

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

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30 requirements for the contents of a certificate of
31 title; creating s. 328.045, F.S.; providing
32 responsibilities of an owner and insurer of a hull-
33 damaged vessel when transferring an ownership interest
34 in the vessel; requiring the department to create a
35 new certificate indicating such damage; providing
36 civil penalties; creating s. 328.055, F.S.; requiring
37 the department to maintain certain information in its
38 files and to provide certain information to
39 governmental entities; specifying that certain
40 information is a public record; creating s. 328.06,
41 F.S.; providing responsibilities of the department
42 when creating a certificate of title; creating s.
43 328.065, F.S.; specifying effect of possession of a
44 certificate of title; providing construction; amending
45 s. 328.09, F.S.; providing duties of the department
46 relating to creation, issuance, refusal to issue, or
47 cancellation of a certificate of title; providing for
48 a hearing; creating s. 328.101, F.S.; specifying that
49 a certificate of title and certain other records are
50 effective despite missing or incorrect information;
51 amending s. 328.11, F.S.; providing requirements for
52 obtaining a duplicate certificate of title; creating
53 s. 328.12, F.S.; providing requirements for
54 determination and perfection of a security interest in
55 a vessel; providing applicability; creating s.
56 328.125, F.S.; providing requirements for the delivery
57 of a statement of termination of a security interest;
58 providing duties of the department; providing

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59 liability for noncompliance; creating s. 328.14, F.S.;

60 providing for the rights of a purchaser of a vessel

61 who is not a secured party; creating s. 328.145, F.S.;

62 providing for the rights of a secured party; amending

63 s. 328.15, F.S.; deleting certain provisions relating

64 to notice of a lien; providing for future expiration

65 of certain provisions; amending ss. 328.16 and

66 328.165, F.S.; conforming provisions to changes made

67 by the act; creating s. 328.215, F.S.; specifying

68 circumstances under which the department may create a

69 new certificate of title after receipt of an

70 application for a transfer of ownership or termination

71 of a security interest unaccompanied by a certificate

72 of title; authorizing the department to indicate

73 certain information on the new certificate;

74 authorizing the department to require a bond,

75 indemnity, or other security; providing for the

76 release of such bond, indemnity, or other security;

77 providing that the department is not liable for

78 creating a certificate of title based on erroneous or

79 fraudulent information; providing penalties; creating

80 s. 328.22, F.S.; providing requirements for the

81 transfer of ownership in a vessel; providing effect of

82 noncompliance; creating s. 328.23, F.S.; providing a

83 definition; providing duties of the department upon

84 receipt of a secured party's transfer statement;

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

86 providing a definition; providing requirements for a

87 transfer of ownership by operation of law; providing

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88 duties of the department; providing applicability;
89 creating s. 328.25, F.S.; providing that the
90 principles and law of equity supplement the provisions
91 of the act; creating s. 328.41, F.S.; authorizing the
92 department to adopt rules to implement vessel
93 registration provisions; amending ss. 409.2575,
94 705.103, and 721.08, F.S.; conforming provisions and
95 cross-references to changes made by the act; providing
96 construction and applicability regarding transactions,
97 certificates of title, and records entered into or
98 created, actions or proceedings commenced, and
99 security interests perfected before the effective date
100 of the act; providing applicability; providing an
101 effective date.

102
103 Be It Enacted by the Legislature of the State of Florida:

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

107 328.001 Short title.—This part may be cited as the "Uniform
108 Certificate of Title for Vessels Act."

109 Section 2. Section 328.0015, Florida Statutes, is created
110 to read:

111 328.0015 Definitions.—

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

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

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

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

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

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

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

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

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

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

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

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

145 (l) "Foreign-documented vessel" means a vessel the

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146 ownership of which is recorded in a registry maintained by a
147 country other than the United States which identifies each
148 person who has an ownership interest in the vessel and includes
149 a unique alphanumeric designation for the vessel.

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

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

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

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

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

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

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

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

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

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

171 (s) "Person" means an individual, a corporation, a business
172 trust, an estate, a trust, a statutory trust, a partnership, a
173 limited liability company, an association, a joint venture, a
174 public corporation, a government or governmental subdivision, an

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175 agency, an instrumentality, or any other legal or commercial
176 entity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

239 3. A watercraft less than 16 feet in length and propelled
240 solely by sail, paddle, oar, or an engine of less than 10
241 horsepower;

242 4. A watercraft that operates only on a permanently fixed,
243 manufactured course and the movement of which is restricted to
244 or guided by means of a mechanical device to which the
245 watercraft is attached or by which the watercraft is controlled;

246 5. A stationary floating structure that:

247 a. Does not have and is not designed to have a mode of
248 propulsion of its own;

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

251 c. Has a permanent, continuous hookup to a shoreside sewage
252 system;

253 6. Watercraft owned by the United States, a state, or a
254 foreign government or a political subdivision of any of them;
255 and

256 7. A watercraft used solely as a lifeboat on another
257 watercraft.

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

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

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

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

282 328.01 Application for certificate of title.—

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

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

290 (a) The applicant's name, the street address of the

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291 applicant's principal residence, and, if different, the
292 applicant's mailing address;

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

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

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

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

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

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

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

307 4. The overall length of the vessel;

308 5. The vessel type;

309 6. The hull material;

310 7. The propulsion type;

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

312 9. The fuel type, if any;

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

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

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

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

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

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

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

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

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

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

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

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

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

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349 as the owner; or

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

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

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

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

376 (b) The owner of an undocumented vessel that is exempt from
377 titling may apply to the county tax collector for a certificate

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

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

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 law of the state under which a vessel's certificate

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

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

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

623 328.03 Certificate of title required.-

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

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

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

635 (a) A documented vessel;

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

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668 department.

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

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

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

690 (5)~~(4)~~ A certificate of title is prima facie evidence of
691 the accuracy of the information in the record that constitutes
692 the certificate and of the ownership of the vessel. A
693 certificate of title is good for the life of the vessel so long
694 as the certificate is owned or held by the legal holder. If a
695 titled vessel is destroyed or abandoned, the owner, with the
696 consent of any recorded lienholders, shall, within 30 days after

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

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

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

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

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

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

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

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

730 328.04 Content of certificate of title.-

731 (1) A certificate of title must contain:

732 (a) The date the certificate was created;

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

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

737 (d) The hull identification number;

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

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

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

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

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

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

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

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

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

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

776 328.045 Title brands.—

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

783 (a) Deliver to the department an application for a new

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784 certificate that complies with s. 328.01 and includes the title
785 brand designation "Hull Damaged"; or

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

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

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

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

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

812 328.055 Maintenance of and access to files.-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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871 of the department the date and time of destruction or other
872 cancellation. If a written certificate being canceled is not
873 destroyed, the department shall indicate on the face of the
874 certificate that it has been canceled.

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

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

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

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

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

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

898 (2) If the department creates electronic certificates of
899 title, the department shall create an electronic certificate

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900 unless in the application the secured party of record or, if
901 none, the owner of record requests that the department create a
902 written certificate.

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

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

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

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

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

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

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

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

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

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

926 (6) The decision by the department to reject an application
927 for a certificate of title or cancel a certificate of title
928 pursuant to this section is subject to a hearing pursuant to ss.

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929 120.569 and 120.57 at which the owner and any other interested
930 party may present evidence in support of or opposition to the
931 rejection of the application for a certificate of title or the
932 cancellation of a certificate of title.

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

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

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

944 328.11 Duplicate certificate of title.—

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

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

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

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

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

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

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

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987 ~~under this subsection.~~

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

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

995 328.12 Perfection of security interest.-

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

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

1011 (3) If the department has created a certificate of title
1012 for a vessel, a security interest in the vessel may be perfected
1013 by delivery to the department of an application, on a form the
1014 department may require, to have the security interest added to
1015 the certificate. The application must be signed by an owner of

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1016 the vessel or by the secured party and must include:

1017 (a) The name of the owner of record;

1018 (b) The name and mailing address of the secured party;

1019 (c) The hull identification number for the vessel; and

1020 (d) If the department has created a written certificate of
1021 title for the vessel, the certificate.

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

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

1033 (6) If a secured party assigns a perfected security
1034 interest in a vessel, the receipt by the department of a
1035 statement providing the name of the assignee as secured party is
1036 not required to continue the perfected status of the security
1037 interest against creditors of and transferees from the original
1038 debtor. A purchaser of a vessel subject to a security interest
1039 who obtains a release from the secured party indicated in the
1040 files of the department or on the certificate takes free of the
1041 security interest and of the rights of a transferee unless the
1042 transfer is indicated in the files of the department or on the
1043 certificate.

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

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

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

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

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

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

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

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

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1074 Section 16. Section 328.125, Florida Statutes, is created
1075 to read:

1076 328.125 Termination statement.—

1077 (1) A secured party indicated in the files of the
1078 department as having a security interest in a vessel shall
1079 deliver a termination statement to the department and, on the
1080 debtor's request, to the debtor, by the earlier of:

1081 (a) Twenty days after the secured party receives a signed
1082 demand from an owner for a termination statement and there is no
1083 obligation secured by the vessel subject to the security
1084 interest and no commitment to make an advance, incur an
1085 obligation, or otherwise give value secured by the vessel; or

1086 (b) If the vessel is consumer goods, 30 days after there is
1087 no obligation secured by the vessel and no commitment to make an
1088 advance, incur an obligation, or otherwise give value secured by
1089 the vessel.

1090 (2) If a written certificate of title has been created and
1091 delivered to a secured party and a termination statement is
1092 required under subsection (1), the secured party, not later than
1093 the date required by subsection (1), shall deliver the
1094 certificate to the debtor or to the department with the
1095 statement. If the certificate is lost, stolen, mutilated,
1096 destroyed, or is otherwise unavailable or illegible, the secured
1097 party shall deliver with the statement, not later than the date
1098 required by subsection (1), an application for a duplicate
1099 certificate meeting the requirements of s. 328.11.

1100 (3) On delivery to the department of a termination
1101 statement authorized by the secured party, the security interest
1102 to which the statement relates ceases to be perfected. If the

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1103 security interest to which the statement relates was indicated
1104 on the certificate of title, the department shall create a new
1105 certificate and deliver the new certificate or a record
1106 evidencing an electronic certificate. The department shall
1107 maintain in its files the date and time of delivery to the
1108 department of the statement.

1109 (4) A secured party that fails to comply with this section
1110 is liable for any loss that the secured party had reason to know
1111 might result from its failure to comply and which could not
1112 reasonably have been prevented and for the cost of an
1113 application for a certificate of title under s. 328.01 or s.
1114 328.11.

1115 Section 17. Section 328.14, Florida Statutes, is created to
1116 read:

1117 328.14 Rights of purchaser other than secured party.-

1118 (1) A buyer in ordinary course of business has the
1119 protections afforded by ss. 672.403(2) and 679.320(1) even if an
1120 existing certificate of title was not signed and delivered to
1121 the buyer or a new certificate listing the buyer as owner of
1122 record was not created.

1123 (2) Except as otherwise provided in ss. 328.145 and 328.22,
1124 the rights of a purchaser of a vessel who is not a buyer in
1125 ordinary course of business or a lien creditor are governed by
1126 the Uniform Commercial Code.

1127 Section 18. Section 328.145, Florida Statutes, is created
1128 to read:

1129 328.145 Rights of secured party.-

1130 (1) Subject to subsection (2), the effect of perfection and
1131 nonperfection of a security interest and the priority of a

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1132 perfected or unperfected security interest with respect to the
1133 rights of a purchaser or creditor, including a lien creditor, is
1134 governed by the Uniform Commercial Code.

1135 (2) If, while a security interest in a vessel is perfected
1136 by any method under this part, the department creates a
1137 certificate of title that does not indicate that the vessel is
1138 subject to the security interest or contain a statement that it
1139 may be subject to security interests not indicated on the
1140 certificate:

1141 (a) A buyer of the vessel, other than a person in the
1142 business of selling or leasing vessels of that kind, takes free
1143 of the security interest if the buyer, acting in good faith and
1144 without knowledge of the security interest, gives value and
1145 receives possession of the vessel; and

1146 (b) The security interest is subordinate to a conflicting
1147 security interest in the vessel that is perfected under s.
1148 328.12 after creation of the certificate and without the
1149 conflicting secured party's knowledge of the security interest.

1150 Section 19. Section 328.15, Florida Statutes, is amended to
1151 read:

1152 328.15 Notice of lien on vessel; recording.-

1153 ~~(1) No lien for purchase money or as security for a debt in~~
1154 ~~the form of retain title contract, conditional bill of sale,~~
1155 ~~chattel mortgage, or otherwise on a vessel shall be enforceable~~
1156 ~~in any of the courts of this state against creditors or~~
1157 ~~subsequent purchasers for a valuable consideration and without~~
1158 ~~notice unless a sworn notice of such lien is recorded. The lien~~
1159 ~~certificate shall contain the following information:~~

1160 ~~(a) Name and address of the registered owner;~~

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1161 ~~(b) Date of lien;~~

1162 ~~(c) Description of the vessel to include make, type, motor~~
1163 ~~and serial number; and~~

1164 ~~(d) Name and address of lienholder.~~

1165

1166 ~~The lien shall be recorded by the Department of Highway Safety~~
1167 ~~and Motor Vehicles and shall be effective as constructive notice~~
1168 ~~when filed. The date of filing of the notice of lien is the date~~
1169 ~~of its receipt by the department's central office in~~
1170 ~~Tallahassee, if first filed there, or otherwise by the office of~~
1171 ~~a county tax collector or of the tax collector's agent.~~

1172 ~~(2) (a) The Department of Highway Safety and Motor Vehicles~~
1173 ~~shall not enter any lien upon its lien records, whether it is a~~
1174 ~~first lien or a subordinate lien, unless the official~~
1175 ~~certificate of title issued for the vessel is furnished with the~~
1176 ~~notice of lien, so that the record of lien, whether original or~~
1177 ~~subordinate, may be noted upon the face thereof. After the~~
1178 ~~department records the lien, it shall send the certificate of~~
1179 ~~title to the holder of the first lien who shall hold such~~
1180 ~~certificate until the lien is satisfied in full.~~

1181 ~~(b) When a vessel is registered in the names of two or more~~
1182 ~~persons as coowners in the alternative by the use of the word~~
1183 ~~"or," whether or not the coowners are husband and wife, each~~
1184 ~~coowner is considered to have granted to any other coowner the~~
1185 ~~absolute right to place a lien or encumbrance on the vessel, and~~
1186 ~~the signature of one coowner constitutes proper execution of the~~
1187 ~~notice of lien. When a vessel is registered in the names of two~~
1188 ~~or more persons as coowners in the conjunctive by the use of the~~
1189 ~~word "and," the signature of each coowner is required in order~~

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1190 ~~to place a lien or encumbrance on the vessel.~~

1191 ~~(c) If the owner of the vessel as shown on the title~~
1192 ~~certificate or the director of the state child support~~
1193 ~~enforcement program desires to place a second or subsequent lien~~
1194 ~~or encumbrance against the vessel when the title certificate is~~
1195 ~~in the possession of the first lienholder, the owner shall send~~
1196 ~~a written request to the first lienholder by certified mail and~~
1197 ~~such first lienholder shall forward the certificate to the~~
1198 ~~department for endorsement. The department shall return the~~
1199 ~~certificate to the first lienholder, as indicated in the notice~~
1200 ~~of lien filed by the first lienholder, after endorsing the~~
1201 ~~second or subsequent lien on the certificate and on the~~
1202 ~~duplicate. If the first lienholder fails, neglects, or refuses~~
1203 ~~to forward the certificate of title to the department within 10~~
1204 ~~days after the date of the owner's or the director's request,~~
1205 ~~the department, on written request of the subsequent lienholder~~
1206 ~~or an assignee thereof, shall demand of the first lienholder the~~
1207 ~~return of such certificate for the notation of the second or~~
1208 ~~subsequent lien or encumbrance.~~

1209 ~~(1)(3)~~ Upon the payment of a ~~any~~ such lien, the debtor or
1210 the registered owner of the motorboat shall be entitled to
1211 demand and receive from the lienholder a satisfaction of the
1212 lien which shall likewise be filed with the Department of
1213 Highway Safety and Motor Vehicles.

1214 ~~(2)(4)~~ The Department of Highway Safety and Motor Vehicles
1215 under precautionary rules and regulations to be promulgated by
1216 it may permit the use, in substitution of the formal
1217 satisfaction of lien, of other methods of satisfaction, such as
1218 perforation, appropriate stamp, or otherwise, as it deems

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1219 reasonable and adequate.

1220 (3)~~(5)~~(a) The Department of Highway Safety and Motor
1221 Vehicles shall adopt rules to administer this section. The
1222 department may by rule require that a notice of satisfaction of
1223 a lien be notarized. The department shall prepare the forms of
1224 the notice of lien and the satisfaction of lien to be supplied,
1225 at a charge not to exceed 50 percent more than cost, to
1226 applicants for recording the liens or satisfactions and shall
1227 keep a record of such notices of lien and satisfactions
1228 available for inspection by the public at all reasonable times.
1229 The division may furnish certified copies of such satisfactions
1230 for a fee of \$1, which are admissible in evidence in all courts
1231 of this state under the same conditions and to the same effect
1232 as certified copies of other public records.

1233 (b) The department shall establish and administer an
1234 electronic titling program that requires the recording of vessel
1235 title information for new, transferred, and corrected
1236 certificates of title. Lienholders shall electronically transmit
1237 liens and lien satisfactions to the department in a format
1238 determined by the department. Individuals and lienholders who
1239 the department determines are not normally engaged in the
1240 business or practice of financing vessels are not required to
1241 participate in the electronic titling program.

1242 ~~(6) The Department of Highway Safety and Motor Vehicles is~~
1243 ~~entitled to a fee of \$1 for the recording of each notice of~~
1244 ~~lien. No fee shall be charged for recording the satisfaction of~~
1245 ~~a lien. All of the fees collected shall be paid into the Marine~~
1246 ~~Resources Conservation Trust Fund.~~

1247 (4)~~(7)~~(a) Should any person, firm, or corporation holding

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1248 such lien, which has been recorded by the Department of Highway
1249 Safety and Motor Vehicles, upon payment of such lien and on
1250 demand, fail or refuse, within 30 days after such payment and
1251 demand, to furnish the debtor or the registered owner of such
1252 vessel a satisfaction of the lien, then, in that event, such
1253 person, firm, or corporation shall be held liable for all costs,
1254 damages, and expenses, including reasonable attorney ~~attorney's~~
1255 fees, lawfully incurred by the debtor or the registered owner of
1256 such vessel in any suit which may be brought in the courts of
1257 this state for the cancellation of such lien.

1258 (b) Following satisfaction of a lien, the lienholder shall
1259 enter a satisfaction thereof in the space provided on the face
1260 of the certificate of title. If there are no subsequent liens
1261 shown thereon, the certificate shall be delivered by the
1262 lienholder to the person satisfying the lien or encumbrance and
1263 an executed satisfaction on a form provided by the department
1264 shall be forwarded to the department by the lienholder within 10
1265 days after satisfaction of the lien.

1266 (c) If the certificate of title shows a subsequent lien not
1267 then being discharged, an executed satisfaction of the first
1268 lien shall be delivered by the lienholder to the person
1269 satisfying the lien and the certificate of title showing
1270 satisfaction of the first lien shall be forwarded by the
1271 lienholder to the department within 10 days after satisfaction
1272 of the lien.

1273 (d) If, upon receipt of a title certificate showing
1274 satisfaction of the first lien, the department determines from
1275 its records that there are no subsequent liens or encumbrances
1276 upon the vessel, the department shall forward to the owner, as

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1277 shown on the face of the title, a corrected certificate showing
1278 no liens or encumbrances. If there is a subsequent lien not
1279 being discharged, the certificate of title shall be reissued
1280 showing the second or subsequent lienholder as the first
1281 lienholder and shall be delivered to the new first lienholder.
1282 The first lienholder shall be entitled to retain the certificate
1283 of title until his or her lien is satisfied. Upon satisfaction
1284 of the lien, the lienholder shall be subject to the procedures
1285 required of a first lienholder in this subsection ~~and in~~
1286 ~~subsection (2)~~.

1287 (5)~~(8)~~ When the original certificate of title cannot be
1288 returned to the department by the lienholder and evidence
1289 satisfactory to the department is produced that all liens or
1290 encumbrances have been satisfied, upon application by the owner
1291 for a duplicate copy of the certificate of title, upon the form
1292 prescribed by the department, accompanied by the fee prescribed
1293 in this chapter, a duplicate copy of the certificate of title
1294 without statement of liens or encumbrances shall be issued by
1295 the department and delivered to the owner.

1296 (6)~~(9)~~ Any person who fails, within 10 days after receipt
1297 of a demand by the department by certified mail, to return a
1298 certificate of title to the department ~~as required by paragraph~~
1299 ~~(2) (e)~~ or who, upon satisfaction of a lien, fails within 10 days
1300 after receipt of such demand to forward the appropriate document
1301 to the department as required by paragraph (4) (b) ~~(7) (b)~~ or
1302 paragraph (4) (c) ~~(7) (e)~~ commits a misdemeanor of the second
1303 degree, punishable as provided in s. 775.082 or s. 775.083.

1304 (7)~~(10)~~ The department shall use the last known address as
1305 shown by its records when sending any notice required by this

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1306 section.

1307 (8)~~(11)~~ If the original lienholder sells and assigns his or
1308 her lien to some other person, and if the assignee desires to
1309 have his or her name substituted on the certificate of title as
1310 the holder of the lien, he or she may, after delivering the
1311 original certificate of title to the department and providing a
1312 sworn statement of the assignment, have his or her name
1313 substituted as a lienholder. Upon substitution of the assignee's
1314 name as lienholder, the department shall deliver the certificate
1315 of title to the assignee as the first lienholder.

1316 (9) Subsections (1), (2), and (4)-(8) shall expire October
1317 1, 2026.

1318 Section 20. Section 328.16, Florida Statutes, is amended to
1319 read:

1320 328.16 Issuance in duplicate; delivery; liens, security
1321 interests, and encumbrances.—

1322 (1) The department shall assign a number to each
1323 certificate of title and shall issue each certificate of title
1324 and each corrected certificate in duplicate. The database record
1325 shall serve as the duplicate title certificate.

1326 (2) An authorized person must sign the original certificate
1327 of title and each corrected certificate and, if there are no
1328 liens, security interests, or encumbrances on the vessel, as
1329 shown in the records of the department or as shown in the
1330 application, must deliver the certificate to the applicant or to
1331 another person as directed by the applicant or person, agent, or
1332 attorney submitting the application. If there are one or more
1333 liens, security interests, or encumbrances on the vessel, the
1334 department must deliver the certificate to the first lienholder

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

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

1386 (3) ~~Except as provided in s. 328.15(11),~~ The certificate of
1387 title shall be retained by the first lienholder or secured party
1388 of record. The first lienholder or secured party of record is
1389 entitled to retain the certificate until the first lien or
1390 security interest is satisfied.

1391 (4) Notwithstanding any requirements in this section ~~or in~~
1392 ~~s. 328.15~~ indicating that a lien or security interest on a

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1393 vessel shall be noted on the face of the Florida certificate of
1394 title, if there are one or more liens, security interests, or
1395 encumbrances on a vessel, the department shall electronically
1396 transmit the lien or security interest to the first lienholder
1397 or secured party and notify the first lienholder or secured
1398 party of any additional liens or security interests. Subsequent
1399 lien or security interest satisfactions shall be electronically
1400 transmitted to the department and must include the name and
1401 address of the person or entity satisfying the lien or security
1402 interest. When electronic transmission of liens or security
1403 interests and lien satisfactions or security interests are used,
1404 the issuance of a certificate of title may be waived until the
1405 last lien or security interest is satisfied and a clear
1406 certificate of title is issued to the owner of the vessel.

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

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1422 lienholder or secured party within the 10-day period. However,
1423 if the lienholder or secured party files with the department,
1424 within the 10-day period, a written statement that the lien or
1425 security interest is still outstanding, the department may not
1426 remove the lien or security interest until the lienholder or
1427 secured party presents a satisfaction of lien or satisfaction of
1428 security interest to the department.

1429 Section 21. Subsection (1) of section 328.165, Florida
1430 Statutes, is amended to read:

1431 328.165 Cancellation of certificates.-

1432 (1) If it appears that a certificate of title has been
1433 improperly issued, the department shall cancel the certificate.
1434 Upon cancellation of any certificate of title, the department
1435 shall notify the person to whom the certificate of title was
1436 issued, and any lienholders or secured parties appearing
1437 thereon, of the cancellation and shall demand the surrender of
1438 the certificate of title; however, the cancellation does not
1439 affect the validity of any lien or security interest noted
1440 thereon. The holder of the certificate of title shall
1441 immediately return it to the department. If a certificate of
1442 registration has been issued to the holder of a certificate of
1443 title so canceled, the department shall immediately cancel the
1444 certificate of registration and demand the return of the
1445 certificate of registration, and the holder of such certificate
1446 of registration shall immediately return it to the department.

1447 Section 22. Section 328.215, Florida Statutes, is created
1448 to read:

1449 328.215 Application for transfer of ownership or
1450 termination of security interest without certificate of title.-

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1451 (1) Except as otherwise provided in s. 328.23 or s. 328.24,
1452 if the department receives, unaccompanied by a signed
1453 certificate of title, an application for a new certificate that
1454 includes an indication of a transfer of ownership or a
1455 termination statement, the department may create a new
1456 certificate under this section only if:

1457 (a) All other requirements under ss. 328.01 and 328.09 are
1458 met;

1459 (b) The applicant provides an affidavit stating facts
1460 showing the applicant is entitled to a transfer of ownership or
1461 termination statement;

1462 (c) The applicant provides the department with satisfactory
1463 evidence that notification of the application has been sent to
1464 the owner of record and all persons indicated in the files of
1465 the department as having an interest, including a security
1466 interest, in the vessel; at least 45 days have passed since the
1467 notification was sent; and the department has not received an
1468 objection from any of those persons; and

1469 (d) The applicant submits any other information required by
1470 the department as evidence of the applicant's ownership or right
1471 to terminate the security interest, and the department has no
1472 credible information indicating theft, fraud, or an undisclosed
1473 or unsatisfied security interest, lien, or other claim to an
1474 interest in the vessel.

1475 (2) The department may indicate in a certificate of title
1476 created under subsection (1) that the certificate was created
1477 without submission of a signed certificate or termination
1478 statement. Unless credible information indicating theft, fraud,
1479 or an undisclosed or unsatisfied security interest, lien, or

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1480 other claim to an interest in the vessel is delivered to the
1481 department not later than 1 year after creation of the
1482 certificate, on request in a form and manner required by the
1483 department, the department shall remove the indication from the
1484 certificate.

1485 (3) Before the department creates a certificate of title
1486 under subsection (1), the department may require the applicant
1487 to post a reasonable bond or provide an equivalent source of
1488 indemnity or security. The bond, indemnity, or other security
1489 must be in a form required by the department and provide for
1490 indemnification of any owner, purchaser, or other claimant for
1491 any expense, loss, delay, or damage, including reasonable
1492 attorney fees and costs, but not including incidental or
1493 consequential damages, resulting from creation or amendment of
1494 the certificate.

1495 (4) Unless the department receives a claim for indemnity
1496 not later than 1 year after creation of a certificate of title
1497 under subsection (1), on request in a form and manner required
1498 by the department, the department shall release any bond,
1499 indemnity, or other security. The department is not liable to a
1500 person or entity for creating a certificate of title under this
1501 section when the department issues the certificate of title in
1502 good faith based on the information provided by an applicant. An
1503 applicant that submits erroneous or fraudulent information with
1504 the intent to mislead the department into issuing a certificate
1505 of title under this section is subject to the penalties
1506 established in s. 328.045(4) in addition to any other criminal
1507 or civil penalties provided by law.

1508 Section 23. Section 328.22, Florida Statutes, is created to

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1509 read:

1510 328.22 Transfer of ownership.—

1511 (1) On voluntary transfer of an ownership interest in a
1512 vessel covered by a certificate of title, the following
1513 requirements apply:

1514 (a) If the certificate is a written certificate of title
1515 and the transferor's interest is noted on the certificate, the
1516 transferor shall promptly sign the certificate and deliver it to
1517 the transferee. If the transferor does not have possession of
1518 the certificate, the person in possession of the certificate has
1519 a duty to facilitate the transferor's compliance with this
1520 paragraph. A secured party does not have a duty to facilitate
1521 the transferor's compliance with this paragraph if the proposed
1522 transfer is prohibited by the security agreement.

1523 (b) If the certificate of title is an electronic
1524 certificate of title, the transferor shall promptly sign by
1525 hand, or electronically if available, and deliver to the
1526 transferee a record evidencing the transfer of ownership to the
1527 transferee.

1528 (c) The transferee has a right enforceable by specific
1529 performance to require the transferor to comply with paragraph
1530 (a) or paragraph (b).

1531 (2) The creation of a certificate of title identifying the
1532 transferee as owner of record satisfies subsection (1).

1533 (3) A failure to comply with subsection (1) or to apply for
1534 a new certificate of title does not render a transfer of
1535 ownership of a vessel ineffective between the parties. Except as
1536 otherwise provided in s. 328.101, s. 328.14(1), s. 328.145, or
1537 s. 328.23, a transfer of ownership without compliance with

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1538 subsection (1) is not effective against another person claiming
1539 an interest in the vessel.

1540 (4) A transferor that complies with subsection (1) is not
1541 liable as owner of the vessel for an event occurring after the
1542 transfer, regardless of whether the transferee applies for a new
1543 certificate of title.

1544 Section 24. Section 328.23, Florida Statutes, is created to
1545 read:

1546 328.23 Transfer of ownership by secured party's transfer
1547 statement.—

1548 (1) For the purposes of this section, "secured party's
1549 transfer statement" means a record signed by the secured party
1550 of record stating:

1551 (a) That there has been a default on an obligation secured
1552 by the vessel;

1553 (b) That the secured party of record is exercising or has
1554 exercised post-default remedies with respect to the vessel;

1555 (c) That by reason of the exercise, the secured party of
1556 record has the right to transfer the ownership interest of an
1557 owner, and the name of the owner;

1558 (d) The name and last known mailing address of the owner of
1559 record and the secured party of record;

1560 (e) The name of the transferee;

1561 (f) Other information required by s. 328.01(2); and

1562 (g) One of the following:

1563 1. The certificate of title is an electronic certificate.

1564 2. The secured party does not have possession of the
1565 written certificate of title created in the name of the owner of
1566 record.

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1567 3. The secured party is delivering the written certificate
1568 of title to the department with the secured party's transfer
1569 statement.

1570 (2) Unless the department rejects a secured party's
1571 transfer statement for a reason stated in s. 328.09(3), not
1572 later than 30 days after delivery to the department of the
1573 statement and payment of fees and taxes payable under the laws
1574 of this state, other than this part, in connection with the
1575 statement or the acquisition or use of the vessel, the
1576 department shall:

1577 (a) Accept the statement;

1578 (b) Amend the files of the department to reflect the
1579 transfer; and

1580 (c) If the name of the owner whose ownership interest is
1581 being transferred is indicated on the certificate of title:

1582 1. Cancel the certificate even if the certificate has not
1583 been delivered to the department;

1584 2. Create a new certificate indicating the transferee as
1585 owner; and

1586 3. Deliver the new certificate or a record evidencing an
1587 electronic certificate.

1588 (3) An application under subsection (1) or the creation of
1589 a certificate of title under subsection (2) is not by itself a
1590 disposition of the vessel and does not by itself relieve the
1591 secured party of its duties under chapter 679.

1592 Section 25. Section 328.24, Florida Statutes, is created to
1593 read:

1594 328.24 Transfer by operation of law.—

1595 (1) For the purposes of this section, "by operation of law"

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1596 means pursuant to a law or judicial order affecting ownership of
1597 a vessel:

1598 (a) Because of death, divorce, or other family law
1599 proceeding, merger, consolidation, dissolution, or bankruptcy;

1600 (b) Through the exercise of the rights of a lien creditor
1601 or a person having a lien created by statute or rule of law; or

1602 (c) Through other legal process.

1603 (2) A transfer-by-law statement must contain:

1604 (a) The name and last known mailing address of the owner of
1605 record and the transferee and the other information required by
1606 s. 328.01;

1607 (b) Documentation sufficient to establish the transferee's
1608 ownership interest or right to acquire the ownership interest;

1609 (c) A statement that:

1610 1. The certificate of title is an electronic certificate of
1611 title;

1612 2. The transferee does not have possession of the written
1613 certificate of title created in the name of the owner of record;
1614 or

1615 3. The transferee is delivering the written certificate to
1616 the department with the transfer-by-law statement; and

1617 (d) Except for a transfer described in paragraph (1) (a),
1618 evidence that notification of the transfer and the intent to
1619 file the transfer-by-law statement has been sent to all persons
1620 indicated in the files of the department as having an interest,
1621 including a security interest, in the vessel.

1622 (3) Unless the department rejects a transfer-by-law
1623 statement for a reason stated in s. 328.09(3) or because the
1624 statement does not include documentation satisfactory to the

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1625 department as to the transferee's ownership interest or right to
1626 acquire the ownership interest, not later than 30 days after
1627 delivery to the department of the statement and payment of fees
1628 and taxes payable under the law of this state, other than this
1629 part, in connection with the statement or with the acquisition
1630 or use of the vessel, the department shall:

1631 (a) Accept the statement;

1632 (b) Amend the files of the department to reflect the
1633 transfer; and

1634 (c) If the name of the owner whose ownership interest is
1635 being transferred is indicated on the certificate of title:

1636 1. Cancel the certificate even if the certificate has not
1637 been delivered to the department;

1638 2. Create a new certificate indicating the transferee as
1639 owner;

1640 3. Indicate on the new certificate any security interest
1641 indicated on the canceled certificate, unless a court order
1642 provides otherwise; and

1643 4. Deliver the new certificate or a record evidencing an
1644 electronic certificate.

1645 (4) This section does not apply to a transfer of an
1646 interest in a vessel by a secured party under part VI of chapter
1647 679.

1648 Section 26. Section 328.25, Florida Statutes, is created to
1649 read:

1650 328.25 Supplemental principles of law and equity.—Unless
1651 displaced by a provision of this part, the principles of law and
1652 equity supplement its provisions.

1653 Section 27. Section 328.41, Florida Statutes, is created to

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1654 read:

1655 328.41 Rulemaking.—The department may adopt rules pursuant
1656 to ss. 120.536(1) and 120.54 to implement this part.

1657 Section 28. Section 409.2575, Florida Statutes, is amended
1658 to read:

1659 409.2575 Liens on motor vehicles and vessels.—

1660 (1) The director of the state IV-D program, or the
1661 director's designee, may cause a lien for unpaid and delinquent
1662 support to be placed upon motor vehicles, as defined in chapter
1663 320, and upon vessels, as defined in chapter 327, that are
1664 registered in the name of an obligor who is delinquent in
1665 support payments, if the title to the property is held by a
1666 lienholder, in the manner provided in chapter 319 or, if
1667 applicable in accordance with s. 328.15(9), chapter 328. Notice
1668 of lien shall not be mailed unless the delinquency in support
1669 exceeds \$600.

1670 (2) If the first lienholder fails, neglects, or refuses to
1671 forward the certificate of title to the appropriate department
1672 as requested pursuant to s. 319.24 or, if applicable in
1673 accordance with s. 328.15(9), s. 328.15, the director of the IV-
1674 D program, or the director's designee, may apply to the circuit
1675 court for an order to enforce the requirements of s. 319.24 or
1676 s. 328.15, whichever applies.

1677 Section 29. Subsection (2) of section 705.103, Florida
1678 Statutes, is amended to read:

1679 705.103 Procedure for abandoned or lost property.—

1680 (2) Whenever a law enforcement officer ascertains that an
1681 article of lost or abandoned property is present on public
1682 property and is of such nature that it cannot be easily removed,

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1683 the officer shall cause a notice to be placed upon such article
1684 in substantially the following form:
1685
1686 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
1687 PROPERTY. This property, to wit: ...(setting forth brief
1688 description)... is unlawfully upon public property known as
1689 ...(setting forth brief description of location)... and must be
1690 removed within 5 days; otherwise, it will be removed and
1691 disposed of pursuant to chapter 705, Florida Statutes. The owner
1692 will be liable for the costs of removal, storage, and
1693 publication of notice. Dated this: ...(setting forth the date of
1694 posting of notice)..., signed: ...(setting forth name, title,
1695 address, and telephone number of law enforcement officer)....
1696 Such notice shall be not less than 8 inches by 10 inches and
1697 shall be sufficiently weatherproof to withstand normal exposure
1698 to the elements. In addition to posting, the law enforcement
1699 officer shall make a reasonable effort to ascertain the name and
1700 address of the owner. If such is reasonably available to the
1701 officer, she or he shall mail a copy of such notice to the owner
1702 on or before the date of posting. If the property is a motor
1703 vehicle as defined in s. 320.01(1) or a vessel as defined in s.
1704 327.02, the law enforcement agency shall contact the Department
1705 of Highway Safety and Motor Vehicles in order to determine the
1706 name and address of the owner and any person who has filed a
1707 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)
1708 ~~or s. 328.15(1)~~. On receipt of this information, the law
1709 enforcement agency shall mail a copy of the notice by certified
1710 mail, return receipt requested, to the owner and to the
1711 lienholder, if any, except that a law enforcement officer who

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1712 has issued a citation for a violation of s. 823.11 to the owner
1713 of a derelict vessel is not required to mail a copy of the
1714 notice by certified mail, return receipt requested, to the
1715 owner. If, at the end of 5 days after posting the notice and
1716 mailing such notice, if required, the owner or any person
1717 interested in the lost or abandoned article or articles
1718 described has not removed the article or articles from public
1719 property or shown reasonable cause for failure to do so, the
1720 following shall apply:

1721 (a) For abandoned property, the law enforcement agency may
1722 retain any or all of the property for its own use or for use by
1723 the state or unit of local government, trade such property to
1724 another unit of local government or state agency, donate the
1725 property to a charitable organization, sell the property, or
1726 notify the appropriate refuse removal service.

1727 (b) For lost property, the officer shall take custody and
1728 the agency shall retain custody of the property for 90 days. The
1729 agency shall publish notice of the intended disposition of the
1730 property, as provided in this section, during the first 45 days
1731 of this time period.

1732 1. If the agency elects to retain the property for use by
1733 the unit of government, donate the property to a charitable
1734 organization, surrender such property to the finder, sell the
1735 property, or trade the property to another unit of local
1736 government or state agency, notice of such election shall be
1737 given by an advertisement published once a week for 2
1738 consecutive weeks in a newspaper of general circulation in the
1739 county where the property was found if the value of the property
1740 is more than \$100. If the value of the property is \$100 or less,

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1741 notice shall be given by posting a description of the property
1742 at the law enforcement agency where the property was turned in.
1743 The notice must be posted for not less than 2 consecutive weeks
1744 in a public place designated by the law enforcement agency. The
1745 notice must describe the property in a manner reasonably
1746 adequate to permit the rightful owner of the property to claim
1747 it.

1748 2. If the agency elects to sell the property, it must do so
1749 at public sale by competitive bidding. Notice of the time and
1750 place of the sale shall be given by an advertisement of the sale
1751 published once a week for 2 consecutive weeks in a newspaper of
1752 general circulation in the county where the sale is to be held.
1753 The notice shall include a statement that the sale shall be
1754 subject to any and all liens. The sale must be held at the
1755 nearest suitable place to that where the lost or abandoned
1756 property is held or stored. The advertisement must include a
1757 description of the goods and the time and place of the sale. The
1758 sale may take place no earlier than 10 days after the final
1759 publication. If there is no newspaper of general circulation in
1760 the county where the sale is to be held, the advertisement shall
1761 be posted at the door of the courthouse and at three other
1762 public places in the county at least 10 days prior to sale.
1763 Notice of the agency's intended disposition shall describe the
1764 property in a manner reasonably adequate to permit the rightful
1765 owner of the property to identify it.

1766 Section 30. Paragraph (c) of subsection (2) of section
1767 721.08, Florida Statutes, is amended to read:

1768 721.08 Escrow accounts; nondisturbance instruments;
1769 alternate security arrangements; transfer of legal title.-

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1770 (2) One hundred percent of all funds or other property
1771 which is received from or on behalf of purchasers of the
1772 timeshare plan or timeshare interest prior to the occurrence of
1773 events required in this subsection shall be deposited pursuant
1774 to an escrow agreement approved by the division. The funds or
1775 other property may be released from escrow only as follows:

1776 (c) *Compliance with conditions.*—

1777 1. Timeshare licenses.—If the timeshare plan is one in
1778 which timeshare licenses are to be sold and no cancellation or
1779 default has occurred, the escrow agent may release the escrowed
1780 funds or other property to or on the order of the developer upon
1781 presentation of:

1782 a. An affidavit by the developer that all of the following
1783 conditions have been met:

1784 (I) Expiration of the cancellation period.

1785 (II) Completion of construction.

1786 (III) Closing.

1787 (IV) Either:

1788 (A) Execution, delivery, and recordation by each
1789 interestholder of the nondisturbance and notice to creditors
1790 instrument, as described in this section; or

1791 (B) Transfer by the developer of legal title to the subject
1792 accommodations and facilities, or all use rights therein, into a
1793 trust satisfying the requirements of subparagraph 4. and the
1794 execution, delivery, and recordation by each other
1795 interestholder of the nondisturbance and notice to creditors
1796 instrument, as described in this section.

1797 b. A certified copy of each recorded nondisturbance and
1798 notice to creditors instrument.

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1799 c. One of the following:

1800 (I) A copy of a memorandum of agreement, as defined in s.
1801 721.05, together with satisfactory evidence that the original
1802 memorandum of agreement has been irretrievably delivered for
1803 recording to the appropriate official responsible for
1804 maintaining the public records in the county in which the
1805 subject accommodations and facilities are located. The original
1806 memorandum of agreement must be recorded within 180 days after
1807 the date on which the purchaser executed her or his purchase
1808 agreement.

1809 (II) A notice delivered for recording to the appropriate
1810 official responsible for maintaining the public records in each
1811 county in which the subject accommodations and facilities are
1812 located notifying all persons of the identity of an independent
1813 escrow agent or trustee satisfying the requirements of
1814 subparagraph 4. that shall maintain separate books and records,
1815 in accordance with good accounting practices, for the timeshare
1816 plan in which timeshare licenses are to be sold. The books and
1817 records shall indicate each accommodation and facility that is
1818 subject to such a timeshare plan and each purchaser of a
1819 timeshare license in the timeshare plan.

1820 2. Timeshare estates.—If the timeshare plan is one in which
1821 timeshare estates are to be sold and no cancellation or default
1822 has occurred, the escrow agent may release the escrowed funds or
1823 other property to or on the order of the developer upon
1824 presentation of:

1825 a. An affidavit by the developer that all of the following
1826 conditions have been met:

1827 (I) Expiration of the cancellation period.

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- 1828 (II) Completion of construction.
- 1829 (III) Closing.
- 1830 b. If the timeshare estate is sold by agreement for deed, a
- 1831 certified copy of the recorded nondisturbance and notice to
- 1832 creditors instrument, as described in this section.
- 1833 c. Evidence that each accommodation and facility:
- 1834 (I) Is free and clear of the claims of any interestholders,
- 1835 other than the claims of interestholders that, through a
- 1836 recorded instrument, are irrevocably made subject to the
- 1837 timeshare instrument and the use rights of purchasers made
- 1838 available through the timeshare instrument;
- 1839 (II) Is the subject of a recorded nondisturbance and notice
- 1840 to creditors instrument that complies with subsection (3) and s.
- 1841 721.17; or
- 1842 (III) Has been transferred into a trust satisfying the
- 1843 requirements of subparagraph 4.
- 1844 d. Evidence that the timeshare estate:
- 1845 (I) Is free and clear of the claims of any interestholders,
- 1846 other than the claims of interestholders that, through a
- 1847 recorded instrument, are irrevocably made subject to the
- 1848 timeshare instrument and the use rights of purchasers made
- 1849 available through the timeshare instrument; or
- 1850 (II) Is the subject of a recorded nondisturbance and notice
- 1851 to creditors instrument that complies with subsection (3) and s.
- 1852 721.17.
- 1853 3. Personal property timeshare interests.—If the timeshare
- 1854 plan is one in which personal property timeshare interests are
- 1855 to be sold and no cancellation or default has occurred, the
- 1856 escrow agent may release the escrowed funds or other property to

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1857 or on the order of the developer upon presentation of:

1858 a. An affidavit by the developer that all of the following
1859 conditions have been met:

1860 (I) Expiration of the cancellation period.

1861 (II) Completion of construction.

1862 (III) Closing.

1863 b. If the personal property timeshare interest is sold by
1864 agreement for transfer, evidence that the agreement for transfer
1865 complies fully with s. 721.06 and this section.

1866 c. Evidence that one of the following has occurred:

1867 (I) Transfer by the owner of the underlying personal
1868 property of legal title to the subject accommodations and
1869 facilities or all use rights therein into a trust satisfying the
1870 requirements of subparagraph 4.; or

1871 (II) Transfer by the owner of the underlying personal
1872 property of legal title to the subject accommodations and
1873 facilities or all use rights therein into an owners' association
1874 satisfying the requirements of subparagraph 5.

1875 d. Evidence of compliance with the provisions of
1876 subparagraph 6., if required.

1877 e. If a personal property timeshare plan is created with
1878 respect to accommodations and facilities that are located on or
1879 in an oceangoing vessel, including a "documented vessel" or a
1880 "foreign vessel," as defined and governed by 46 U.S.C. chapter
1881 301:

1882 (I) In making the transfer required in sub-subparagraph c.,
1883 the developer shall use as its transfer instrument a document
1884 that establishes and protects the continuance of the use rights
1885 in the subject accommodations and facilities in a manner that is

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1886 enforceable by the trust or owners' association.

1887 (II) The transfer instrument shall comply fully with the
1888 provisions of this chapter, shall be part of the timeshare
1889 instrument, and shall contain specific provisions that:

1890 (A) Prohibit the vessel owner, the developer, any manager
1891 or operator of the vessel, the owners' association or the
1892 trustee, the managing entity, or any other person from incurring
1893 any liens against the vessel except for liens that are required
1894 for the operation and upkeep of the vessel, including liens for
1895 fuel expenditures, repairs, crews' wages, and salvage, and
1896 except as provided in sub-sub-subparagraphs 4.b.(III) and
1897 5.b.(III). All expenses, fees, and taxes properly incurred in
1898 connection with the creation, satisfaction, and discharge of any
1899 such permitted lien, or a prorated portion thereof if less than
1900 all of the accommodations on the vessel are subject to the
1901 timeshare plan, shall be common expenses of the timeshare plan.

1902 (B) Grant a lien against the vessel in favor of the owners'
1903 association or trustee to secure the full and faithful
1904 performance of the vessel owner and developer of all of their
1905 obligations to the purchasers.

1906 (C) Establish governing law in a jurisdiction that
1907 recognizes and will enforce the timeshare instrument and the
1908 laws of the jurisdiction of registry of the vessel.

1909 (D) Require that a description of the use rights of
1910 purchasers be posted and displayed on the vessel in a manner
1911 that will give notice of such rights to any party examining the
1912 vessel. This notice must identify the owners' association or
1913 trustee and include a statement disclosing the limitation on
1914 incurring liens against the vessel described in sub-sub-sub-

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1915 subparagraph (A).

1916 (E) Include the nondisturbance and notice to creditors
1917 instrument for the vessel owner and any other interestholders.

1918 (F) The owners' association created under subparagraph 5.
1919 or trustee created under subparagraph 4. shall have access to
1920 any certificates of classification in accordance with the
1921 timeshare instrument.

1922 (III) If the vessel is a foreign vessel, the vessel must be
1923 registered in a jurisdiction that permits a filing evidencing
1924 the use rights of purchasers in the subject accommodations and
1925 facilities, offers protection for such use rights against
1926 unfiled and inferior claims, and recognizes the document or
1927 instrument creating such use rights as a lien against the
1928 vessel.

1929 (IV) In addition to the disclosures required by s.
1930 721.07(5), the public offering statement and purchase contract
1931 must contain a disclosure in conspicuous type in substantially
1932 the following form:

1933
1934 *The laws of the State of Florida govern the offering of this*
1935 *timeshare plan in this state. There are inherent risks in*
1936 *purchasing a timeshare interest in this timeshare plan because*
1937 *the accommodations and facilities of the timeshare plan are*
1938 *located on a vessel that will sail into international waters and*
1939 *into waters governed by many different jurisdictions. Therefore,*
1940 *the laws of the State of Florida cannot fully protect your*
1941 *purchase of an interest in this timeshare plan. Specifically,*
1942 *management and operational issues may need to be addressed in*
1943 *the jurisdiction in which the vessel is registered, which is*

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1944 *(insert jurisdiction in which vessel is registered). Concerns of*
1945 *purchasers may be sent to (insert name of applicable regulatory*
1946 *agency and address).*

1947
1948 4. Trust.—

1949 a. If the subject accommodations or facilities, or all use
1950 rights therein, are to be transferred into a trust in order to
1951 comply with this paragraph, such transfer shall take place
1952 pursuant to this subparagraph. If the accommodations or
1953 facilities included in such transfer are subject to a lease, the
1954 unexpired term of the lease must be disclosed as the term of the
1955 timeshare plan pursuant to s. 721.07(5)(f)4.

1956 b. Prior to the transfer of the subject accommodations and
1957 facilities, or all use rights therein, to a trust, any lien or
1958 other encumbrance against such accommodations and facilities, or
1959 use rights therein, shall be made subject to a nondisturbance
1960 and notice to creditors instrument pursuant to subsection (3).
1961 No transfer pursuant to this subparagraph shall become effective
1962 until the trustee accepts such transfer and the responsibilities
1963 set forth herein. A trust established pursuant to this
1964 subparagraph shall comply with the following provisions:

1965 (I) The trustee shall be an individual or a business entity
1966 authorized and qualified to conduct trust business in this
1967 state. Any corporation authorized to do business in this state
1968 may act as trustee in connection with a timeshare plan pursuant
1969 to this chapter. The trustee must be independent from any
1970 developer or managing entity of the timeshare plan or any
1971 interestholder of any accommodation or facility of such plan.

1972 (II) The trust shall be irrevocable so long as any

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1973 purchaser has a right to occupy any portion of the timeshare
1974 property pursuant to the timeshare plan.

1975 (III) The trustee shall not convey, hypothecate, mortgage,
1976 assign, lease, or otherwise transfer or encumber in any fashion
1977 any interest in or portion of the timeshare property with
1978 respect to which any purchaser has a right of use or occupancy
1979 unless the timeshare plan is terminated pursuant to the
1980 timeshare instrument, or such conveyance, hypothecation,
1981 mortgage, assignment, lease, transfer, or encumbrance is
1982 approved by a vote of two-thirds of all voting interests of the
1983 timeshare plan. Subject to s. 721.552, a vote of the voting
1984 interests of the timeshare plan is not required for substitution
1985 or automatic deletion of accommodations or facilities.

1986 (IV) All purchasers of the timeshare plan or the owners'
1987 association of the timeshare plan shall be the express
1988 beneficiaries of the trust. The trustee shall act as a fiduciary
1989 to the beneficiaries of the trust. The personal liability of the
1990 trustee shall be governed by ss. 736.08125, 736.08163, 736.1013,
1991 and 736.1015. The agreement establishing the trust shall set
1992 forth the duties of the trustee. The trustee shall be required
1993 to furnish promptly to the division upon request a copy of the
1994 complete list of the names and addresses of the owners in the
1995 timeshare plan and a copy of any other books and records of the
1996 timeshare plan required to be maintained pursuant to s. 721.13
1997 that are in the possession, custody, or control of the trustee.
1998 All expenses reasonably incurred by the trustee in the
1999 performance of its duties, together with any reasonable
2000 compensation of the trustee, shall be common expenses of the
2001 timeshare plan.

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2002 (V) The trustee shall not resign upon less than 90 days'
2003 prior written notice to the managing entity and the division. No
2004 resignation shall become effective until a substitute trustee,
2005 approved by the division, is appointed by the managing entity
2006 and accepts the appointment.

2007 (VI) The documents establishing the trust arrangement shall
2008 constitute a part of the timeshare instrument.

2009 (VII) For trusts holding property in a timeshare plan
2010 located outside this state, the trust and trustee holding such
2011 property shall be deemed in compliance with the requirements of
2012 this subparagraph if such trust and trustee are authorized and
2013 qualified to conduct trust business under the laws of such
2014 jurisdiction and the agreement or law governing such trust
2015 arrangement provides substantially similar protections for the
2016 purchaser as are required in this subparagraph for trusts
2017 holding property in a timeshare plan in this state.

2018 (VIII) The trustee shall have appointed a registered agent
2019 in this state for service of process. In the event such a
2020 registered agent is not appointed, service of process may be
2021 served pursuant to s. 721.265.

2022 5. Owners' association.-

2023 a. If the subject accommodations or facilities, or all use
2024 rights therein, are to be transferred into an owners'
2025 association in order to comply with this paragraph, such
2026 transfer shall take place pursuant to this subparagraph.

2027 b. Before the transfer of the subject accommodations and
2028 facilities, or all use rights therein, to an owners'
2029 association, any lien or other encumbrance against such
2030 accommodations and facilities, or use rights therein, shall be

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2031 made subject to a nondisturbance and notice to creditors
2032 instrument pursuant to subsection (3). No transfer pursuant to
2033 this subparagraph shall become effective until the owners'
2034 association accepts such transfer and the responsibilities set
2035 forth herein. An owners' association established pursuant to
2036 this subparagraph shall comply with the following provisions:

2037 (I) The owners' association shall be a business entity
2038 authorized and qualified to conduct business in this state.
2039 Control of the board of directors of the owners' association
2040 must be independent from any developer or managing entity of the
2041 timeshare plan or any interestholder.

2042 (II) The bylaws of the owners' association shall provide
2043 that the corporation may not be voluntarily dissolved without
2044 the unanimous vote of all owners of personal property timeshare
2045 interests so long as any purchaser has a right to occupy any
2046 portion of the timeshare property pursuant to the timeshare
2047 plan.

2048 (III) The owners' association shall not convey,
2049 hypothecate, mortgage, assign, lease, or otherwise transfer or
2050 encumber in any fashion any interest in or portion of the
2051 timeshare property with respect to which any purchaser has a
2052 right of use or occupancy, unless the timeshare plan is
2053 terminated pursuant to the timeshare instrument, or unless such
2054 conveyance, hypothecation, mortgage, assignment, lease,
2055 transfer, or encumbrance is approved by a vote of two-thirds of
2056 all voting interests of the association and such decision is
2057 declared by a court of competent jurisdiction to be in the best
2058 interests of the purchasers of the timeshare plan. The owners'
2059 association shall notify the division in writing within 10 days

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2060 after receiving notice of the filing of any petition relating to
2061 obtaining such a court order. The division shall have standing
2062 to advise the court of the division's interpretation of the
2063 statute as it relates to the petition.

2064 (IV) All purchasers of the timeshare plan shall be members
2065 of the owners' association and shall be entitled to vote on
2066 matters requiring a vote of the owners' association as provided
2067 in this chapter or the timeshare instrument. The owners'
2068 association shall act as a fiduciary to the purchasers of the
2069 timeshare plan. The articles of incorporation establishing the
2070 owners' association shall set forth the duties of the owners'
2071 association. All expenses reasonably incurred by the owners'
2072 association in the performance of its duties, together with any
2073 reasonable compensation of the officers or directors of the
2074 owners' association, shall be common expenses of the timeshare
2075 plan.

2076 (V) The documents establishing the owners' association
2077 shall constitute a part of the timeshare instrument.

2078 (VI) For owners' associations holding property in a
2079 timeshare plan located outside this state, the owners'
2080 association holding such property shall be deemed in compliance
2081 with the requirements of this subparagraph if such owners'
2082 association is authorized and qualified to conduct owners'
2083 association business under the laws of such jurisdiction and the
2084 agreement or law governing such arrangement provides
2085 substantially similar protections for the purchaser as are
2086 required in this subparagraph for owners' associations holding
2087 property in a timeshare plan in this state.

2088 (VII) The owners' association shall have appointed a

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2089 registered agent in this state for service of process. In the
2090 event such a registered agent cannot be located, service of
2091 process may be made pursuant to s. 721.265.

2092 6. Personal property subject to certificate of title.—If
2093 any personal property that is an accommodation or facility of a
2094 timeshare plan is subject to a certificate of title in this
2095 state pursuant to chapter 319 or chapter 328, the following
2096 notation must be made on such certificate of title pursuant to
2097 s. 319.27(1) or s. 328.15 ~~s. 328.15(1)~~:

2098
2099 *The further transfer or encumbrance of the property subject to*
2100 *this certificate of title, or any lien or encumbrance thereon,*
2101 *is subject to the requirements of section 721.17, Florida*
2102 *Statutes, and the transferee or lienor agrees to be bound by all*
2103 *of the obligations set forth therein.*

2104
2105 7. If the developer has previously provided a certified
2106 copy of any document required by this paragraph, she or he may
2107 for all subsequent disbursements substitute a true and correct
2108 copy of the certified copy, provided no changes to the document
2109 have been made or are required to be made.

2110 8. In the event that use rights relating to an
2111 accommodation or facility are transferred into a trust pursuant
2112 to subparagraph 4. or into an owners' association pursuant to
2113 subparagraph 5., all other interestholders, including the owner
2114 of the underlying fee or underlying personal property, must
2115 execute a nondisturbance and notice to creditors instrument
2116 pursuant to subsection (3).

2117 Section 31. (1) The rights, duties, and interests flowing

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2118 from a transaction, certificate of title, or record relating to
2119 a vessel which was validly entered into or created before the
2120 effective date of this act and would be subject to this act if
2121 it had been entered into or created on or after the effective
2122 date of this act remain valid on and after the effective date of
2123 this act.

2124 (2) This act does not affect an action or a proceeding
2125 commenced before the effective date of this act.

2126 (3) Except as otherwise provided in subsection (4), a
2127 security interest that is enforceable immediately before the
2128 effective date of this act and would have priority over the
2129 rights of a person who becomes a lien creditor at that time is a
2130 perfected security interest under this act.

2131 (4) A security interest perfected immediately before the
2132 effective date of this act remains perfected until the earlier
2133 of:

2134 (a) The time perfection would have ceased under the law
2135 under which the security interest was perfected; or

2136 (b) Three years after the effective date of this act.

2137 (5) This act does not affect the priority of a security
2138 interest in a vessel if immediately before the effective date of
2139 this act the security interest is enforceable and perfected, and
2140 that priority is established.

2141 Section 32. Subject to section 25, this act applies to any
2142 transaction, certificate of title, or record relating to a
2143 vessel, even if the transaction, certificate of title, or record
2144 was entered into or created before the effective date of this
2145 act.

2146 Section 33. This act shall take effect July 1, 2023.