagraph 4. that shall maintain separate books and records,  
1800 in accordance with good accounting practices, for the timeshare  
1801 plan in which timeshare licenses are to be sold. The books and  
1802 records shall indicate each accommodation and facility that is  
1803 subject to such a timeshare plan and each purchaser of a  
1804 timeshare license in the timeshare plan.

1805 2. Timeshare estates.—If the timeshare plan is one in which  
1806 timeshare estates are to be sold and no cancellation or default  
1807 has occurred, the escrow agent may release the escrowed funds or  
1808 other property to or on the order of the developer upon  
1809 presentation of:

1810 a. An affidavit by the developer that all of the following  
1811 conditions have been met:

1812 (I) Expiration of the cancellation period.

1813 (II) Completion of construction.

1814 (III) Closing.

1815 b. If the timeshare estate is sold by agreement for deed, a  
1816 certified copy of the recorded nondisturbance and notice to  
1817 creditors instrument, as described in this section.

1818 c. Evidence that each accommodation and facility:

1819 (I) Is free and clear of the claims of any interestholders,  
1820 other than the claims of interestholders that, through a  
1821 recorded instrument, are irrevocably made subject to the  
1822 timeshare instrument and the use rights of purchasers made  
1823 available through the timeshare instrument;

1824 (II) Is the subject of a recorded nondisturbance and notice  
1825 to creditors instrument that complies with subsection (3) and s.  
1826 721.17; or

1827 (III) Has been transferred into a trust satisfying the

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1828 requirements of subparagraph 4.

1829 d. Evidence that the timeshare estate:

1830 (I) Is free and clear of the claims of any interestholders,  
1831 other than the claims of interestholders that, through a  
1832 recorded instrument, are irrevocably made subject to the  
1833 timeshare instrument and the use rights of purchasers made  
1834 available through the timeshare instrument; or

1835 (II) Is the subject of a recorded nondisturbance and notice  
1836 to creditors instrument that complies with subsection (3) and s.  
1837 721.17.

1838 3. Personal property timeshare interests.—If the timeshare  
1839 plan is one in which personal property timeshare interests are  
1840 to be sold and no cancellation or default has occurred, the  
1841 escrow agent may release the escrowed funds or other property to  
1842 or on the order of the developer upon presentation of:

1843 a. An affidavit by the developer that all of the following  
1844 conditions have been met:

1845 (I) Expiration of the cancellation period.

1846 (II) Completion of construction.

1847 (III) Closing.

1848 b. If the personal property timeshare interest is sold by  
1849 agreement for transfer, evidence that the agreement for transfer  
1850 complies fully with s. 721.06 and this section.

1851 c. Evidence that one of the following has occurred:

1852 (I) Transfer by the owner of the underlying personal  
1853 property of legal title to the subject accommodations and  
1854 facilities or all use rights therein into a trust satisfying the  
1855 requirements of subparagraph 4.; or

1856 (II) Transfer by the owner of the underlying personal



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1857 property of legal title to the subject accommodations and  
1858 facilities or all use rights therein into an owners' association  
1859 satisfying the requirements of subparagraph 5.

1860 d. Evidence of compliance with the provisions of  
1861 subparagraph 6., if required.

1862 e. If a personal property timeshare plan is created with  
1863 respect to accommodations and facilities that are located on or  
1864 in an oceangoing vessel, including a "documented vessel" or a  
1865 "foreign vessel," as defined and governed by 46 U.S.C. chapter  
1866 301:

1867 (I) In making the transfer required in sub-subparagraph c.,  
1868 the developer shall use as its transfer instrument a document  
1869 that establishes and protects the continuance of the use rights  
1870 in the subject accommodations and facilities in a manner that is  
1871 enforceable by the trust or owners' association.

1872 (II) The transfer instrument shall comply fully with the  
1873 provisions of this chapter, shall be part of the timeshare  
1874 instrument, and shall contain specific provisions that:

1875 (A) Prohibit the vessel owner, the developer, any manager  
1876 or operator of the vessel, the owners' association or the  
1877 trustee, the managing entity, or any other person from incurring  
1878 any liens against the vessel except for liens that are required  
1879 for the operation and upkeep of the vessel, including liens for  
1880 fuel expenditures, repairs, crews' wages, and salvage, and  
1881 except as provided in sub-sub-subparagraphs 4.b.(III) and  
1882 5.b.(III). All expenses, fees, and taxes properly incurred in  
1883 connection with the creation, satisfaction, and discharge of any  
1884 such permitted lien, or a prorated portion thereof if less than  
1885 all of the accommodations on the vessel are subject to the

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1886 timeshare plan, shall be common expenses of the timeshare plan.

1887 (B) Grant a lien against the vessel in favor of the owners'  
1888 association or trustee to secure the full and faithful  
1889 performance of the vessel owner and developer of all of their  
1890 obligations to the purchasers.

1891 (C) Establish governing law in a jurisdiction that  
1892 recognizes and will enforce the timeshare instrument and the  
1893 laws of the jurisdiction of registry of the vessel.

1894 (D) Require that a description of the use rights of  
1895 purchasers be posted and displayed on the vessel in a manner  
1896 that will give notice of such rights to any party examining the  
1897 vessel. This notice must identify the owners' association or  
1898 trustee and include a statement disclosing the limitation on  
1899 incurring liens against the vessel described in sub-sub-sub-  
1900 subparagraph (A).

1901 (E) Include the nondisturbance and notice to creditors  
1902 instrument for the vessel owner and any other interestholders.

1903 (F) The owners' association created under subparagraph 5.  
1904 or trustee created under subparagraph 4. shall have access to  
1905 any certificates of classification in accordance with the  
1906 timeshare instrument.

1907 (III) If the vessel is a foreign vessel, the vessel must be  
1908 registered in a jurisdiction that permits a filing evidencing  
1909 the use rights of purchasers in the subject accommodations and  
1910 facilities, offers protection for such use rights against  
1911 unfiled and inferior claims, and recognizes the document or  
1912 instrument creating such use rights as a lien against the  
1913 vessel.

1914 (IV) In addition to the disclosures required by s.

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1915 721.07(5), the public offering statement and purchase contract  
1916 must contain a disclosure in conspicuous type in substantially  
1917 the following form:

1918  
1919 *The laws of the State of Florida govern the offering of this*  
1920 *timeshare plan in this state. There are inherent risks in*  
1921 *purchasing a timeshare interest in this timeshare plan because*  
1922 *the accommodations and facilities of the timeshare plan are*  
1923 *located on a vessel that will sail into international waters and*  
1924 *into waters governed by many different jurisdictions. Therefore,*  
1925 *the laws of the State of Florida cannot fully protect your*  
1926 *purchase of an interest in this timeshare plan. Specifically,*  
1927 *management and operational issues may need to be addressed in*  
1928 *the jurisdiction in which the vessel is registered, which is*  
1929 *(insert jurisdiction in which vessel is registered). Concerns of*  
1930 *purchasers may be sent to (insert name of applicable regulatory*  
1931 *agency and address).*

1932 4. Trust.—

1933 a. If the subject accommodations or facilities, or all use  
1934 rights therein, are to be transferred into a trust in order to  
1935 comply with this paragraph, such transfer shall take place  
1936 pursuant to this subparagraph. If the accommodations or  
1937 facilities included in such transfer are subject to a lease, the  
1938 unexpired term of the lease must be disclosed as the term of the  
1939 timeshare plan pursuant to s. 721.07(5)(f)4.

1940 b. Prior to the transfer of the subject accommodations and  
1941 facilities, or all use rights therein, to a trust, any lien or  
1942 other encumbrance against such accommodations and facilities, or  
1943 use rights therein, shall be made subject to a nondisturbance

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1944 and notice to creditors instrument pursuant to subsection (3).  
1945 No transfer pursuant to this subparagraph shall become effective  
1946 until the trustee accepts such transfer and the responsibilities  
1947 set forth herein. A trust established pursuant to this  
1948 subparagraph shall comply with the following provisions:

1949 (I) The trustee shall be an individual or a business entity  
1950 authorized and qualified to conduct trust business in this  
1951 state. Any corporation authorized to do business in this state  
1952 may act as trustee in connection with a timeshare plan pursuant  
1953 to this chapter. The trustee must be independent from any  
1954 developer or managing entity of the timeshare plan or any  
1955 interestholder of any accommodation or facility of such plan.

1956 (II) The trust shall be irrevocable so long as any  
1957 purchaser has a right to occupy any portion of the timeshare  
1958 property pursuant to the timeshare plan.

1959 (III) The trustee shall not convey, hypothecate, mortgage,  
1960 assign, lease, or otherwise transfer or encumber in any fashion  
1961 any interest in or portion of the timeshare property with  
1962 respect to which any purchaser has a right of use or occupancy  
1963 unless the timeshare plan is terminated pursuant to the  
1964 timeshare instrument, or such conveyance, hypothecation,  
1965 mortgage, assignment, lease, transfer, or encumbrance is  
1966 approved by a vote of two-thirds of all voting interests of the  
1967 timeshare plan. Subject to s. 721.552, a vote of the voting  
1968 interests of the timeshare plan is not required for substitution  
1969 or automatic deletion of accommodations or facilities.

1970 (IV) All purchasers of the timeshare plan or the owners'  
1971 association of the timeshare plan shall be the express  
1972 beneficiaries of the trust. The trustee shall act as a fiduciary

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1973 to the beneficiaries of the trust. The personal liability of the  
1974 trustee shall be governed by ss. 736.08125, 736.08163, 736.1013,  
1975 and 736.1015. The agreement establishing the trust shall set  
1976 forth the duties of the trustee. The trustee shall be required  
1977 to furnish promptly to the division upon request a copy of the  
1978 complete list of the names and addresses of the owners in the  
1979 timeshare plan and a copy of any other books and records of the  
1980 timeshare plan required to be maintained pursuant to s. 721.13  
1981 that are in the possession, custody, or control of the trustee.  
1982 All expenses reasonably incurred by the trustee in the  
1983 performance of its duties, together with any reasonable  
1984 compensation of the trustee, shall be common expenses of the  
1985 timeshare plan.

1986 (V) The trustee shall not resign upon less than 90 days'  
1987 prior written notice to the managing entity and the division. No  
1988 resignation shall become effective until a substitute trustee,  
1989 approved by the division, is appointed by the managing entity  
1990 and accepts the appointment.

1991 (VI) The documents establishing the trust arrangement shall  
1992 constitute a part of the timeshare instrument.

1993 (VII) For trusts holding property in a timeshare plan  
1994 located outside this state, the trust and trustee holding such  
1995 property shall be deemed in compliance with the requirements of  
1996 this subparagraph if such trust and trustee are authorized and  
1997 qualified to conduct trust business under the laws of such  
1998 jurisdiction and the agreement or law governing such trust  
1999 arrangement provides substantially similar protections for the  
2000 purchaser as are required in this subparagraph for trusts  
2001 holding property in a timeshare plan in this state.

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2002 (VIII) The trustee shall have appointed a registered agent  
2003 in this state for service of process. In the event such a  
2004 registered agent is not appointed, service of process may be  
2005 served pursuant to s. 721.265.

2006 5. Owners' association.—

2007 a. If the subject accommodations or facilities, or all use  
2008 rights therein, are to be transferred into an owners'  
2009 association in order to comply with this paragraph, such  
2010 transfer shall take place pursuant to this subparagraph.

2011 b. Before the transfer of the subject accommodations and  
2012 facilities, or all use rights therein, to an owners'  
2013 association, any lien or other encumbrance against such  
2014 accommodations and facilities, or use rights therein, shall be  
2015 made subject to a nondisturbance and notice to creditors  
2016 instrument pursuant to subsection (3). No transfer pursuant to  
2017 this subparagraph shall become effective until the owners'  
2018 association accepts such transfer and the responsibilities set  
2019 forth herein. An owners' association established pursuant to  
2020 this subparagraph shall comply with the following provisions:

2021 (I) The owners' association shall be a business entity  
2022 authorized and qualified to conduct business in this state.  
2023 Control of the board of directors of the owners' association  
2024 must be independent from any developer or managing entity of the  
2025 timeshare plan or any interestholder.

2026 (II) The bylaws of the owners' association shall provide  
2027 that the corporation may not be voluntarily dissolved without  
2028 the unanimous vote of all owners of personal property timeshare  
2029 interests so long as any purchaser has a right to occupy any  
2030 portion of the timeshare property pursuant to the timeshare

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2031 plan.

2032 (III) The owners' association shall not convey,  
2033 hypothecate, mortgage, assign, lease, or otherwise transfer or  
2034 encumber in any fashion any interest in or portion of the  
2035 timeshare property with respect to which any purchaser has a  
2036 right of use or occupancy, unless the timeshare plan is  
2037 terminated pursuant to the timeshare instrument, or unless such  
2038 conveyance, hypothecation, mortgage, assignment, lease,  
2039 transfer, or encumbrance is approved by a vote of two-thirds of  
2040 all voting interests of the association and such decision is  
2041 declared by a court of competent jurisdiction to be in the best  
2042 interests of the purchasers of the timeshare plan. The owners'  
2043 association shall notify the division in writing within 10 days  
2044 after receiving notice of the filing of any petition relating to  
2045 obtaining such a court order. The division shall have standing  
2046 to advise the court of the division's interpretation of the  
2047 statute as it relates to the petition.

2048 (IV) All purchasers of the timeshare plan shall be members  
2049 of the owners' association and shall be entitled to vote on  
2050 matters requiring a vote of the owners' association as provided  
2051 in this chapter or the timeshare instrument. The owners'  
2052 association shall act as a fiduciary to the purchasers of the  
2053 timeshare plan. The articles of incorporation establishing the  
2054 owners' association shall set forth the duties of the owners'  
2055 association. All expenses reasonably incurred by the owners'  
2056 association in the performance of its duties, together with any  
2057 reasonable compensation of the officers or directors of the  
2058 owners' association, shall be common expenses of the timeshare  
2059 plan.

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2060 (V) The documents establishing the owners' association  
2061 shall constitute a part of the timeshare instrument.

2062 (VI) For owners' associations holding property in a  
2063 timeshare plan located outside this state, the owners'  
2064 association holding such property shall be deemed in compliance  
2065 with the requirements of this subparagraph if such owners'  
2066 association is authorized and qualified to conduct owners'  
2067 association business under the laws of such jurisdiction and the  
2068 agreement or law governing such arrangement provides  
2069 substantially similar protections for the purchaser as are  
2070 required in this subparagraph for owners' associations holding  
2071 property in a timeshare plan in this state.

2072 (VII) The owners' association shall have appointed a  
2073 registered agent in this state for service of process. In the  
2074 event such a registered agent cannot be located, service of  
2075 process may be made pursuant to s. 721.265.

2076 6. Personal property subject to certificate of title.—If  
2077 any personal property that is an accommodation or facility of a  
2078 timeshare plan is subject to a certificate of title in this  
2079 state pursuant to chapter 319 or chapter 328, the following  
2080 notation must be made on such certificate of title pursuant to  
2081 s. 319.27(1) or s. 328.15 ~~s. 328.15(1)~~:

2082  
2083 *The further transfer or encumbrance of the property subject to*  
2084 *this certificate of title, or any lien or encumbrance thereon,*  
2085 *is subject to the requirements of section 721.17, Florida*  
2086 *Statutes, and the transferee or lienor agrees to be bound by all*  
2087 *of the obligations set forth therein.*  
2088



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2089           7. If the developer has previously provided a certified  
2090 copy of any document required by this paragraph, she or he may  
2091 for all subsequent disbursements substitute a true and correct  
2092 copy of the certified copy, provided no changes to the document  
2093 have been made or are required to be made.

2094           8. In the event that use rights relating to an  
2095 accommodation or facility are transferred into a trust pursuant  
2096 to subparagraph 4. or into an owners' association pursuant to  
2097 subparagraph 5., all other interestholders, including the owner  
2098 of the underlying fee or underlying personal property, must  
2099 execute a nondisturbance and notice to creditors instrument  
2100 pursuant to subsection (3).

2101           Section 30. (1) The rights, duties, and interests flowing  
2102 from a transaction, certificate of title, or record relating to  
2103 a vessel which was validly entered into or created before  
2104 October 1, 2019, and would be subject to this act if it had been  
2105 entered into or created on or after October 1, 2019, remain  
2106 valid on and after October 1, 2019.

2107           (2) This act does not affect an action or proceeding  
2108 commenced before October 1, 2019.

2109           (3) Except as otherwise provided in subsection (4), a  
2110 security interest that is enforceable immediately before October  
2111 1, 2019, and that would have priority over the rights of a  
2112 person who becomes a lien creditor at such time is a perfected  
2113 security interest under this act.

2114           (4) A security interest perfected immediately before  
2115 October 1, 2019, remains perfected until the earlier of:

2116           (a) The time perfection would have ceased under the law  
2117 under which the security interest was perfected; or

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2118 (b) October 1, 2022.

2119 (5) This act does not affect the priority of a security  
2120 interest in a vessel if immediately before October 1, 2019, the  
2121 security interest is enforceable and perfected, and that  
2122 priority is established.

2123 Section 31. Subject to s. 328.24, as created by this act,  
2124 this act applies to any transaction, certificate of title, or  
2125 record relating to a vessel, even if the transaction,  
2126 certificate of title, or record was entered into or created  
2127 before October 1, 2019.

2128 Section 32. This act shall take effect October 1, 2019.