

By the Committees on Appropriations; and Infrastructure and Security; and Senator Hooper

576-04607-19

2019676c2

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

576-04607-19

2019676c2

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

576-04607-19

2019676c2

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

576-04607-19

2019676c2

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.

576-04607-19

2019676c2

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

576-04607-19

2019676c2

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

576-04607-19

2019676c2

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

576-04607-19

2019676c2

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.

576-04607-19

2019676c2

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

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

244 5. A stationary floating structure that:

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

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

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

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

254 7. A watercraft used solely as a lifeboat on another
255 watercraft.

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

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

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

576-04607-19

2019676c2

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

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

280 328.01 Application for certificate of title.—

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

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

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

576-04607-19

2019676c2

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

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

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

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

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

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

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

305 4. The overall length of the vessel;

306 5. The vessel type;

307 6. The hull material;

308 7. The propulsion type;

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

310 9. The fuel type, if any;

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

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

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

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

576-04607-19

2019676c2

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

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

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

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

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

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

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

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

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

348 3. In all other cases, a certificate of origin, bill of

576-04607-19

2019676c2

349 sale, or other record that to the satisfaction of the department
350 identifies the applicant as the owner.

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

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

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

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

576-04607-19

2019676c2

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

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

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

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

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

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

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

576-04607-19

2019676c2

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

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

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

435 ~~(3) (a) In making application for a title upon transfer of~~

576-04607-19

2019676c2

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

448 ~~(b) If the application for transfer of title is based upon~~
449 ~~a contractual default, the recorded lienholder shall establish~~
450 ~~proof of right to ownership by submitting with the application~~
451 ~~the original certificate of title and a copy of the applicable~~
452 ~~contract upon which the claim of ownership is made. If the claim~~
453 ~~is based upon a court order or judgment, a copy of such document~~
454 ~~shall accompany the application for transfer of title. If, on~~
455 ~~the basis of departmental records, there appears to be any other~~
456 ~~lien on the vessel, the certificate of title must contain a~~
457 ~~statement of such a lien, unless the application for a~~
458 ~~certificate of title is either accompanied by proper evidence of~~
459 ~~the satisfaction or extinction of the lien or contains a~~
460 ~~statement certifying that any lienholder named on the last-~~
461 ~~issued certificate of title has been sent notice by certified~~
462 ~~mail, at least 5 days before the application was filed, of the~~
463 ~~applicant's intention to seek a repossessed title. If such~~
464 ~~notice is given and no written protest to the department is~~

576-04607-19

2019676c2

465 ~~presented by a subsequent lienholder within 15 days after the~~
466 ~~date on which the notice was mailed, the certificate of title~~
467 ~~shall be issued showing no liens. If the former owner or any~~
468 ~~subsequent lienholder files a written protest under oath within~~
469 ~~the 15-day period, the department shall not issue the~~
470 ~~repossessed certificate for 10 days thereafter. If, within the~~
471 ~~10-day period, no injunction or other order of a court of~~
472 ~~competent jurisdiction has been served on the department~~
473 ~~commanding it not to deliver the certificate, the department~~
474 ~~shall deliver the repossessed certificate to the applicant, or~~
475 ~~as is otherwise directed in the application, showing no other~~
476 ~~liens than those shown in the application.~~

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

493 ~~(c)-(d)~~ An owner or coowner who has made a bona fide sale or

576-04607-19

2019676c2

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

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

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

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

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

522

576-04607-19

2019676c2

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

526 (8)~~(4)~~ If the owner cannot furnish the department ~~of~~
527 ~~Highway Safety and Motor Vehicles~~ with all the required
528 ownership documentation, the department may, at its discretion,
529 issue a title conditioned on the owner's agreement to indemnify
530 the department and its agents and defend the title against all
531 claims or actions arising out of such issuance.

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

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

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

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

576-04607-19

2019676c2

552 328.015 Duties and operation of the department.-

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

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

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

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

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

576-04607-19

2019676c2

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

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

584 or

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

586 (b) With respect to the vessel:

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

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

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

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

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

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

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

607 (1) The law of the state under which a vessel's certificate
608 of title is covered governs all issues relating to the
609 certificate from the time the vessel becomes covered by the

576-04607-19

2019676c2

610 certificate until the vessel becomes covered by another
611 certificate or becomes a documented vessel, even if no other
612 relationship exists between the state and the vessel or its
613 owner.

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

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

621 328.03 Certificate of title required.—

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

629 (a) The date of a transfer of ownership; or

630 (b) The date this state becomes the state of principal use.

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

633 (a) A documented vessel;

634 (b) A foreign-documented vessel;

635 (c) A barge;

636 (d) A vessel before delivery if the vessel is under
637 construction or completed pursuant to contract;

638 (e) A vessel held by a dealer for sale or lease;

576-04607-19

2019676c2

- 639 (f) A vessel used solely for demonstration, testing, or
640 sales promotional purposes by the manufacturer or dealer;
- 641 ~~(g)(a) A vessel operated, used, or stored exclusively on~~
642 ~~private lakes and ponds;~~
- 643 ~~(h)(b) A vessel owned by the United States Government;~~
- 644 ~~(c) A non-motor powered vessel less than 16 feet in length;~~
645 ~~(d) A federally documented vessel;~~
- 646 (i)(e) A vessel already covered by a registration number in
647 full force and effect which was awarded to it pursuant to a
648 federally approved numbering system of another state or by the
649 United States Coast Guard in a state without a federally
650 approved numbering system, if the vessel is not located in this
651 state for a period in excess of 90 consecutive days; or
- 652 (j)(f) A vessel from a country other than the United States
653 temporarily used, operated, or stored on the waters of this
654 state for a period that is not in excess of 90 days;
- 655 ~~(g) An amphibious vessel for which a vehicle title is~~
656 ~~issued by the Department of Highway Safety and Motor Vehicles;~~
- 657 ~~(h) A vessel used solely for demonstration, testing, or~~
658 ~~sales promotional purposes by the manufacturer or dealer; or~~
- 659 ~~(i) A vessel owned and operated by the state or a political~~
660 ~~subdivision thereof.~~
- 661 (3) The department may not issue, transfer, or renew a
662 number issued to a vessel pursuant to the requirements of 46
663 U.S.C. s. 12301 unless the department has created a certificate
664 of title for the vessel or an application for a certificate for
665 the vessel and the applicable fee have been delivered to the
666 department.
- 667 ~~(2) A person shall not operate, use, or store a vessel for~~

576-04607-19

2019676c2

668 ~~which a certificate of title is required unless the owner has~~
669 ~~received from the Department of Highway Safety and Motor~~
670 ~~Vehicles a valid certificate of title for such vessel. However,~~
671 ~~such vessel may be operated, used, or stored for a period of up~~
672 ~~to 180 days after the date of application for a certificate of~~
673 ~~title while the application is pending.~~

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

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

688 (5)~~(4)~~ A certificate of title is prima facie evidence of
689 the accuracy of the information in the record that constitutes
690 the certificate and of the ownership of the vessel. A
691 certificate of title is good for the life of the vessel so long
692 as the certificate is owned or held by the legal holder. If a
693 titled vessel is destroyed or abandoned, the owner, with the
694 consent of any recorded lienholders, shall, within 30 days after
695 the destruction or abandonment, surrender to the department for
696 cancellation any and all title documents. If a titled vessel is

576-04607-19

2019676c2

697 insured and the insurer has paid the owner for the total loss of
698 the vessel, the insurer shall obtain the title to the vessel
699 and, within 30 days after receiving the title, forward the title
700 to the department ~~of Highway Safety and Motor Vehicles~~ for
701 cancellation. The insurer may retain the certificate of title
702 when payment for the loss was made because of the theft of the
703 vessel.

704 (6)~~(5)~~ The department ~~of Highway Safety and Motor Vehicles~~
705 shall provide labeled places on the title where the seller's
706 price shall be indicated when a vessel is sold and where a
707 selling dealer shall record his or her valid sales tax
708 certificate of registration number.

709 (7)~~(6)~~(a) The department ~~of Highway Safety and Motor~~
710 ~~Vehicles~~ shall charge a fee of \$5.25 for issuing each
711 certificate of title. The tax collector shall be entitled to
712 retain \$3.75 of the fee.

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

719 (8)~~(7)~~ The department ~~of Highway Safety and Motor Vehicles~~
720 shall charge a fee of \$4 in addition to that charged in
721 subsection (7) ~~(6)~~ for each initial certificate of title issued
722 for a vessel previously registered outside this state.

723 (9)~~(8)~~ The department ~~of Highway Safety and Motor Vehicles~~
724 shall make regulations necessary and convenient to carry out the
725 provisions of this chapter.

576-04607-19

2019676c2

726 Section 7. Section 328.04, Florida Statutes, is created to
727 read:

728 328.04 Content of certificate of title.-

729 (1) A certificate of title must contain:

730 (a) The date the certificate was created;

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

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

735 (d) The hull identification number;

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

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

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

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

749 (3) For each title brand indicated on a certificate of
750 title, the certificate must identify the jurisdiction under
751 whose law the title brand was created or the jurisdiction that
752 created the certificate on which the title brand was indicated.
753 If the meaning of a title brand is not easily ascertainable or
754 cannot be accommodated on the certificate, the certificate may

576-04607-19

2019676c2

755 state: "Previously branded in (insert the jurisdiction under
756 whose law the title brand was created or whose certificate of
757 title previously indicated the title brand)."

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

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

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

772 Section 8. Section 328.045, Florida Statutes, is created to
773 read:

774 328.045 Title brands.—

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

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

576-04607-19

2019676c2

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

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

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

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

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

810 328.055 Maintenance of and access to files.-

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

576-04607-19

2019676c2

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

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

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

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

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

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

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

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

576-04607-19

2019676c2

842 is a public record.

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

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

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

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

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

576-04607-19

2019676c2

871 destroyed, the department shall indicate on the face of the
872 certificate that it has been canceled.

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

875 328.065 Effect of possession of certificate of title;
876 judicial process.—Possession of a certificate of title does not
877 by itself provide a right to obtain possession of a vessel.
878 Garnishment, attachment, levy, replevin, or other judicial
879 process against the certificate is not effective to determine
880 possessory rights to the vessel. This part does not prohibit
881 enforcement under the laws of this state of a security interest
882 in, levy on, or foreclosure of a statutory or common-law lien on
883 a vessel. Absence of an indication of a statutory or common-law
884 lien on a certificate does not invalidate the lien.

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

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

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

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

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

576-04607-19

2019676c2

900 written certificate.

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

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

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

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

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

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

923 (4) The department shall reject an application for a
924 certificate of title for a vessel that is a documented vessel or
925 a foreign-documented vessel.

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

928 (a) Could have rejected the application for the certificate

576-04607-19

2019676c2

929 under subsection (3);

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

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

934 (6) The decision by the department to reject an application
935 for a certificate of title or cancel a certificate of title
936 pursuant to this section is subject to a hearing pursuant to ss.
937 120.569 and 120.57 at which the owner and any other interested
938 party may present evidence in support of or opposition to the
939 rejection of the application for a certificate of title or the
940 cancellation of a certificate of title.

941 Section 13. Section 328.101, Florida Statutes, is created
942 to read:

943 328.101 Effect of missing or incorrect information.—Except
944 as otherwise provided in s. 679.337, a certificate of title or
945 other record required or authorized by this part is effective
946 even if it contains unintended scrivener's errors or does not
947 contain certain required information if such missing information
948 is determined by the department to be inconsequential to the
949 issuing of a certificate of title or other record.

950 Section 14. Section 328.11, Florida Statutes, is amended to
951 read:

952 328.11 Duplicate certificate of title.—

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

576-04607-19

2019676c2

958 department, obtain a duplicate certificate in the name of the
959 owner of record.

960 (2) An applicant for a duplicate certificate of title must
961 sign the application, and, except as otherwise permitted by the
962 department, the application must comply with s. 328.01. The
963 application must include the existing certificate unless the
964 certificate is lost, stolen, mutilated, destroyed, or otherwise
965 unavailable.

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

969 (4) If a person receiving a duplicate certificate of title
970 subsequently obtains possession of the original written
971 certificate, the person shall promptly destroy the original
972 certificate of title.

973 ~~(5)(1) The Department of Highway Safety and Motor Vehicles~~
974 ~~may issue a duplicate certificate of title upon application by~~
975 ~~the person entitled to hold such a certificate if the department~~
976 ~~is satisfied that the original certificate has been lost,~~
977 ~~destroyed, or mutilated. The department shall charge a fee of \$6~~
978 ~~for issuing a duplicate certificate.~~

979 ~~(6)(2)~~ (5)
980 ~~(1), the department of Highway Safety and Motor Vehicles shall~~
981 ~~charge a fee of \$5 for expedited service in issuing a duplicate~~
982 ~~certificate of title. Application for such expedited service may~~
983 ~~be made by mail or in person. The department shall issue each~~
984 ~~certificate of title applied for under this subsection within 5~~
985 ~~working days after receipt of a proper application or shall~~
986 ~~refund the additional \$5 fee upon written request by the~~

576-04607-19

2019676c2

987 applicant.

988 ~~(3) If, following the issuance of an original, duplicate,~~
989 ~~or corrected certificate of title by the department, the~~
990 ~~certificate is lost in transit and is not delivered to the~~
991 ~~addressee, the owner of the vessel or the holder of a lien~~
992 ~~thereon may, within 180 days after the date of issuance of the~~
993 ~~title, apply to the department for reissuance of the certificate~~
994 ~~of title. An additional fee may not be charged for reissuance~~
995 ~~under this subsection.~~

996 ~~(7)(4)~~ The department shall implement a system to verify
997 that the application is signed by a person authorized to receive
998 a duplicate title certificate under this section if the address
999 shown on the application is different from the address shown for
1000 the applicant on the records of the department.

1001 Section 15. Section 328.12, Florida Statutes, is created to
1002 read:

1003 328.12 Perfection of security interest.—

1004 (1) Except as otherwise provided in this section, a
1005 security interest in a vessel may be perfected only by delivery
1006 to the department of an application for a certificate of title
1007 that identifies the secured party and otherwise complies with s.
1008 328.01. The security interest is perfected on the later of
1009 delivery to the department of the application and the applicable
1010 fee or attachment of the security interest under s. 679.2031.

1011 (2) If the interest of a person named as owner, lessor,
1012 consignor, or bailor in an application for a certificate of
1013 title delivered to the department is a security interest, the
1014 application sufficiently identifies the person as a secured
1015 party. Identification on the application for a certificate of a

576-04607-19

2019676c2

1016 person as owner, lessor, consignor, or bailor is not by itself a
1017 factor in determining whether the person's interest is a
1018 security interest.

1019 (3) If the department has created a certificate of title
1020 for a vessel, a security interest in the vessel may be perfected
1021 by delivery to the department of an application, on a form the
1022 department may require, to have the security interest added to
1023 the certificate. The application must be signed by an owner of
1024 the vessel or by the secured party and must include:

1025 (a) The name of the owner of record;

1026 (b) The name and mailing address of the secured party;

1027 (c) The hull identification number for the vessel; and

1028 (d) If the department has created a written certificate of
1029 title for the vessel, the certificate.

1030 (4) A security interest perfected under subsection (3) is
1031 perfected on the later of delivery to the department of the
1032 application and all applicable fees or attachment of the
1033 security interest under s. 679.2031.

1034 (5) On delivery of an application that complies with
1035 subsection (3) and payment of all applicable fees, the
1036 department shall create a new certificate of title pursuant to
1037 s. 328.09 and deliver the new certificate or a record evidencing
1038 an electronic certificate pursuant to s. 328.06. The department
1039 shall maintain in the files of the department the date and time
1040 of delivery of the application to the department.

1041 (6) If a secured party assigns a perfected security
1042 interest in a vessel, the receipt by the department of a
1043 statement providing the name of the assignee as secured party is
1044 not required to continue the perfected status of the security

576-04607-19

2019676c2

1045 interest against creditors of and transferees from the original
1046 debtor. A purchaser of a vessel subject to a security interest
1047 who obtains a release from the secured party indicated in the
1048 files of the department or on the certificate takes free of the
1049 security interest and of the rights of a transferee unless the
1050 transfer is indicated in the files of the department or on the
1051 certificate.

1052 (7) This section does not apply to a security interest:

1053 (a) Created in a vessel by a person during any period in
1054 which the vessel is inventory held for sale or lease by the
1055 person or is leased by the person as lessor if the person is in
1056 the business of selling vessels;

1057 (b) In a barge for which no application for a certificate
1058 of title has been delivered to the department; or

1059 (c) In a vessel before delivery if the vessel is under
1060 construction, or completed, pursuant to contract and for which
1061 no application for a certificate has been delivered to the
1062 department.

1063 (8) This subsection applies if a certificate of
1064 documentation for a documented vessel is deleted or canceled. If
1065 a security interest in the vessel was valid immediately before
1066 deletion or cancellation against a third party as a result of
1067 compliance with 46 U.S.C. s. 31321, the security interest is and
1068 remains perfected until the earlier of 4 months after
1069 cancellation of the certificate or the time the security
1070 interest becomes perfected under this part.

1071 (9) A security interest in a vessel arising under s.
1072 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is
1073 perfected when it attaches but becomes unperfected when the

576-04607-19

2019676c2

1074 debtor obtains possession of the vessel, unless the security
1075 interest is perfected pursuant to subsection (1) or subsection
1076 (3) before the debtor obtains possession.

1077 (10) A security interest in a vessel as proceeds of other
1078 collateral is perfected to the extent provided in s. 679.3151.

1079 (11) A security interest in a vessel perfected under the
1080 law of another jurisdiction is perfected to the extent provided
1081 in s. 679.3161(4).

1082 (12) For purposes of this section and this part, the
1083 Department of Revenue shall be treated as a secured party when
1084 collecting unpaid support.

1085 Section 16. Section 328.125, Florida Statutes, is created
1086 to read:

1087 328.125 Termination statement.—

1088 (1) A secured party indicated in the files of the
1089 department as having a security interest in a vessel shall
1090 deliver a termination statement to the department and, on the
1091 debtor's request, to the debtor, by the earlier of:

1092 (a) Twenty days after the secured party receives a signed
1093 demand from an owner for a termination statement and there is no
1094 obligation secured by the vessel subject to the security
1095 interest and no commitment to make an advance, incur an
1096 obligation, or otherwise give value secured by the vessel; or

1097 (b) If the vessel is consumer goods, 30 days after there is
1098 no obligation secured by the vessel and no commitment to make an
1099 advance, incur an obligation, or otherwise give value secured by
1100 the vessel.

1101 (2) If a written certificate of title has been created and
1102 delivered to a secured party and a termination statement is

576-04607-19

2019676c2

1103 required under subsection (1), the secured party, not later than
1104 the date required by subsection (1), shall deliver the
1105 certificate to the debtor or to the department with the
1106 statement. If the certificate is lost, stolen, mutilated,
1107 destroyed, or is otherwise unavailable or illegible, the secured
1108 party shall deliver with the statement, not later than the date
1109 required by subsection (1), an application for a duplicate
1110 certificate meeting the requirements of s. 328.11.

1111 (3) On delivery to the department of a termination
1112 statement authorized by the secured party, the security interest
1113 to which the statement relates ceases to be perfected. If the
1114 security interest to which the statement relates was indicated
1115 on the certificate of title, the department shall create a new
1116 certificate and deliver the new certificate or a record
1117 evidencing an electronic certificate. The department shall
1118 maintain in its files the date and time of delivery to the
1119 department of the statement.

1120 (4) A secured party that fails to comply with this section
1121 is liable for any loss that the secured party had reason to know
1122 might result from its failure to comply and which could not
1123 reasonably have been prevented and for the cost of an
1124 application for a certificate of title under s. 328.01 or s.
1125 328.11.

1126 Section 17. Section 328.14, Florida Statutes, is created to
1127 read:

1128 328.14 Rights of purchaser other than secured party.-

1129 (1) A buyer in ordinary course of business has the
1130 protections afforded by ss. 672.403(2) and 679.320(1) even if an
1131 existing certificate of title was not signed and delivered to

576-04607-19

2019676c2

1132 the buyer or a new certificate listing the buyer as owner of
1133 record was not created.

1134 (2) Except as otherwise provided in ss. 328.145 and 328.22,
1135 the rights of a purchaser of a vessel who is not a buyer in
1136 ordinary course of business or a lien creditor are governed by
1137 the Uniform Commercial Code.

1138 Section 18. Section 328.145, Florida Statutes, is created
1139 to read:

1140 328.145 Rights of secured party.-

1141 (1) Subject to subsection (2), the effect of perfection and
1142 nonperfection of a security interest and the priority of a
1143 perfected or unperfected security interest with respect to the
1144 rights of a purchaser or creditor, including a lien creditor,
1145 are governed by the Uniform Commercial Code.

1146 (2) If, while a security interest in a vessel is perfected
1147 by any method under this part, the department creates a
1148 certificate of title that does not indicate that the vessel is
1149 subject to the security interest or contain a statement that it
1150 may be subject to security interests not indicated on the
1151 certificate:

1152 (a) A buyer of the vessel, other than a person in the
1153 business of selling or leasing vessels of that kind, takes free
1154 of the security interest if the buyer, acting in good faith and
1155 without knowledge of the security interest, gives value and
1156 receives possession of the vessel; and

1157 (b) The security interest is subordinate to a conflicting
1158 security interest in the vessel that is perfected under s.
1159 328.12 after creation of the certificate and without the
1160 conflicting secured party's knowledge of the security interest.

576-04607-19

2019676c2

1161 Section 19. Section 328.15, Florida Statutes, is amended to
1162 read:

1163 328.15 Notice of lien on vessel; recording.-

1164 ~~(1) No lien for purchase money or as security for a debt in~~
1165 ~~the form of retain title contract, conditional bill of sale,~~
1166 ~~chattel mortgage, or otherwise on a vessel shall be enforceable~~
1167 ~~in any of the courts of this state against creditors or~~
1168 ~~subsequent purchasers for a valuable consideration and without~~
1169 ~~notice unless a sworn notice of such lien is recorded. The lien~~
1170 ~~certificate shall contain the following information:~~

1171 ~~(a) Name and address of the registered owner;~~

1172 ~~(b) Date of lien;~~

1173 ~~(c) Description of the vessel to include make, type, motor~~
1174 ~~and serial number; and~~

1175 ~~(d) Name and address of lienholder.~~

1176

1177 ~~The lien shall be recorded by the Department of Highway Safety~~
1178 ~~and Motor Vehicles and shall be effective as constructive notice~~
1179 ~~when filed. The date of filing of the notice of lien is the date~~
1180 ~~of its receipt by the department's central office in~~
1181 ~~Tallahassee, if first filed there, or otherwise by the office of~~
1182 ~~a county tax collector or of the tax collector's agent.~~

1183 ~~(2) (a) The Department of Highway Safety and Motor Vehicles~~
1184 ~~shall not enter any lien upon its lien records, whether it is a~~
1185 ~~first lien or a subordinate lien, unless the official~~
1186 ~~certificate of title issued for the vessel is furnished with the~~
1187 ~~notice of lien, so that the record of lien, whether original or~~
1188 ~~subordinate, may be noted upon the face thereof. After the~~
1189 ~~department records the lien, it shall send the certificate of~~

576-04607-19

2019676c2

1190 ~~title to the holder of the first lien who shall hold such~~
1191 ~~certificate until the lien is satisfied in full.~~

1192 ~~(b) When a vessel is registered in the names of two or more~~
1193 ~~persons as coowners in the alternative by the use of the word~~
1194 ~~"or," whether or not the coowners are husband and wife, each~~
1195 ~~coowner is considered to have granted to any other coowner the~~
1196 ~~absolute right to place a lien or encumbrance on the vessel, and~~
1197 ~~the signature of one coowner constitutes proper execution of the~~
1198 ~~notice of lien. When a vessel is registered in the names of two~~
1199 ~~or more persons as coowners in the conjunctive by the use of the~~
1200 ~~word "and," the signature of each coowner is required in order~~
1201 ~~to place a lien or encumbrance on the vessel.~~

1202 ~~(c) If the owner of the vessel as shown on the title~~
1203 ~~certificate or the director of the state child support~~
1204 ~~enforcement program desires to place a second or subsequent lien~~
1205 ~~or encumbrance against the vessel when the title certificate is~~
1206 ~~in the possession of the first lienholder, the owner shall send~~
1207 ~~a written request to the first lienholder by certified mail and~~
1208 ~~such first lienholder shall forward the certificate to the~~
1209 ~~department for endorsement. The department shall return the~~
1210 ~~certificate to the first lienholder, as indicated in the notice~~
1211 ~~of lien filed by the first lienholder, after endorsing the~~
1212 ~~second or subsequent lien on the certificate and on the~~
1213 ~~duplicate. If the first lienholder fails, neglects, or refuses~~
1214 ~~to forward the certificate of title to the department within 10~~
1215 ~~days after the date of the owner's or the director's request,~~
1216 ~~the department, on written request of the subsequent lienholder~~
1217 ~~or an assignee thereof, shall demand of the first lienholder the~~
1218 ~~return of such certificate for the notation of the second or~~

576-04607-19

2019676c2

1219 ~~subsequent lien or encumbrance.~~

1220 (1)~~(3)~~ Upon the payment of a ~~any such~~ lien, the debtor or
1221 the registered owner of the motorboat shall be entitled to
1222 demand and receive from the lienholder a satisfaction of the
1223 lien which shall likewise be filed with the Department of
1224 Highway Safety and Motor Vehicles.

1225 (2)~~(4)~~ The Department of Highway Safety and Motor Vehicles
1226 under precautionary rules and regulations to be promulgated by
1227 it may permit the use, in substitution of the formal
1228 satisfaction of lien, of other methods of satisfaction, such as
1229 perforation, appropriate stamp, or otherwise, as it deems
1230 reasonable and adequate.

1231 (3)~~(5)~~(a) The Department of Highway Safety and Motor
1232 Vehicles shall adopt rules to administer this section. The
1233 department may by rule require that a notice of satisfaction of
1234 a lien be notarized. The department shall prepare the forms of
1235 the notice of lien and the satisfaction of lien to be supplied,
1236 at a charge not to exceed 50 percent more than cost, to
1237 applicants for recording the liens or satisfactions and shall
1238 keep a record of such notices of lien and satisfactions
1239 available for inspection by the public at all reasonable times.
1240 The division may furnish certified copies of such satisfactions
1241 for a fee of \$1, which are admissible in evidence in all courts
1242 of this state under the same conditions and to the same effect
1243 as certified copies of other public records.

1244 (b) The department shall establish and administer an
1245 electronic titling program that requires the recording of vessel
1246 title information for new, transferred, and corrected
1247 certificates of title. Lienholders shall electronically transmit

576-04607-19

2019676c2

1248 liens and lien satisfactions to the department in a format
1249 determined by the department. Individuals and lienholders who
1250 the department determines are not normally engaged in the
1251 business or practice of financing vessels are not required to
1252 participate in the electronic titling program.

1253 ~~(6) The Department of Highway Safety and Motor Vehicles is~~
1254 ~~entitled to a fee of \$1 for the recording of each notice of~~
1255 ~~lien. No fee shall be charged for recording the satisfaction of~~
1256 ~~a lien. All of the fees collected shall be paid into the Marine~~
1257 ~~Resources Conservation Trust Fund.~~

1258 (4)~~(7)~~(a) Should any person, firm, or corporation holding
1259 such lien, which has been recorded by the Department of Highway
1260 Safety and Motor Vehicles, upon payment of such lien and on
1261 demand, fail or refuse, within 30 days after such payment and
1262 demand, to furnish the debtor or the registered owner of such
1263 vessel a satisfaction of the lien, then, in that event, such
1264 person, firm, or corporation shall be held liable for all costs,
1265 damages, and expenses, including reasonable attorney ~~attorney's~~
1266 fees, lawfully incurred by the debtor or the registered owner of
1267 such vessel in any suit which may be brought in the courts of
1268 this state for the cancellation of such lien.

1269 (b) Following satisfaction of a lien, the lienholder shall
1270 enter a satisfaction thereof in the space provided on the face
1271 of the certificate of title. If there are no subsequent liens
1272 shown thereon, the certificate shall be delivered by the
1273 lienholder to the person satisfying the lien or encumbrance and
1274 an executed satisfaction on a form provided by the department
1275 shall be forwarded to the department by the lienholder within 10
1276 days after satisfaction of the lien.

576-04607-19

2019676c2

1277 (c) If the certificate of title shows a subsequent lien not
1278 then being discharged, an executed satisfaction of the first
1279 lien shall be delivered by the lienholder to the person
1280 satisfying the lien and the certificate of title showing
1281 satisfaction of the first lien shall be forwarded by the
1282 lienholder to the department within 10 days after satisfaction
1283 of the lien.

1284 (d) If, upon receipt of a title certificate showing
1285 satisfaction of the first lien, the department determines from
1286 its records that there are no subsequent liens or encumbrances
1287 upon the vessel, the department shall forward to the owner, as
1288 shown on the face of the title, a corrected certificate showing
1289 no liens or encumbrances. If there is a subsequent lien not
1290 being discharged, the certificate of title shall be reissued
1291 showing the second or subsequent lienholder as the first
1292 lienholder and shall be delivered to the new first lienholder.
1293 The first lienholder shall be entitled to retain the certificate
1294 of title until his or her lien is satisfied. Upon satisfaction
1295 of the lien, the lienholder shall be subject to the procedures
1296 required of a first lienholder in this subsection ~~and in~~
1297 ~~subsection (2)~~.

1298 (5) ~~(8)~~ When the original certificate of title cannot be
1299 returned to the department by the lienholder and evidence
1300 satisfactory to the department is produced that all liens or
1301 encumbrances have been satisfied, upon application by the owner
1302 for a duplicate copy of the certificate of title, upon the form
1303 prescribed by the department, accompanied by the fee prescribed
1304 in this chapter, a duplicate copy of the certificate of title
1305 without statement of liens or encumbrances shall be issued by

576-04607-19

2019676c2

1306 the department and delivered to the owner.

1307 ~~(6)(9)~~ Any person who fails, within 10 days after receipt
1308 of a demand by the department by certified mail, to return a
1309 certificate of title to the department ~~as required by paragraph~~
1310 ~~(2)(e)~~ or who, upon satisfaction of a lien, fails within 10 days
1311 after receipt of such demand to forward the appropriate document
1312 to the department as required by paragraph (4)(b) ~~(7)(b)~~ or
1313 paragraph (4)(c) ~~(7)(e)~~ commits a misdemeanor of the second
1314 degree, punishable as provided in s. 775.082 or s. 775.083.

1315 ~~(7)(10)~~ The department shall use the last known address as
1316 shown by its records when sending any notice required by this
1317 section.

1318 ~~(8)(11)~~ If the original lienholder sells and assigns his or
1319 her lien to some other person, and if the assignee desires to
1320 have his or her name substituted on the certificate of title as
1321 the holder of the lien, he or she may, after delivering the
1322 original certificate of title to the department and providing a
1323 sworn statement of the assignment, have his or her name
1324 substituted as a lienholder. Upon substitution of the assignee's
1325 name as lienholder, the department shall deliver the certificate
1326 of title to the assignee as the first lienholder.

1327 (9) Subsections (1), (2), and (4)-(8) shall expire October
1328 1, 2026.

1329 Section 20. Section 328.16, Florida Statutes, is amended to
1330 read:

1331 328.16 Issuance in duplicate; delivery; liens, security
1332 interests, and encumbrances.-

1333 (1) The department shall assign a number to each
1334 certificate of title and shall issue each certificate of title

576-04607-19

2019676c2

1335 and each corrected certificate in duplicate. The database record
1336 shall serve as the duplicate title certificate.

1337 (2) An authorized person must sign the original certificate
1338 of title and each corrected certificate and, if there are no
1339 liens, security interests, or encumbrances on the vessel, as
1340 shown in the records of the department or as shown in the
1341 application, must deliver the certificate to the applicant or to
1342 another person as directed by the applicant or person, agent, or
1343 attorney submitting the application. If there are one or more
1344 liens, security interests, or encumbrances on the vessel, the
1345 department must deliver the certificate to the first lienholder
1346 or secured party as shown by department records. The department
1347 shall deliver to the first lienholder or secured party, along
1348 with the certificate, a form to be subsequently used by the
1349 lienholder or secured party as a satisfaction. If the
1350 application for certificate of title shows the name of a first
1351 lienholder or secured party which is different from the name of
1352 the first lienholder or secured party as shown by the records of
1353 the department, the certificate shall not be issued to any
1354 person until after the department notifies all parties who
1355 appear to hold a lien or a security interest and the applicant
1356 for the certificate, in writing by certified mail. If the
1357 parties do not amicably resolve the conflict within 10 days
1358 after the date the notice was mailed, the department shall serve
1359 notice in writing by certified mail on all persons that appear
1360 to hold liens or security interests on that particular vessel,
1361 including the applicant for the certificate, to show cause
1362 within 15 days after the date the notice is mailed why it should
1363 not issue and deliver the certificate to the secured party of

576-04607-19

2019676c2

1364 record or person indicated in the notice of lien filed by the
1365 lienholder whose name appears in the application as the first
1366 lienholder without showing any lien or liens as outstanding
1367 other than those appearing in the application or those filed
1368 subsequent to the filing of the application for the certificate
1369 of title. If, within the 15-day period, any person other than
1370 the lienholder or secured party of record shown in the
1371 application or a party filing a subsequent lien or security
1372 interest, in answer to the notice to show cause, appears in
1373 person or by a representative, or responds in writing, and files
1374 a written statement under oath that his or her lien or security
1375 interest on that particular vessel is still outstanding, the
1376 department shall not issue the certificate to anyone until after
1377 the conflict has been settled by the lien or security interest
1378 claimants involved or by a court of competent jurisdiction. If
1379 the conflict is not settled amicably within 10 days after the
1380 final date for filing an answer to the notice to show cause, the
1381 complaining party shall have 10 days to obtain a ruling, or a
1382 stay order, from a court of competent jurisdiction. If a ruling
1383 or stay order is not issued and served on the department within
1384 the 10-day period, the department shall issue the certificate
1385 showing no liens or security interests, except those shown in
1386 the application or thereafter filed, to the original applicant
1387 if there are no liens or security interests shown in the
1388 application and none are thereafter filed, or to the person
1389 indicated as the secured party of record or in the notice of
1390 lien filed by the lienholder whose name appears in the
1391 application as the first lienholder if there are liens shown in
1392 the application or thereafter filed. A duplicate certificate or

576-04607-19

2019676c2

1393 corrected certificate must show only such security interest or
1394 interests or lien or liens as were shown in the application and
1395 subsequently filed liens or security interests that may be
1396 outstanding.

1397 (3) ~~Except as provided in s. 328.15(11),~~ The certificate of
1398 title shall be retained by the first lienholder or secured party
1399 of record. The first lienholder or secured party of record is
1400 entitled to retain the certificate until the first lien or
1401 security interest is satisfied.

1402 (4) Notwithstanding any requirements in this section ~~or in~~
1403 ~~s. 328.15~~ indicating that a lien or security interest on a
1404 vessel shall be noted on the face of the Florida certificate of
1405 title, if there are one or more liens, security interests, or
1406 encumbrances on a vessel, the department shall electronically
1407 transmit the lien or security interest to the first lienholder
1408 or secured party and notify the first lienholder or secured
1409 party of any additional liens or security interests. Subsequent
1410 lien or security interest satisfactions shall be electronically
1411 transmitted to the department and must include the name and
1412 address of the person or entity satisfying the lien or security
1413 interest. When electronic transmission of liens or security
1414 interests and lien satisfactions or security interests are used,
1415 the issuance of a certificate of title may be waived until the
1416 last lien or security interest is satisfied and a clear
1417 certificate of title is issued to the owner of the vessel.

1418 (5) The owner of a vessel, upon which a lien or security
1419 interest has been filed with the department or noted upon a
1420 certificate of title for a period of 5 years, may apply to the
1421 department in writing for such lien or security interest to be

576-04607-19

2019676c2

1422 removed from the department files or from the certificate of
1423 title. The application must be accompanied by evidence
1424 satisfactory to the department that the applicant has notified
1425 the lienholder or secured party by certified mail, not less than
1426 20 days before ~~prior to~~ the date of the application, of his or
1427 her intention to apply to the department for removal of the lien
1428 or security interest. Ten days after receipt of the application,
1429 the department may remove the lien or security interest from its
1430 files or from the certificate of title, as the case may be, if
1431 no statement in writing protesting removal of the lien or
1432 security interest is received by the department from the
1433 lienholder or secured party within the 10-day period. However,
1434 if the lienholder or secured party files with the department,
1435 within the 10-day period, a written statement that the lien or
1436 security interest is still outstanding, the department may not
1437 remove the lien or security interest until the lienholder or
1438 secured party presents a satisfaction of lien or satisfaction of
1439 security interest to the department.

1440 Section 21. Subsection (1) of section 328.165, Florida
1441 Statutes, is amended to read:

1442 328.165 Cancellation of certificates.-

1443 (1) If it appears that a certificate of title has been
1444 improperly issued, the department shall cancel the certificate.
1445 Upon cancellation of any certificate of title, the department
1446 shall notify the person to whom the certificate of title was
1447 issued, and any lienholders or secured parties appearing
1448 thereon, of the cancellation and shall demand the surrender of
1449 the certificate of title; however, the cancellation does not
1450 affect the validity of any lien or security interest noted

576-04607-19

2019676c2

1451 thereon. The holder of the certificate of title shall
1452 immediately return it to the department. If a certificate of
1453 registration has been issued to the holder of a certificate of
1454 title so canceled, the department shall immediately cancel the
1455 certificate of registration and demand the return of the
1456 certificate of registration, and the holder of such certificate
1457 of registration shall immediately return it to the department.

1458 Section 22. Section 328.215, Florida Statutes, is created
1459 to read:

1460 328.215 Application for transfer of ownership or
1461 termination of security interest without certificate of title.-

1462 (1) Except as otherwise provided in s. 328.23 or s. 328.24,
1463 if the department receives, unaccompanied by a signed
1464 certificate of title, an application for a new certificate that
1465 includes an indication of a transfer of ownership or a
1466 termination statement, the department may create a new
1467 certificate under this section only if:

1468 (a) All other requirements under ss. 328.01 and 328.09 are
1469 met;

1470 (b) The applicant provides an affidavit stating facts
1471 showing the applicant is entitled to a transfer of ownership or
1472 termination statement;

1473 (c) The applicant provides the department with satisfactory
1474 evidence that notification of the application has been sent to
1475 the owner of record and all persons indicated in the files of
1476 the department as having an interest, including a security
1477 interest, in the vessel; at least 45 days have passed since the
1478 notification was sent; and the department has not received an
1479 objection from any of those persons; and

576-04607-19

2019676c2

1480 (d) The applicant submits any other information required by
1481 the department as evidence of the applicant's ownership or right
1482 to terminate the security interest, and the department has no
1483 credible information indicating theft, fraud, or an undisclosed
1484 or unsatisfied security interest, lien, or other claim to an
1485 interest in the vessel.

1486 (2) The department may indicate in a certificate of title
1487 created under subsection (1) that the certificate was created
1488 without submission of a signed certificate or termination
1489 statement. Unless credible information indicating theft, fraud,
1490 or an undisclosed or unsatisfied security interest, lien, or
1491 other claim to an interest in the vessel is delivered to the
1492 department not later than 1 year after creation of the
1493 certificate, on request in a form and manner required by the
1494 department, the department shall remove the indication from the
1495 certificate.

1496 (3) Before the department creates a certificate of title
1497 under subsection (1), the department may require the applicant
1498 to post a reasonable bond or provide an equivalent source of
1499 indemnity or security. The bond, indemnity, or other security
1500 must be in a form required by the department and provide for
1501 indemnification of any owner, purchaser, or other claimant for
1502 any expense, loss, delay, or damage, including reasonable
1503 attorney fees and costs, but not including incidental or
1504 consequential damages, resulting from creation or amendment of
1505 the certificate.

1506 (4) Unless the department receives a claim for indemnity
1507 not later than 1 year after creation of a certificate of title
1508 under subsection (1), on request in a form and manner required

576-04607-19

2019676c2

1509 by the department, the department shall release any bond,
1510 indemnity, or other security. The department is not liable to a
1511 person or entity for creating a certificate of title under this
1512 section when the department issues the certificate of title in
1513 good faith based on the information provided by an applicant. An
1514 applicant that submits erroneous or fraudulent information with
1515 the intent to mislead the department into issuing a certificate
1516 of title under this section is subject to the penalties
1517 established in s. 328.045(4) in addition to any other criminal
1518 or civil penalties provided by law.

1519 Section 23. Section 328.22, Florida Statutes, is created to
1520 read:

1521 328.22 Transfer of ownership.—

1522 (1) On voluntary transfer of an ownership interest in a
1523 vessel covered by a certificate of title, the following
1524 requirements apply:

1525 (a) If the certificate is a written certificate of title
1526 and the transferor's interest is noted on the certificate, the
1527 transferor shall promptly sign the certificate and deliver it to
1528 the transferee. If the transferor does not have possession of
1529 the certificate, the person in possession of the certificate has
1530 a duty to facilitate the transferor's compliance with this
1531 paragraph. A secured party does not have a duty to facilitate
1532 the transferor's compliance with this paragraph if the proposed
1533 transfer is prohibited by the security agreement.

1534 (b) If the certificate of title is an electronic
1535 certificate of title, the transferor shall promptly sign by
1536 hand, or electronically if available, and deliver to the
1537 transferee a record evidencing the transfer of ownership to the

576-04607-19

2019676c2

1538 transferee.

1539 (c) The transferee has a right enforceable by specific
1540 performance to require the transferor to comply with paragraph
1541 (a) or paragraph (b).

1542 (2) The creation of a certificate of title identifying the
1543 transferee as owner of record satisfies subsection (1).

1544 (3) A failure to comply with subsection (1) or to apply for
1545 a new certificate of title does not render a transfer of
1546 ownership of a vessel ineffective between the parties. Except as
1547 otherwise provided in s. 328.101, s. 328.14(1), s. 328.145, or
1548 s. 328.23, a transfer of ownership without compliance with
1549 subsection (1) is not effective against another person claiming
1550 an interest in the vessel.

1551 (4) A transferor that complies with subsection (1) is not
1552 liable as owner of the vessel for an event occurring after the
1553 transfer, regardless of whether the transferee applies for a new
1554 certificate of title.

1555 Section 24. Section 328.23, Florida Statutes, is created to
1556 read:

1557 328.23 Transfer of ownership by secured party's transfer
1558 statement.—

1559 (1) For the purposes of this section, "secured party's
1560 transfer statement" means a record signed by the secured party
1561 of record stating:

1562 (a) That there has been a default on an obligation secured
1563 by the vessel;

1564 (b) That the secured party of record is exercising or has
1565 exercised post-default remedies with respect to the vessel;

1566 (c) That by reason of the exercise, the secured party of

576-04607-19

2019676c2

1567 record has the right to transfer the ownership interest of an
1568 owner, and the name of the owner;

1569 (d) The name and last known mailing address of the owner of
1570 record and the secured party of record;

1571 (e) The name of the transferee;

1572 (f) Other information required by s. 328.01(2); and

1573 (g) One of the following:

1574 1. The certificate of title is an electronic certificate.

1575 2. The secured party does not have possession of the
1576 written certificate of title created in the name of the owner of
1577 record.

1578 3. The secured party is delivering the written certificate
1579 of title to the department with the secured party's transfer
1580 statement.

1581 (2) Unless the department rejects a secured party's
1582 transfer statement for a reason stated in s. 328.09(3), not
1583 later than 30 days after delivery to the department of the
1584 statement and payment of fees and taxes payable under the laws
1585 of this state, other than this part, in connection with the
1586 statement or the acquisition or use of the vessel, the
1587 department shall:

1588 (a) Accept the statement;

1589 (b) Amend the files of the department to reflect the
1590 transfer; and

1591 (c) If the name of the owner whose ownership interest is
1592 being transferred is indicated on the certificate of title:

1593 1. Cancel the certificate even if the certificate has not
1594 been delivered to the department;

1595 2. Create a new certificate indicating the transferee as

576-04607-19

2019676c2

1596 owner; and

1597 3. Deliver the new certificate or a record evidencing an
1598 electronic certificate.

1599 (3) An application under subsection (1) or the creation of
1600 a certificate of title under subsection (2) is not by itself a
1601 disposition of the vessel and does not by itself relieve the
1602 secured party of its duties under chapter 679.

1603 Section 25. Section 328.24, Florida Statutes, is created to
1604 read:

1605 328.24 Transfer by operation of law.—

1606 (1) For the purposes of this section, "by operation of law"
1607 means pursuant to a law or judicial order affecting ownership of
1608 a vessel:

1609 (a) Because of death, divorce, or other family law
1610 proceeding, merger, consolidation, dissolution, or bankruptcy;

1611 (b) Through the exercise of the rights of a lien creditor
1612 or a person having a lien created by statute or rule of law; or

1613 (c) Through other legal process.

1614 (2) A transfer-by-law statement must contain:

1615 (a) The name and last known mailing address of the owner of
1616 record and the transferee and the other information required by
1617 s. 328.01;

1618 (b) Documentation sufficient to establish the transferee's
1619 ownership interest or right to acquire the ownership interest;

1620 (c) A statement that:

1621 1. The certificate of title is an electronic certificate of
1622 title;

1623 2. The transferee does not have possession of the written
1624 certificate of title created in the name of the owner of record;

576-04607-19

2019676c2

1625 or

1626 3. The transferee is delivering the written certificate to
1627 the department with the transfer-by-law statement; and

1628 (d) Except for a transfer described in paragraph (1) (a),
1629 evidence that notification of the transfer and the intent to
1630 file the transfer-by-law statement has been sent to all persons
1631 indicated in the files of the department as having an interest,
1632 including a security interest, in the vessel.

1633 (3) Unless the department rejects a transfer-by-law
1634 statement for a reason stated in s. 328.09(3) or because the
1635 statement does not include documentation satisfactory to the
1636 department as to the transferee's ownership interest or right to
1637 acquire the ownership interest, not later than 30 days after
1638 delivery to the department of the statement and payment of fees
1639 and taxes payable under the law of this state, other than this
1640 part, in connection with the statement or with the acquisition
1641 or use of the vessel, the department shall:

1642 (a) Accept the statement;

1643 (b) Amend the files of the department to reflect the
1644 transfer; and

1645 (c) If the name of the owner whose ownership interest is
1646 being transferred is indicated on the certificate of title:

1647 1. Cancel the certificate even if the certificate has not
1648 been delivered to the department;

1649 2. Create a new certificate indicating the transferee as
1650 owner;

1651 3. Indicate on the new certificate any security interest
1652 indicated on the canceled certificate, unless a court order
1653 provides otherwise; and

576-04607-19

2019676c2

1654 4. Deliver the new certificate or a record evidencing an
1655 electronic certificate.

1656 (4) This section does not apply to a transfer of an
1657 interest in a vessel by a secured party under part VI of chapter
1658 679.

1659 Section 26. Section 328.25, Florida Statutes, is created to
1660 read:

1661 328.25 Supplemental principles of law and equity.—Unless
1662 displaced by a provision of this part, the principles of law and
1663 equity supplement its provisions.

1664 Section 27. Section 328.41, Florida Statutes, is created to
1665 read:

1666 328.41 Rulemaking.—The department may adopt rules pursuant
1667 to ss. 120.536(1) and 120.54 to implement this part.

1668 Section 28. Section 409.2575, Florida Statutes, is amended
1669 to read:

1670 409.2575 Liens on motor vehicles and vessels.—

1671 (1) The director of the state IV-D program, or the
1672 director's designee, may cause a lien for unpaid and delinquent
1673 support to be placed upon motor vehicles, as defined in chapter
1674 320, and upon vessels, as defined in chapter 327, that are
1675 registered in the name of an obligor who is delinquent in
1676 support payments, if the title to the property is held by a
1677 lienholder, in the manner provided in chapter 319 or, if
1678 applicable in accordance with s. 328.15(9), chapter 328. Notice
1679 of lien shall not be mailed unless the delinquency in support
1680 exceeds \$600.

1681 (2) If the first lienholder fails, neglects, or refuses to
1682 forward the certificate of title to the appropriate department

576-04607-19

2019676c2

1683 as requested pursuant to s. 319.24 or, if applicable in
1684 accordance with s. 328.15(9), s. 328.15, the director of the IV-
1685 D program, or the director's designee, may apply to the circuit
1686 court for an order to enforce the requirements of s. 319.24 or
1687 s. 328.15, whichever applies.

1688 Section 29. Subsection (2) of section 705.103, Florida
1689 Statutes, is amended to read:

1690 705.103 Procedure for abandoned or lost property.—

1691 (2) Whenever a law enforcement officer ascertains that an
1692 article of lost or abandoned property is present on public
1693 property and is of such nature that it cannot be easily removed,
1694 the officer shall cause a notice to be placed upon such article
1695 in substantially the following form:

1696
1697 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
1698 PROPERTY. This property, to wit: ...(setting forth brief
1699 description)... is unlawfully upon public property known as
1700 ...(setting forth brief description of location)... and must be
1701 removed within 5 days; otherwise, it will be removed and
1702 disposed of pursuant to chapter 705, Florida Statutes. The owner
1703 will be liable for the costs of removal, storage, and
1704 publication of notice. Dated this: ...(setting forth the date of
1705 posting of notice)..., signed: ...(setting forth name, title,
1706 address, and telephone number of law enforcement officer)....

1707
1708 Such notice shall be not less than 8 inches by 10 inches and
1709 shall be sufficiently weatherproof to withstand normal exposure
1710 to the elements. In addition to posting, the law enforcement
1711 officer shall make a reasonable effort to ascertain the name and

576-04607-19

2019676c2

1712 address of the owner. If such is reasonably available to the
1713 officer, she or he shall mail a copy of such notice to the owner
1714 on or before the date of posting. If the property is a motor
1715 vehicle as defined in s. 320.01(1) or a vessel as defined in s.
1716 327.02, the law enforcement agency shall contact the Department
1717 of Highway Safety and Motor Vehicles in order to determine the
1718 name and address of the owner and any person who has filed a
1719 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)
1720 or s. 328.15 ~~s. 328.15(1)~~. On receipt of this information, the
1721 law enforcement agency shall mail a copy of the notice by
1722 certified mail, return receipt requested, to the owner and to
1723 the lienholder, if any, except that a law enforcement officer
1724 who has issued a citation for a violation of s. 823.11 to the
1725 owner of a derelict vessel is not required to mail a copy of the
1726 notice by certified mail, return receipt requested, to the
1727 owner. If, at the end of 5 days after posting the notice and
1728 mailing such notice, if required, the owner or any person
1729 interested in the lost or abandoned article or articles
1730 described has not removed the article or articles from public
1731 property or shown reasonable cause for failure to do so, the
1732 following shall apply:

1733 (a) For abandoned property, the law enforcement agency may
1734 retain any or all of the property for its own use or for use by
1735 the state or unit of local government, trade such property to
1736 another unit of local government or state agency, donate the
1737 property to a charitable organization, sell the property, or
1738 notify the appropriate refuse removal service.

1739 (b) For lost property, the officer shall take custody and
1740 the agency shall retain custody of the property for 90 days. The

576-04607-19

2019676c2

1741 agency shall publish notice of the intended disposition of the
1742 property, as provided in this section, during the first 45 days
1743 of this time period.

1744 1. If the agency elects to retain the property for use by
1745 the unit of government, donate the property to a charitable
1746 organization, surrender such property to the finder, sell the
1747 property, or trade the property to another unit of local
1748 government or state agency, notice of such election shall be
1749 given by an advertisement published once a week for 2
1750 consecutive weeks in a newspaper of general circulation in the
1751 county where the property was found if the value of the property
1752 is more than \$100. If the value of the property is \$100 or less,
1753 notice shall be given by posting a description of the property
1754 at the law enforcement agency where the property was turned in.
1755 The notice must be posted for not less than 2 consecutive weeks
1756 in a public place designated by the law enforcement agency. The
1757 notice must describe the property in a manner reasonably
1758 adequate to permit the rightful owner of the property to claim
1759 it.

1760 2. If the agency elects to sell the property, it must do so
1761 at public sale by competitive bidding. Notice of the time and
1762 place of the sale shall be given by an advertisement of the sale
1763 published once a week for 2 consecutive weeks in a newspaper of
1764 general circulation in the county where the sale is to be held.
1765 The notice shall include a statement that the sale shall be
1766 subject to any and all liens. The sale must be held at the
1767 nearest suitable place to that where the lost or abandoned
1768 property is held or stored. The advertisement must include a
1769 description of the goods and the time and place of the sale. The

576-04607-19

2019676c2

1770 sale may take place no earlier than 10 days after the final
1771 publication. If there is no newspaper of general circulation in
1772 the county where the sale is to be held, the advertisement shall
1773 be posted at the door of the courthouse and at three other
1774 public places in the county at least 10 days prior to sale.
1775 Notice of the agency's intended disposition shall describe the
1776 property in a manner reasonably adequate to permit the rightful
1777 owner of the property to identify it.

1778 Section 30. Paragraph (c) of subsection (2) of section
1779 721.08, Florida Statutes, is amended to read:

1780 721.08 Escrow accounts; nondisturbance instruments;
1781 alternate security arrangements; transfer of legal title.—

1782 (2) One hundred percent of all funds or other property
1783 which is received from or on behalf of purchasers of the
1784 timeshare plan or timeshare interest prior to the occurrence of
1785 events required in this subsection shall be deposited pursuant
1786 to an escrow agreement approved by the division. The funds or
1787 other property may be released from escrow only as follows:

1788 (c) *Compliance with conditions.*—

1789 1. Timeshare licenses.—If the timeshare plan is one in
1790 which timeshare licenses are to be sold and no cancellation or
1791 default has occurred, the escrow agent may release the escrowed
1792 funds or other property to or on the order of the developer upon
1793 presentation of:

1794 a. An affidavit by the developer that all of the following
1795 conditions have been met:

1796 (I) Expiration of the cancellation period.

1797 (II) Completion of construction.

1798 (III) Closing.

576-04607-19

2019676c2

1799 (IV) Either:

1800 (A) Execution, delivery, and recordation by each
1801 interestholder of the nondisturbance and notice to creditors
1802 instrument, as described in this section; or

1803 (B) Transfer by the developer of legal title to the subject
1804 accommodations and facilities, or all use rights therein, into a
1805 trust satisfying the requirements of subparagraph 4. and the
1806 execution, delivery, and recordation by each other
1807 interestholder of the nondisturbance and notice to creditors
1808 instrument, as described in this section.

1809 b. A certified copy of each recorded nondisturbance and
1810 notice to creditors instrument.

1811 c. One of the following:

1812 (I) A copy of a memorandum of agreement, as defined in s.
1813 721.05, together with satisfactory evidence that the original
1814 memorandum of agreement has been irretrievably delivered for
1815 recording to the appropriate official responsible for
1816 maintaining the public records in the county in which the
1817 subject accommodations and facilities are located. The original
1818 memorandum of agreement must be recorded within 180 days after
1819 the date on which the purchaser executed her or his purchase
1820 agreement.

1821 (II) A notice delivered for recording to the appropriate
1822 official responsible for maintaining the public records in each
1823 county in which the subject accommodations and facilities are
1824 located notifying all persons of the identity of an independent
1825 escrow agent or trustee satisfying the requirements of
1826 subparagraph 4. that shall maintain separate books and records,
1827 in accordance with good accounting practices, for the timeshare

576-04607-19

2019676c2

1828 plan in which timeshare licenses are to be sold. The books and
1829 records shall indicate each accommodation and facility that is
1830 subject to such a timeshare plan and each purchaser of a
1831 timeshare license in the timeshare plan.

1832 2. Timeshare estates.—If the timeshare plan is one in which
1833 timeshare estates are to be sold and no cancellation or default
1834 has occurred, the escrow agent may release the escrowed funds or
1835 other property to or on the order of the developer upon
1836 presentation of:

1837 a. An affidavit by the developer that all of the following
1838 conditions have been met:

1839 (I) Expiration of the cancellation period.

1840 (II) Completion of construction.

1841 (III) Closing.

1842 b. If the timeshare estate is sold by agreement for deed, a
1843 certified copy of the recorded nondisturbance and notice to
1844 creditors instrument, as described in this section.

1845 c. Evidence that each accommodation and facility:

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

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

1854 (III) Has been transferred into a trust satisfying the
1855 requirements of subparagraph 4.

1856 d. Evidence that the timeshare estate:

576-04607-19

2019676c2

1857 (I) Is free and clear of the claims of any interestholders,
1858 other than the claims of interestholders that, through a
1859 recorded instrument, are irrevocably made subject to the
1860 timeshare instrument and the use rights of purchasers made
1861 available through the timeshare instrument; or

1862 (II) Is the subject of a recorded nondisturbance and notice
1863 to creditors instrument that complies with subsection (3) and s.
1864 721.17.

1865 3. Personal property timeshare interests.—If the timeshare
1866 plan is one in which personal property timeshare interests are
1867 to be sold and no cancellation or default has occurred, the
1868 escrow agent may release the escrowed funds or other property to
1869 or on the order of the developer upon presentation of:

1870 a. An affidavit by the developer that all of the following
1871 conditions have been met:

1872 (I) Expiration of the cancellation period.

1873 (II) Completion of construction.

1874 (III) Closing.

1875 b. If the personal property timeshare interest is sold by
1876 agreement for transfer, evidence that the agreement for transfer
1877 complies fully with s. 721.06 and this section.

1878 c. Evidence that one of the following has occurred:

1879 (I) Transfer by the owner of the underlying personal
1880 property of legal title to the subject accommodations and
1881 facilities or all use rights therein into a trust satisfying the
1882 requirements of subparagraph 4.; or

1883 (II) Transfer by the owner of the underlying personal
1884 property of legal title to the subject accommodations and
1885 facilities or all use rights therein into an owners' association

576-04607-19

2019676c2

1886 satisfying the requirements of subparagraph 5.

1887 d. Evidence of compliance with the provisions of
1888 subparagraph 6., if required.

1889 e. If a personal property timeshare plan is created with
1890 respect to accommodations and facilities that are located on or
1891 in an oceangoing vessel, including a "documented vessel" or a
1892 "foreign vessel," as defined and governed by 46 U.S.C. chapter
1893 301:

1894 (I) In making the transfer required in sub-subparagraph c.,
1895 the developer shall use as its transfer instrument a document
1896 that establishes and protects the continuance of the use rights
1897 in the subject accommodations and facilities in a manner that is
1898 enforceable by the trust or owners' association.

1899 (II) The transfer instrument shall comply fully with the
1900 provisions of this chapter, shall be part of the timeshare
1901 instrument, and shall contain specific provisions that:

1902 (A) Prohibit the vessel owner, the developer, any manager
1903 or operator of the vessel, the owners' association or the
1904 trustee, the managing entity, or any other person from incurring
1905 any liens against the vessel except for liens that are required
1906 for the operation and upkeep of the vessel, including liens for
1907 fuel expenditures, repairs, crews' wages, and salvage, and
1908 except as provided in sub-sub-subparagraphs 4.b.(III) and
1909 5.b.(III). All expenses, fees, and taxes properly incurred in
1910 connection with the creation, satisfaction, and discharge of any
1911 such permitted lien, or a prorated portion thereof if less than
1912 all of the accommodations on the vessel are subject to the
1913 timeshare plan, shall be common expenses of the timeshare plan.

1914 (B) Grant a lien against the vessel in favor of the owners'

576-04607-19

2019676c2

1915 association or trustee to secure the full and faithful
1916 performance of the vessel owner and developer of all of their
1917 obligations to the purchasers.

1918 (C) Establish governing law in a jurisdiction that
1919 recognizes and will enforce the timeshare instrument and the
1920 laws of the jurisdiction of registry of the vessel.

1921 (D) Require that a description of the use rights of
1922 purchasers be posted and displayed on the vessel in a manner
1923 that will give notice of such rights to any party examining the
1924 vessel. This notice must identify the owners' association or
1925 trustee and include a statement disclosing the limitation on
1926 incurring liens against the vessel described in sub-sub-sub-
1927 subparagraph (A).

1928 (E) Include the nondisturbance and notice to creditors
1929 instrument for the vessel owner and any other interestholders.

1930 (F) The owners' association created under subparagraph 5.
1931 or trustee created under subparagraph 4. shall have access to
1932 any certificates of classification in accordance with the
1933 timeshare instrument.

1934 (III) If the vessel is a foreign vessel, the vessel must be
1935 registered in a jurisdiction that permits a filing evidencing
1936 the use rights of purchasers in the subject accommodations and
1937 facilities, offers protection for such use rights against
1938 unfiled and inferior claims, and recognizes the document or
1939 instrument creating such use rights as a lien against the
1940 vessel.

1941 (IV) In addition to the disclosures required by s.
1942 721.07(5), the public offering statement and purchase contract
1943 must contain a disclosure in conspicuous type in substantially

576-04607-19

2019676c2

1944 the following form:

1945
1946 *The laws of the State of Florida govern the offering of this*
1947 *timeshare plan in this state. There are inherent risks in*
1948 *purchasing a timeshare interest in this timeshare plan because*
1949 *the accommodations and facilities of the timeshare plan are*
1950 *located on a vessel that will sail into international waters and*
1951 *into waters governed by many different jurisdictions. Therefore,*
1952 *the laws of the State of Florida cannot fully protect your*
1953 *purchase of an interest in this timeshare plan. Specifically,*
1954 *management and operational issues may need to be addressed in*
1955 *the jurisdiction in which the vessel is registered, which is*
1956 *(insert jurisdiction in which vessel is registered). Concerns of*
1957 *purchasers may be sent to (insert name of applicable regulatory*
1958 *agency and address).*

1959
1960 4. Trust.—

1961 a. If the subject accommodations or facilities, or all use
1962 rights therein, are to be transferred into a trust in order to
1963 comply with this paragraph, such transfer shall take place
1964 pursuant to this subparagraph. If the accommodations or
1965 facilities included in such transfer are subject to a lease, the
1966 unexpired term of the lease must be disclosed as the term of the
1967 timeshare plan pursuant to s. 721.07(5)(f)4.

1968 b. Prior to the transfer of the subject accommodations and
1969 facilities, or all use rights therein, to a trust, any lien or
1970 other encumbrance against such accommodations and facilities, or
1971 use rights therein, shall be made subject to a nondisturbance
1972 and notice to creditors instrument pursuant to subsection (3).

576-04607-19

2019676c2

1973 No transfer pursuant to this subparagraph shall become effective
1974 until the trustee accepts such transfer and the responsibilities
1975 set forth herein. A trust established pursuant to this
1976 subparagraph shall comply with the following provisions:

1977 (I) The trustee shall be an individual or a business entity
1978 authorized and qualified to conduct trust business in this
1979 state. Any corporation authorized to do business in this state
1980 may act as trustee in connection with a timeshare plan pursuant
1981 to this chapter. The trustee must be independent from any
1982 developer or managing entity of the timeshare plan or any
1983 interestholder of any accommodation or facility of such plan.

1984 (II) The trust shall be irrevocable so long as any
1985 purchaser has a right to occupy any portion of the timeshare
1986 property pursuant to the timeshare plan.

1987 (III) The trustee shall not convey, hypothecate, mortgage,
1988 assign, lease, or otherwise transfer or encumber in any fashion
1989 any interest in or portion of the timeshare property with
1990 respect to which any purchaser has a right of use or occupancy
1991 unless the timeshare plan is terminated pursuant to the
1992 timeshare instrument, or such conveyance, hypothecation,
1993 mortgage, assignment, lease, transfer, or encumbrance is
1994 approved by a vote of two-thirds of all voting interests of the
1995 timeshare plan. Subject to s. 721.552, a vote of the voting
1996 interests of the timeshare plan is not required for substitution
1997 or automatic deletion of accommodations or facilities.

1998 (IV) All purchasers of the timeshare plan or the owners'
1999 association of the timeshare plan shall be the express
2000 beneficiaries of the trust. The trustee shall act as a fiduciary
2001 to the beneficiaries of the trust. The personal liability of the

576-04607-19

2019676c2

2002 trustee shall be governed by ss. 736.08125, 736.08163, 736.1013,
2003 and 736.1015. The agreement establishing the trust shall set
2004 forth the duties of the trustee. The trustee shall be required
2005 to furnish promptly to the division upon request a copy of the
2006 complete list of the names and addresses of the owners in the
2007 timeshare plan and a copy of any other books and records of the
2008 timeshare plan required to be maintained pursuant to s. 721.13
2009 that are in the possession, custody, or control of the trustee.
2010 All expenses reasonably incurred by the trustee in the
2011 performance of its duties, together with any reasonable
2012 compensation of the trustee, shall be common expenses of the
2013 timeshare plan.

2014 (V) The trustee shall not resign upon less than 90 days'
2015 prior written notice to the managing entity and the division. No
2016 resignation shall become effective until a substitute trustee,
2017 approved by the division, is appointed by the managing entity
2018 and accepts the appointment.

2019 (VI) The documents establishing the trust arrangement shall
2020 constitute a part of the timeshare instrument.

2021 (VII) For trusts holding property in a timeshare plan
2022 located outside this state, the trust and trustee holding such
2023 property shall be deemed in compliance with the requirements of
2024 this subparagraph if such trust and trustee are authorized and
2025 qualified to conduct trust business under the laws of such
2026 jurisdiction and the agreement or law governing such trust
2027 arrangement provides substantially similar protections for the
2028 purchaser as are required in this subparagraph for trusts
2029 holding property in a timeshare plan in this state.

2030 (VIII) The trustee shall have appointed a registered agent

576-04607-19

2019676c2

2031 in this state for service of process. In the event such a
2032 registered agent is not appointed, service of process may be
2033 served pursuant to s. 721.265.

2034 5. Owners' association.—

2035 a. If the subject accommodations or facilities, or all use
2036 rights therein, are to be transferred into an owners'
2037 association in order to comply with this paragraph, such
2038 transfer shall take place pursuant to this subparagraph.

2039 b. Before the transfer of the subject accommodations and
2040 facilities, or all use rights therein, to an owners'
2041 association, any lien or other encumbrance against such
2042 accommodations and facilities, or use rights therein, shall be
2043 made subject to a nondisturbance and notice to creditors
2044 instrument pursuant to subsection (3). No transfer pursuant to
2045 this subparagraph shall become effective until the owners'
2046 association accepts such transfer and the responsibilities set
2047 forth herein. An owners' association established pursuant to
2048 this subparagraph shall comply with the following provisions:

2049 (I) The owners' association shall be a business entity
2050 authorized and qualified to conduct business in this state.
2051 Control of the board of directors of the owners' association
2052 must be independent from any developer or managing entity of the
2053 timeshare plan or any interestholder.

2054 (II) The bylaws of the owners' association shall provide
2055 that the corporation may not be voluntarily dissolved without
2056 the unanimous vote of all owners of personal property timeshare
2057 interests so long as any purchaser has a right to occupy any
2058 portion of the timeshare property pursuant to the timeshare
2059 plan.

576-04607-19

2019676c2

2060 (III) The owners' association shall not convey,
2061 hypothecate, mortgage, assign, lease, or otherwise transfer or
2062 encumber in any fashion any interest in or portion of the
2063 timeshare property with respect to which any purchaser has a
2064 right of use or occupancy, unless the timeshare plan is
2065 terminated pursuant to the timeshare instrument, or unless such
2066 conveyance, hypothecation, mortgage, assignment, lease,
2067 transfer, or encumbrance is approved by a vote of two-thirds of
2068 all voting interests of the association and such decision is
2069 declared by a court of competent jurisdiction to be in the best
2070 interests of the purchasers of the timeshare plan. The owners'
2071 association shall notify the division in writing within 10 days
2072 after receiving notice of the filing of any petition relating to
2073 obtaining such a court order. The division shall have standing
2074 to advise the court of the division's interpretation of the
2075 statute as it relates to the petition.

2076 (IV) All purchasers of the timeshare plan shall be members
2077 of the owners' association and shall be entitled to vote on
2078 matters requiring a vote of the owners' association as provided
2079 in this chapter or the timeshare instrument. The owners'
2080 association shall act as a fiduciary to the purchasers of the
2081 timeshare plan. The articles of incorporation establishing the
2082 owners' association shall set forth the duties of the owners'
2083 association. All expenses reasonably incurred by the owners'
2084 association in the performance of its duties, together with any
2085 reasonable compensation of the officers or directors of the
2086 owners' association, shall be common expenses of the timeshare
2087 plan.

2088 (V) The documents establishing the owners' association

576-04607-19

2019676c2

2089 shall constitute a part of the timeshare instrument.

2090 (VI) For owners' associations holding property in a
2091 timeshare plan located outside this state, the owners'
2092 association holding such property shall be deemed in compliance
2093 with the requirements of this subparagraph if such owners'
2094 association is authorized and qualified to conduct owners'
2095 association business under the laws of such jurisdiction and the
2096 agreement or law governing such arrangement provides
2097 substantially similar protections for the purchaser as are
2098 required in this subparagraph for owners' associations holding
2099 property in a timeshare plan in this state.

2100 (VII) The owners' association shall have appointed a
2101 registered agent in this state for service of process. In the
2102 event such a registered agent cannot be located, service of
2103 process may be made pursuant to s. 721.265.

2104 6. Personal property subject to certificate of title.—If
2105 any personal property that is an accommodation or facility of a
2106 timeshare plan is subject to a certificate of title in this
2107 state pursuant to chapter 319 or chapter 328, the following
2108 notation must be made on such certificate of title pursuant to
2109 s. 319.27(1) or s. 328.15 ~~s. 328.15(1)~~:

2110
2111 *The further transfer or encumbrance of the property subject to*
2112 *this certificate of title, or any lien or encumbrance thereon,*
2113 *is subject to the requirements of section 721.17, Florida*
2114 *Statutes, and the transferee or lienor agrees to be bound by all*
2115 *of the obligations set forth therein.*

2116
2117 7. If the developer has previously provided a certified

576-04607-19

2019676c2

2118 copy of any document required by this paragraph, she or he may
2119 for all subsequent disbursements substitute a true and correct
2120 copy of the certified copy, provided no changes to the document
2121 have been made or are required to be made.

2122 8. In the event that use rights relating to an
2123 accommodation or facility are transferred into a trust pursuant
2124 to subparagraph 4. or into an owners' association pursuant to
2125 subparagraph 5., all other interestholders, including the owner
2126 of the underlying fee or underlying personal property, must
2127 execute a nondisturbance and notice to creditors instrument
2128 pursuant to subsection (3).

2129 Section 31. (1) The rights, duties, and interests flowing
2130 from a transaction, certificate of title, or record relating to
2131 a vessel which was validly entered into or created before the
2132 effective date of this act and would be subject to this act if
2133 it had been entered into or created on or after the effective
2134 date of this act remain valid on and after the effective date of
2135 this act.

2136 (2) This act does not affect an action or a proceeding
2137 commenced before the effective date of this act.

2138 (3) Except as otherwise provided in subsection (4), a
2139 security interest that is enforceable immediately before the
2140 effective date of this act and would have priority over the
2141 rights of a person who becomes a lien creditor at that time is a
2142 perfected security interest under this act.

2143 (4) A security interest perfected immediately before the
2144 effective date of this act remains perfected until the earlier
2145 of:

2146 (a) The time perfection would have ceased under the law

576-04607-19

2019676c2

2147 under which the security interest was perfected; or
2148 (b) Three years after the effective date of this act.
2149 (5) This act does not affect the priority of a security
2150 interest in a vessel if immediately before the effective date of
2151 this act the security interest is enforceable and perfected, and
2152 that priority is established.

2153 Section 32. Subject to section 31 of this act, this act
2154 applies to any transaction, certificate of title, or record
2155 relating to a vessel, even if the transaction, certificate of
2156 title, or record was entered into or created before the
2157 effective date of this act.

2158 Section 33. This act shall take effect July 1, 2023.