

Tab 1	SB 7030 by ED; (Compare to H 07093) School Safety and Security					
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313254	A	S		IS, Cruz	Delete L.119 - 127:	03/19 02:24 PM
756112	A	S		IS, Diaz	Delete L.386 - 418.	03/19 02:14 PM
307398	A	S		IS, Taddeo	btw L.582 - 583:	03/19 03:44 PM
664610	A	S		IS, Cruz	Delete L.648 - 652:	03/19 03:43 PM
420924	A	S		IS, Taddeo	btw L.675 - 676:	03/19 03:23 PM

Tab 2	SB 7048 by CF; Disclosure of Confidential Records					
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Tab 3	CS/SB 536 by IT, Brandes (CO-INTRODUCERS) Perry, Book; (Compare to H 00441) 911 Services					
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134900	A	S	WD	IS, Brandes	Delete L.266 - 307:	03/20 11:13 AM
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Tab 4	SB 676 by Hooper; (Similar to CS/CS/H 00475) Certificates of Title for Vessels					
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383990	D	S		IS, Hooper	Delete everything after	03/18 04:02 PM
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Tab 5	CS/SB 796 by IT, Gruters (CO-INTRODUCERS) Bracy, Montford, Broxson; (Similar to CS/H 00797) Public Utility Storm Protection Plans					
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692530	D	S	RCS	IS, Gruters	Delete everything after	03/21 05:00 PM
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Tab 6	SB 932 by Brandes; (Similar to H 00311) Autonomous Vehicles					
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624656	A	S	RCS	IS, Brandes	btw L.40 - 41:	03/22 10:33 AM
491470	A	S	RS	IS, Brandes	Delete L.41 - 228:	03/22 10:33 AM
571094	SA	S	RCS	IS, Brandes	Delete L.41 - 261:	03/22 10:33 AM
177774	AA	S	UNFAV	IS, Cruz	Delete L.174 - 248:	03/22 10:33 AM
773576	A	S	WD	IS, Brandes	Delete L.136 - 261:	03/20 11:18 AM
837754	A	S	WD	IS, Cruz	btw L.284 - 285:	03/22 10:33 AM

Tab 7	SB 1044 by Albritton; (Compare to CS/H 00905) Department of Transportation					
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517500	D	S	RCS	IS, Albritton	Delete everything after	03/21 05:03 PM
883562	AA	S	RCS	IS, Albritton	Delete L.56 - 80.	03/21 05:03 PM

Tab 8	SB 1148 by Perry; (Identical to H 01111) Vehicles for Rent or Lease					
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898880	D	S	RCS	IS, Perry	Delete everything after	03/22 12:40 PM
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

INFRASTRUCTURE AND SECURITY

Senator Lee, Chair
Senator Perry, Vice Chair

MEETING DATE: Wednesday, March 20, 2019

TIME: 4:00—6:00 p.m.

PLACE: *Toni Jennings Committee Room, 110 Senate Building*

MEMBERS: Senator Lee, Chair; Senator Perry, Vice Chair; Senators Bean, Cruz, Hooper, Hutson, Stewart, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 7030 Education	School Safety and Security; Requiring a sheriff to establish a school guardian program under a certain condition; requiring school districts to promote a mobile suspicious activity reporting tool through specified mediums; requiring the Commissioner of Education to review recommendations from the School Hardening and Harm Mitigation Workgroup; revising the duties of the commissioner to include oversight of compliance with the safety and security requirements of the Marjory Stoneman Douglas High School Public Safety Act by specified persons and entities, etc. IS 03/20/2019 Temporarily Postponed AP	Temporarily Postponed
2	SB 7048 Children, Families, and Elder Affairs	Disclosure of Confidential Records; Requiring service providers to disclose information from a clinical record under certain circumstances relating to threats to cause seriously bodily injury or death; requiring, rather than authorizing, psychiatrists to disclose certain patient communications for purposes of notifying potential victims and law enforcement agencies of certain threats; requiring, rather than authorizing, psychologists to disclose certain patient and client communications for purposes of notifying potential victims and law enforcement agencies of certain threats; providing psychologists with immunity from specified liability and actions under certain circumstances, etc. IS 03/20/2019 Favorable RC	Favorable Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Infrastructure and Security

Wednesday, March 20, 2019, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/SB 536 Innovation, Industry, and Technology / Brandes (Compare H 441)	911 Services; Requiring counties to develop a plan for implementing a text-to-911 system and to implement a system to receive E911 text messages by a specified date; requiring that the Technology Program within the Department of Management Services develop and implement a plan to require that emergency dispatchers be able to transfer an emergency call from one E911 system to another E911 system in this state; defining the terms "first responders" and "911 public safety answering point" or "PSAP"; requiring a PSAP to be able to directly communicate by radio with first responders, etc. IT 03/12/2019 Fav/CS IS 03/20/2019 Favorable AP	Favorable Yeas 7 Nays 0
4	SB 676 Hooper (Similar CS/H 475)	Certificates of Title for Vessels; Designating the "Uniform Certificate of Title for Vessels Act"; revising requirements for application for, and information to be included in, a certificate of title for a vessel; requiring the Department of Highway Safety and Motor Vehicles to retain certain information relating to ownership and titling of vessels; providing duties of the department relating to creation, issuance, refusal to issue, or cancellation of a certificate of title; providing for the rights of a purchaser of a vessel who is not a secured party; providing rules for the transfer of ownership in a vessel, etc. IS 03/20/2019 Temporarily Postponed ATD AP	Temporarily Postponed
5	CS/SB 796 Innovation, Industry, and Technology / Gruters (Similar H 797)	Public Utility Storm Protection Plans; Requiring public utilities to individually submit to the Public Service Commission, for review and approval, a transmission and distribution storm protection plan as part of the storm hardening plan required by the commission; requiring the commission to conduct an annual proceeding to allow utilities to justify and recover certain costs through a storm protection cost recovery clause; providing that utilities may not include certain costs in their base rates, etc. IT 03/06/2019 Fav/CS IS 03/20/2019 Fav/CS AP	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Infrastructure and Security

Wednesday, March 20, 2019, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	SB 932 Brandes (Similar H 311, Compare S 660)	Autonomous Vehicles; Exempting a fully autonomous vehicle being operated with the automated driving system engaged from a prohibition on the active display of television or video; exempting a motor vehicle operator who is operating an autonomous vehicle from a prohibition on the use of wireless communications devices; providing that a licensed human operator is not required to operate a fully autonomous vehicle; authorizing a fully autonomous vehicle to operate in this state regardless of whether a human operator is physically present in the vehicle, etc. IS 03/20/2019 Fav/CS ATD AP	Fav/CS Yeas 8 Nays 0
7	SB 1044 Albritton (Compare CS/H 905, S 660)	Department of Transportation; Providing that the Department of Transportation consists of a central office that establishes policies and procedures and districts that carry out certain projects; requiring certain preservation goals to include ensuring that a specified percentage of the pavement in each of the department's districts meet department standards by a specified year; prohibiting local governments from adopting standards or specifications that are contrary to the department standards or specifications for permissible use of aggregates and materials that have been certified for use, etc. IS 03/20/2019 Fav/CS ATD AP	Fav/CS Yeas 6 Nays 0
8	SB 1148 Perry (Identical H 1111, Compare S 660)	Vehicles for Rent or Lease; Authorizing an electronic copy of certain rental or lease documentation to be in the possession of the vehicle operator or carried in the vehicle and to be exhibited upon demand of any authorized law enforcement officer or any agent of the Department of Highway Safety and Motor Vehicles; prohibiting a person from renting a motor vehicle to another person unless he or she has verified that the renter's driver license is unexpired, etc. IS 03/20/2019 Fav/CS ATD AP	Fav/CS Yeas 5 Nays 3

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Infrastructure and Security

BILL: SB 7030

INTRODUCER: Education Committee

SUBJECT: School Safety and Security

DATE: March 19, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Bouck, Graf, Olenick	Sikes		ED Submitted as Committee Bill
2. Proctor	Miller	IS	Pre-meeting
3. _____	_____	AP	_____

I. Summary:

SB 7030 builds upon the school safety and security foundation established in SB 7026 (2018 Reg. Session) by addressing the school safety and security recommendations of the Marjory Stoneman Douglas High School Public Safety Commission, and strengthening accountability and compliance oversight authority. Specifically, the bill:

- Improves school security measures by:
 - Establishing a workgroup to review campus hardening policies and recommend a prioritized list of strategies for implementation and related policy and funding enhancements;
 - Prioritizing the use of the school security risk assessment tool;
 - Expanding the personnel who may serve as a school district's school safety specialist to include certain law enforcement officers employed by the sheriff's office; and
 - Expanding school district options and eligibility for participation in the Coach Aaron Feis Guardian Program.
- Enhances student safety by:
 - Requiring improved school safety incident reporting;
 - Promoting the FortifyFL mobile suspicious activity reporting tool;
 - Expediting services for students with mental or behavioral disorders;
 - Requiring active assailant response policies;
 - Establishing a standardizing behavioral threat assessment instrument; and
 - Establishing a workgroup to make recommendations regarding the development of a statewide threat assessment database.
- Provides school districts with greater flexibility to improve school safety by authorizing the transfer of additional categorical funds within the Florida Education Finance Program (FEFP) towards school safety expenditures.

The bill takes effect upon becoming a law, unless otherwise specified.

II. Present Situation:

The present situation for the relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

III. Effect of Proposed Changes:

In 2018, the Legislature enacted the “Marjory Stoneman Douglas High School Public Safety Act (Act).”¹ The legislation included provisions to address school safety and security including, but not limited to, establishing the Marjory Stoneman Douglas High School Public Safety Commission (commission),² and codifying within the Florida Department of Education (DOE) the Office of Safe Schools (OSS).³

Marjory Stoneman Douglas High School Public Safety Commission

The commission is entrusted with investigating system failures in the Marjory Stoneman Douglas High School shooting and prior mass violence incidents, and developing recommendations for system improvements.⁴ The commission submitted its initial report to the Governor and the Legislature on January 2, 2019.⁵ The commission is authorized to issue a report annually, by January 1, and is scheduled to sunset July 1, 2023.

The commission’s report includes numerous school safety and security recommendations, which are addressed in the bill and explained in the Effects of Proposed Changes section as they relate to the components of the bill.

Office of Safe Schools

The OSS in the DOE serves as a central repository for best practices, training standards, and compliance oversight in all matters regarding school safety and security, including prevention efforts, intervention efforts, and emergency preparedness planning.⁶ The OSS requirements include:

- Establishing and updating as necessary a school security risk assessment tool⁷ for use by school districts and charter schools.
- Providing ongoing professional development opportunities to school district personnel.
- Providing a coordinated and interdisciplinary approach to providing technical assistance and guidance to school districts on safety and security and recommendations to address findings identified in the school security risk assessment.⁸

¹ Chapter 2018-3, Laws of Fla.

² Section 943.687, F.S.

³ Section 1001.212, F.S.

⁴ Section 943.687(3), F.S.

⁵ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf> (last visited Feb. 22, 2019).

⁶ Section 1001.212, F.S. *See also*: Florida Department of Education, *Office of Safe Schools*, <http://www.fldoe.org/safe-schools/> (last visited Jan. 29, 2019).

⁷ The Florida Safe Schools Assessment Tool (FSSAT). Section 1006.1493, F.S.

⁸ Section 1006.07(6)(a)4., F.S., requires a school security risk assessment at each public school using the school security risk assessment tool (FSSAT) developed by the Office of Safe Schools.

- Developing and implementing a School Safety Specialist Training Program for school safety specialists.⁹ The office must develop the training program based on national and state best practices on school safety and security and must include active shooter training.
- Reviewing and providing recommendations on the security risk assessments.

Safe-School Officers

Present Situation

Florida law requires each district school board and school district superintendent to partner with law enforcement agencies to establish or assign one or more safe-school officers at each school facility within the district by implementing one or more safe-school officer options which best meet the needs of the school district.¹⁰ These options include:

- Establishing a school resource officer program, through a cooperative agreement with law enforcement agencies.
- Commissioning one or more school safety officers. The district school superintendent may recommend, and the district school board may appoint, one or more school safety officers.
- Participating in the Coach Aaron Feis Guardian Program if such program is established by the sheriff.

Coach Aaron Feis Guardian Program

The Coach Aaron Feis Guardian Program (guardian program) was established in 2018¹¹ as an option for school districts to meet the safe-school officer requirements in law.¹² Each sheriff has the discretion to establish a guardian program to aid in the prevention or abatement of active assailant incidents on school premises. School employees, except individuals who exclusively perform classroom duties as classroom teachers as defined in law,¹³ may participate in the guardian program. The sheriff who chooses to establish a guardian program shall appoint as school guardians, without the power of arrest, school employees who volunteer and who meet the training and screening requirements established in law.¹⁴

A sheriff must issue a school guardian certificate to individuals who meet the requirements specified in law.¹⁵ The sheriff must maintain documentation of weapon and equipment inspections, as well as the training, certification, inspection, and qualification records of each school guardian appointed by the sheriff.¹⁶

For the 2018-2019 school year, 25 sheriffs have established a guardian training program and 25 school districts are implementing the guardian program as an option to provide safe-school officers. As of January 2019, 688 guardians had been assigned to public schools in the participating districts.¹⁷

⁹ Section 1006.07(6)(a), F.S., requires each district school superintendent to designate a school administrator as a school safety specialist for the district.

¹⁰ Section 1006.12, F.S.

¹¹ Section 26, Ch. 2018-3, Laws of Fla.

¹² Section 1006.12, F.S.

¹³ Section 1012.01(2)(a), F.S.

¹⁴ Section 30.15(1)(k), F.S.

¹⁵ Section 30.15(1)(k)2., F.S.

¹⁶ *Id.*

¹⁷ Florida Department of Education, *School Safety and Security Update*, Senate Education Committee, January 8, 2019.

In Ch. 2018-3, Laws of Fla., the legislature appropriated \$500,000 in recurring funds and \$67 million in nonrecurring funds to the DOE to allocate to sheriffs' offices that establish a guardian program. These funds were appropriated for screening-related and training-related costs and providing a one-time stipend of \$500 to school guardians who participate in the guardian program. As of January 2019, the department had received \$9.3 million in funding requests and \$2.6 million had been paid out to sheriff's offices for authorized expenses.¹⁸

Effect of Proposed Changes

Based on recommendations from the commission regarding the guardian program,¹⁹ the bill amends s. 30.15, F.S., to require a sheriff to establish a guardian program if the local school board votes by majority to implement the program. The bill also removes the prohibition on an individual who exclusively performs classroom duties as a classroom teacher from participating in the guardian program.

The bill also amends s. 1006.12, F.S., to clarify three types of individuals who can fill the role of a school guardian. Upon completion of the statutorily-required training and screening and certification by a sheriff, the following individuals may serve as a school guardian:

- A school district or charter school employee who volunteers to serve as a guardian in addition to the employee's official job duties;
- A school district or charter school employee hired for the specific purpose of serving as a guardian; or
- A contract employee working at the school district or charter school through a contract with a private security agency. Contract employees may receive school guardian training through a participating sheriff's office contingent upon defined financial or service obligations by the private security agency enumerated in the contract between the school district or charter school governing board and private security agency.

The bill:

- Clarifies that the sheriffs' obligations associated with maintaining specified documentation applies to school guardians certified by the sheriffs rather than school guardians appointed by the sheriffs.
- Specifies that an individual may not serve as a school guardian unless he or she is appointed by the district school superintendent.

¹⁸ *Id.*

¹⁹ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 104 (last visited Feb. 22, 2019).

School Safety Specialist

Present Situation

Each district school superintendent must designate a school administrator as a school safety specialist for the district.²⁰ The school safety specialist must meet the following qualifications:

- Earn a certificate of completion of the school safety specialist training provided by the OSS within 1 year after appointment;²¹ and
- Earn, or designate one or more individuals to earn, certification as a youth mental health awareness and assistance trainer.²²

The school safety specialist has the following responsibilities:

- Supervise and oversee for all school safety and security personnel, policies, and procedures in the school district. The school safety specialist must:²³
 - Review policies and procedures for compliance with state law and rules.
 - Provide the necessary training and resources to students and school district staff in matters relating to youth mental health awareness and assistance; emergency procedures, including active shooter training; and school safety and security.
 - Serve as the school district liaison with local public safety agencies²⁴ and national, state, and community agencies and organizations in matters of school safety and security.
 - Conduct a school security risk assessment at each public school using the school security risk assessment tool developed by the OSS. Based on the assessment findings, the district's school safety specialist must provide recommendations to the district school board which identify strategies and activities that the district school board should implement in order to improve school safety and security.
- Coordinate with the appropriate public safety agencies that are designated as first responders to a school's campus to conduct a tour of such campus once every 3 years and provide recommendations related to school safety.²⁵
- Participate with specified entities in active shooter situation training at each school, conducted law enforcement agency or agencies that are designated as first responders to the school's campus.²⁶
- Ensure that all school personnel within his or her school district receive youth mental health awareness and assistance training.²⁷
- Approve construction items to ensure building security.²⁸

²⁰ Section 1006.07(6)(a), F.S.

²¹ *Id.*

²² Section 1012.584(2), F.S.

²³ Section 1006.07(6)(a), F.S.

²⁴ "Public safety agency" means a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services. Section 365.171(3)(d), F.S.

²⁵ Section 1006.07(4)(b)1., F.S.

²⁶ *Id.*

²⁷ Section 1012.584(2), F.S.

²⁸ Section 1013.64, F.S. Cost per student station includes contract costs, legal and administrative costs, fees of architects and engineers, furniture and equipment, and site improvement costs. Cost per student station does not include the cost of purchasing or leasing the site for the construction or the cost of related offsite improvements. Cost per student station also does not include the cost for securing entries, checkpoint construction, lighting specifically designed for entry point security, security cameras, automatic locks and locking devices, electronic security systems, fencing designed to prevent intruder entry into a building, bullet-proof glass, or other capital construction items approved by the school safety specialist to ensure

Effect of Proposed Changes

The bill expands the personnel who may serve as a school district's school safety specialist to include law enforcement officers employed by the sheriff's office located in the school district. Additionally, the bill specifies that:

- Any school safety specialist designated from the sheriff's office must be first authorized and approved by the sheriff employing the law enforcement officer.
- Any school safety specialist designated from the sheriff's office remains the employee of the sheriff's office for purposes of compensation, insurance, workers' compensation, and other benefits authorized by law for a law enforcement officer employed by the sheriff's office.
- The sheriff and the school superintendent may determine by agreement the reimbursement for such costs, or may share the costs, associated with employment of the law enforcement officer as a school safety specialist.

The expansion of the individuals who may serve as the school safety specialist for the school district may increase collaboration between the school districts and sheriffs to strengthen school safety and security.

Florida Safe Schools Assessment Tool

Present Situation

Florida law requires the DOE, through the OSS, to contract with a security consulting firm that specializes in development of risk assessment software solutions with experience in conducting security assessments of public facilities to develop the Florida Safe Schools Assessment Tool (FSSAT).²⁹ The FSSAT must be used by school officials at each school district and public school site in the state in conducting security assessments and is intended to help school officials to identify threats, vulnerabilities and appropriate safety controls for the schools that they supervise. The FSSAT is required to address the following components:

- School emergency and crisis preparedness planning;
- Security, crime and violence prevention policies and procedures;
- Physical security measures;
- Professional development training needs;
- An examination of support service roles in school safety, security, and emergency planning;
- School security and school police staffing, operational practices, and related services;
- School-community collaboration on school safety; and
- Return on investment analysis of the recommended physical security controls.

Each school safety specialist³⁰ is required to conduct a school security risk assessment at each public school using the FSSAT.³¹

building security for new educational, auxiliary, or ancillary facilities; costs for these items must be below 2 percent per student station.

²⁹ Section 1006.1493, F.S.

³⁰ *Supra* note 9.

³¹ Section 1006.07(6)(a)4., F.S.

Effect of Proposed Changes

Based on recommendations from the commission regarding physical site security assessment,³² the bill amends s. 1006.1493, F.S., to specify that the FSSAT must be the primary physical site security assessment tool used by school officials at each school district and public school site in the state. The OSS must provide annual training to each school district's schools safety specialist and other appropriate school district personnel on assessing physical site security and completing the FSSAT assessment.

The bill also requires each district school superintendent, or his or her authorized designee, to approve each school specific FSSAT assessment. The district school superintendent must submit an FSSAT assessment to the department for each school site annually by August 1. Any superintendent who fails to comply with this submission requirement is subject to having his or her salary withheld as authorized in law.³³

The requirements of the bill may improve FSSAT reporting, provide a better evaluation of school security, and provide additional accountability for ensuring the safety of students throughout the state.

School Hardening/Harm Mitigation

Present Situation

The commission's report specifies that "physical site target hardening is an essential component" of accomplishing the goal of preventing another active assailant attack.³⁴ The commission recommended that school districts implement a tiered approach to campus hardening that begins with basic harm mitigation concepts that are of little or no cost and those that may be implemented quickly.³⁵ After basic concepts have been implemented, districts should consider more advanced security measures, specifically the measures that focus on prevention, utilize technology, or require statutory changes.³⁶ Additionally, the commission recommended that the

³² Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 297 (last visited Feb. 22, 2019).

³³ Section 1001.51(12)(b), F.S.

³⁴ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 83 (last visited Feb. 22, 2019).

³⁵ *Id.* The initial report of the commission includes a tiered approach to enhancing campus site security under Appendix B of the report. *Id.* at 345-350. In 2018, the Legislature appropriated \$98,962,286 in nonrecurring funds to the Department of Education to implement a grant program that will provide awards to schools to fund, in whole or in part, the fixed capital outlay costs associated with improving the physical security of school buildings as identified by a security risk assessment completed before August 1, 2018, by a school district or charter school. Section 44, Ch. 2018-3, Laws of Fla.; see also Florida Department of Education, *Educational Facilities Security Grant – Senate Bill 7026* (June 8, 2018), available at <http://www.fldoe.org/core/fileparse.php/18612/urlt/EdFacilitiesSecurityGrant-SenBill7026.pdf> (last visited Feb. 22, 2019).

³⁶ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 83 (last visited Feb. 22, 2019).

State of Florida engage subject matter experts through the OSS to establish guidelines and best practices for campus hardening.³⁷ The commission also recommended the following:³⁸

- The OSS conduct a complete review of existing target-hardening practices and recommendations that are highlighted in other state's school safety reports and by organizations such as the Partner Alliance for Safer Schools.³⁹
- Prior to August 2019, the OSS, after receiving input from subject matter experts and completing its target-hardening review, provide the school districts with a tiered list of best practices that will allow schools to develop a plan to enhance and phase-in security levels over time, as budgets and resources allow.
- The legislature consider creating a permanent body similar to the Connecticut School Safety Infrastructure Council to oversee physical site security of schools.

Effect of Proposed Changes

The bill specifies duties and responsibilities for the OSS and the Commissioner of Education (commissioner) regarding school hardening and harm mitigation strategies.

Office of Safe Schools

Based on the suggestions highlighted in the commission's initial report, the bill requires the OSS to convene a School Hardening and Harm Mitigation Workgroup (SHHMW) comprised of subject matter experts to review school campus hardening best practices. The bill requires the review to include, at a minimum:

- Target hardening practices implemented in other states;
- School safety guidelines developed by organizations such as the Partner Alliance for Safer Schools;
- Tiered approach to target campus hardening strategies identified in the initial report submitted by the commission; and
- The Florida Building Code for educational facilities construction⁴⁰ to determine whether the building code may need to be modified to strengthen school safety and security.

The bill requires the SHHMW to meet as necessary and submit its report to the executive director of the OSS by August 1, 2019. The report must include, at a minimum:

- A prioritized list for implementing school campus hardening strategies and estimated costs and timeframes for school districts and charter schools to implement such strategies. The estimated costs must include regional and statewide projections of the implementation costs.

³⁷ *Id.*

³⁸ *Id.*

³⁹ According to the Partner for Alliance for Safer Schools (PASS), the PASS school safety and security guidelines are the most comprehensive information available on best practices specifically for securing K-12 school facilities—for elementary schools, middle schools and high schools. The PASS school security checklist allows tracking school or district's security efforts in comparison to the best practices identified in the Guidelines. Partner for Alliance for Safer Schools, *PASS School Safety and Security Guidelines*, <https://passk12.org/guidelines-resources/pass-school-security-guidelines/> (last visited Jan. 28, 2019).

⁴⁰ The Department of Education is responsible for developing, reviewing, updating, revising, and recommending a mandatory portion of the Florida Building Code for educational facilities construction and capital improvement by district school boards and Florida College System institution boards. Section 1013.03(6), F.S.

- Recommendations for policy and funding enhancements to strengthen school safety and security.

The bill requires the OSS to submit to the commissioner:

- The report submitted by the SHHMW; and
- Recommendations regarding procedures for the OSS to use to monitor and enforce compliance by the school districts and charter schools in the implementation of the SHHMW's recommended campus hardening and harm mitigation strategies.

A review of the existing school hardening and harm mitigation plans, policies, and guidelines, and related estimated costs and implementation timeframes by the SHHMW may assist the office with compiling a prioritized list of policy and funding enhancements to strengthen school safety and security.

Commissioner of Education

The bill requires the commissioner to review the SHHMW's report and recommendations submitted by the OSS regarding monitoring and enforcing compliance with the recommended campus hardening and harm mitigation strategies. The commissioner must provide by September 1, 2019, a summary of the SHHMW's recommendations related to campus hardening and harm mitigation strategies to the Governor, President of the Senate, and the Speaker of the House of Representatives. The summary must include, at a minimum:

- Policy and funding enhancements to strengthen school safety and security; and
- The estimated costs and timeframes for the implementation of the campus hardening and harm mitigation strategies recommended by the workgroup.

School Environmental and Safety Incident Reporting

Present Situation

The DOE has collected data on the most serious incidents of crime, violence, and disruptive behavior since 1995 through the School Environmental Safety Incident Reporting (SESIR) system.⁴¹ The SESIR collects data related to incidents that occur on school grounds, school transportation, and off-campus, school-sponsored events during any 24-hour period, 365 days a year.⁴² There are 26 incidents that must be reported in SESIR.⁴³ These incident types and definitions are based on the criminal code but are not a precise reflection due to the specific focus on youth in the K-12 school environment.⁴⁴

Florida law requires that each school district and the DOE implement an automated information system which is a part of, and compatible with, the statewide comprehensive management

⁴¹ FSU Center of Criminology and The Department of Education *The Florida School Environmental Safety and Incident Reporting (SESIR) system* (2006) available at <http://criminology.fsu.edu/wp-content/uploads/The-Florida-School-Environmental-Safety-Incident-Reporting-SESIR-System.pdf>, at 1 (last visited Feb. 22, 2019).

⁴² *Id.*

⁴³ Florida Department of Education, *SESIR Codes and Definitions*, available at <http://www.fldoe.org/safe-schools/sesir-discipline-data/> (last visited Jan. 31, 2018).

⁴⁴ *Id.*

information system (information system).⁴⁵ Each information system component is required to contain automated student, staff and financial data. Additionally, each school principal must make necessary provisions to ensure that all school reports are accurate and timely, including, but not limited to, school safety and discipline data.⁴⁶ The information system standardizes the definitions of serious crimes and violent acts in schools, so that all schools within a district and statewide are using the same definitions to define criminal and/or violent incidents.

Effect of Proposed Changes

The bill amends s. 1006.07, F.S., to enhance oversight and enforcement as it relates to SESIR. Specifically, the bill:

- Requires the OSS provide oversight and technical assistance for SESIR reporting.
- Requires the OSS adopt rules to establish reporting requirements.
- Codifies the SESIR system and provides penalties for non-compliance.

These changes are consistent with the recommendations from the commission to provide DOE with SESIR oversight authority and authority to impose sanctions for non-compliance.⁴⁷ Providing such oversight authority to the OSS and penalties for noncompliance may increase reporting participation and accuracy.

Mobile Suspicious Activity Reporting Tool (FortifyFL)

Present Situation

In 2018, the FortifyFL application (application) was created and funded as part of the Marjory Stoneman Douglas High School Public Safety Act. The Florida Department of Law Enforcement (FDLE), in conjunction with the Department of Legal Affairs, was required to procure a mobile suspicious activity reporting tool that allows students and the community to relay information anonymously concerning unsafe, potentially harmful, dangerous, violent or criminal activities, or the threat of these activities, to appropriate public safety agencies and officials.⁴⁸

The application is fully operational and, according to the DOE, has received 278 tips.⁴⁹ The application is free to all public and private schools in Florida. Districts who have similar tools may continue to use them in addition to the application.⁵⁰ Even in cases where district-level tools exist, district and school-level administrators will receive tips from the application and will be expected to respond. Administrators are expected to register to receive tips through the application's administrative portal for the safety and well-being of students and staff. Any tips submitted via the application are sent to local school district and law enforcement officials, and the designated officials are contacted until one or more of them take action on the tip.⁵¹

⁴⁵ Section 1008.385(2), F.S. see also Rule 6A-1.0014, F.A.C.

⁴⁶ See ss. 1001.54(3), 1001.54(3), and 006.09(6), F.S. Each school principal must ensure that standardized forms prescribed by State Board of Education rule are used to report data concerning school safety and discipline data.

⁴⁷ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 314 (last visited Feb. 22, 2019).

⁴⁸ Section 943.082(4)(a), F.S.

⁴⁹ Telephone Interview with staff, Florida Department of Education (Jan 28, 2019). 278 tips as of 1/29/19.

⁵⁰ Florida Department of Education, *FortifyFL School Safety Awareness Program* (Oct. 26, 2018) available at <https://info.fldoe.org/docushare/dsweb/Get/Document-8397/dps-2018-157.pdf>, at 1-2 (last visited Feb. 22, 2019).

⁵¹ *Id.*

Effect of Proposed Changes

The bill amends s. 943.082, F.S., to require a district school board to promote the application on its website, campuses, newsletters, and install the application on all student-issued computer devices. Additionally, the bill requires charter schools to comply with the specified advertising requirements. These changes are consistent with the commission's recommendations.⁵²

The requirement that the application be promoted in these mediums may help to increase awareness and use of the application.

Active Assailant Policy***Present Situation***

Florida law requires that district school boards in consultation with public safety agencies formulate and prescribe policies and procedures for actual emergencies including, but not limited to, fires, natural disasters, active shooter and hostage situations, and bomb threats.⁵³

Additionally, a district school board must establish model emergency management and preparedness procedures, including emergency notification procedures. The active shooter training for each school must engage the participation of the district school safety specialist, threat assessment team (TAT) members, faculty, staff and students and must be conducted by a law enforcement agency or agencies that are designated as first responders to the school's campus.

Effect of Proposed Changes

The bill amends section 1006.07, F.S. to require that each district school board have a well-developed, written, distributed, and trained upon active assailant response policy to be used at each school and approved by the district superintendent. Any school-specific modifications to the district policy must be approved by the superintendent. The active assailant policy must be submitted to the OSS by August 1, 2019. Additionally, the bill amends sections 1001.212 and 1002.33, F.S., to require a charter school governing board to adopt an active assailant policy and submit the policy to the OSS for review. These changes are consistent with the recommendation by the commission that each school district's active assailant policy be approved by the OSS.⁵⁴

These changes may provide for more consistency in active assailant response policies throughout the state.

⁵² Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 266 (last visited Feb. 22, 2019).

⁵³ Section 1006.07(4)(a), F.S.

⁵⁴ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 86 (last visited Feb. 22, 2019).

Multiagency Services for Students with Severe Emotional Disturbance

Present Situation

Florida law establishes a multiagency network to provide children with mental illness or emotional and behavioral problems and their families with access to the services and supports they need to succeed. The multiagency network includes district school boards to provide educational programs, and state departments and agencies administering children's mental health funds to provide mental health treatment and residential services.⁵⁵ The multiagency network is required to improve the coordination of services to expand school-based mental health services, transition services, and integrated education and treatment programs for students with and at risk of emotional or behavioral disabilities.⁵⁶

Local child and adolescent mental health systems of care must include the local educational multiagency network to enhance collaboration between agencies and to facilitate the provision of services by the child and adolescent mental health treatment and support system and the school district.⁵⁷

Effect of Proposed Changes

The bill amends s. 1006.04, F.S., to establish service timeframes for children with or at risk of emotional or behavioral disabilities. Specifically, the bill requires the multiagency network to improve coordination of services to such children to provide the following:

- Children who are referred for evaluation or screening to determine eligibility for services receive the evaluation or screening within 45 days of the referral; and
- If eligible for services, students and their families must be provided a referral to appropriate services within 30 days after completion of the evaluation or screening.

Such changes are consistent with timelines recommended by the commission,⁵⁸ and may assist in the timely diagnosis of mental, emotional, or behavioral disorders and ensure students and families are provided timely information about available services and supports.

School-Based Behavioral Threat Assessments

Present Situation

The threat assessment process provides guidance to students, faculty, and staff regarding the recognition of threatening or aberrant behavior that may represent a threat to the community, school, or self.⁵⁹

⁵⁵ Section 1006.04(1)(a), F.S. The network was created in 1984 as the Multiagency Service Network for Students with Severe Emotional Disturbance (SEDNET).

⁵⁶ Section 1006.04(1)(c), F.S.

⁵⁷ Section 394.495(5), F.S.

⁵⁸ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 273 (last visited Feb. 22, 2019).

⁵⁹ Section 1006.07(7)(a), F.S.

Each district school board is required to adopt policies to establish TATs at each school.⁶⁰ Such policies must be consistent with model policies developed by the OSS, and must include procedures for referrals to mental health services identified by the school district,⁶¹ when appropriate. A school TAT is composed of members with expertise in counseling, instruction, school administration, and law enforcement to coordinate resources, assessment, and intervention for individuals whose behavior may pose a threat to the safety of school staff or students.⁶²

Florida law specifies procedures to be followed by the TAT upon a preliminary determination that a student poses a threat of violence or physical harm to himself or herself, or exhibits significantly disruptive behavior.⁶³

Each TAT must report quantitative data on its activities to the OSS in accordance with guidance from the OSS.⁶⁴

Currently, there is not a standard threat assessment process or automated threat assessment system in Florida. The current threat assessment process in Florida is school - or district - specific with little to no information sharing as a result of the threat assessment process.⁶⁵

Virginia Student Threat Assessment Guidelines (VSTAG)

The VSTAG model is an approach to violence prevention that emphasizes early attention to conflict before it escalates into violent behavior.⁶⁶ The model integrated recommendations from the FBI⁶⁷ and Secret Service⁶⁸ studies of school shootings with input from educators working in Virginia public schools.

⁶⁰ Section 1006.07(7), F.S.

⁶¹ Section 1012.584(4), F.S., defines “mental health services” and requires notification to all school personnel who have received training on mental health services about available mental health services.

⁶² Section 1006.07(7), F.S.

⁶³ Procedures include superintendent and parental notifications, inspection of criminal records, and immediate action for mental health and substances abuse crises. *Id.*

⁶⁴ Section 1006.07(7)(f), F.S.

⁶⁵ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 281 (last visited Feb. 22, 2019).

⁶⁶ Dewey G. Cornell University of Virginia June 18, 2018 *Overview of the Virginia Student Threat Assessment Guidelines (VSTAG)* <https://curry.virginia.edu/sites/default/files/images/YVP/VSTAG%20summary%206-18-18.pdf>, at 1 (last visited Feb. 22, 2019).

⁶⁷ Mary Ellen O'Toole, *The School Shooter: A Threat Assessment Perspective*, available at <https://files.eric.ed.gov/fulltext/ED446352.pdf> (last visited Feb. 22, 2019).

⁶⁸ United States Secret Service and the United States Department of Education (Robert A. Fein), *Threat Assessment in Schools, A Guide to Managing Threatening Situations and to Creating Safe School Climates* (2004), available at <https://www2.ed.gov/admins/lead/safety/threatassessmentguide.pdf> (last visited Feb. 22, 2019).

The VSTAG model follows a five-step process, which includes an evaluation of a threat as transient⁶⁹ or substantive,⁷⁰ a response to a substantive threat, and implementation and monitoring of a safety plan, if necessary.

Effect of Proposed Changes

The bill implements recommendations from the commission regarding the development of a standardized, statewide behavioral threat assessment instrument and a statewide threat assessment database.⁷¹ Specifically, the bill amends s. 1001.212, F.S., to require the OSS to:

- Develop, no later than August 1, 2019, a standardized, statewide behavioral threat assessment instrument (instrument) for use by all public schools, including charter schools. The instrument must include:
 - An evaluation of the causes and seriousness of the threat.
 - The response to a substantive threat, including law enforcement or mental health referrals.
 - Ongoing monitoring to assess implementation of safety strategies.
 - Training for members of a TAT and school administrators regarding the use of the instrument.
- Evaluate, by August 1, 2020, each school district's behavioral threat assessment procedures, and:
 - Notify the district school superintendent if that school district's behavioral threat assessment is not in compliance with the instrument.
 - Report any issues of ongoing noncompliance to the district school superintendent, commissioner, and State Board of Education.

Each district school board, in its policies establishing a TAT, must include in its behavioral threat assessment procedures the instrument developed by the OSS. The establishment of a statewide instrument may assist in the development of policies that are more proactive and include greater oversight and accountability of district policies and procedures. In addition, school personnel may receive improved training on and knowledge of the threat assessment process and how to conduct effective behavioral threat assessments.

Additionally, the bill requires the OSS to:

- Establish a Statewide Threat Assessment Database Workgroup to make recommendations regarding the development of a statewide threat assessment database to provide access to information about any school threat assessment by authorized personnel statewide.
- The workgroup must provide a report to the OSS, no later than December 31, 2019, with recommendations regarding, but not limited to:
 - Required threat assessment data and authorized users.
 - Database design and functionality, to include data security.

⁶⁹ A transient threat is a broad category including all threats that do not reflect a genuine intent to harm others. Most student threats are transient threats that reflect expressions of humor, anger, frustration, or fear. Transient threats can be provocative and disruptive, but from a threat assessment perspective, they do not reflect a real intent to harm others. *Supra* note 56, at 2.

⁷⁰ Substantive threats are characterized by qualities that reflect serious intent, such as planning and preparation, recruitment of accomplices, and acquisition of a weapon. *Supra* note 56, at 3.

⁷¹ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 286-287 (last visited Feb. 22, 2019).

- Restrictions and authorities on information sharing, including the Family Educational Right and Privacy Act,⁷² confidentiality of substance abuse and disorder patient records,⁷³ and the Health Insurance Portability and Accountability Act.⁷⁴
- The cost to develop and maintain a statewide online database.
- An implementation plan and timeline.

The workgroup recommendations may assist in determining the effective implementation of a statewide threat assessment database for providing vital student threat information to school districts and law enforcement. The bill requires that each school TAT must utilize the statewide threat assessment database when it becomes available.

School District Funding

Present Situation

State funding for school districts is provided primarily by legislative appropriations, the majority of which is distributed through the FEFP.

Florida Education Finance Program

Florida law provides funds for the operation of schools by an allocation through the FEFP to each district. In addition to the basic amount for current operations for the FEFP, the Legislature may appropriate categorical funding for specified programs, activities or purposes.⁷⁵ Each district school board must include the amount of categorical funds as a part of the district annual financial report to the DOE, and the DOE must submit a report to the Legislature that identifies by district and by categorical fund the amount transferred and the specific academic classroom activity for which the funds were spent.⁷⁶ A district school board may approve a budget amendment.

Safe Schools Allocation

Safe schools funds are to be used by school districts to help them comply with the sections of Florida law dedicated to student discipline and school safety, with priority given to establishing a school resource officer program pursuant to section 1006.12, F.S.⁷⁷

For the 2018-19 fiscal year, \$161,956,019 is appropriated for safe schools activities, with each school district receiving a guaranteed minimum of \$250,000.⁷⁸ The remaining appropriation has historically been allocated based on two-thirds being allocated to school districts based on the latest official FDLE Florida Crime Index and one-third being allocated based on each district's share of the state's total unweighted student enrollment.⁷⁹ However, in Ch. 2018-3, Laws of Fla.,

⁷² 20 U.S.C., s. 1232g.

⁷³ 42 C.F.R., Part 2.

⁷⁴ 42 U.S.C., s. 1320d-6, and 45 C.F.R. Part 164-E

⁷⁵ Section 1011.62(6), F.S.

⁷⁶ *Id.*

⁷⁷ Section 1011.62(15), F.S.

⁷⁸ Ch. 2018-3, s. 42, Laws of Fla.

⁷⁹ Section 1011.62(15), F.S.

the appropriated funds⁸⁰ were distributed to school districts based on each district's proportionate share of the state's total unweighted full-time equivalent student enrollment, and school districts are required to use these funds exclusively for hiring or contracting for school resource officers.

Effect of Proposed Changes

FEFP and Safe Schools Allocation

Based on recommendations from the commission regarding school safety funding,⁸¹ the bill amends s. 1011.62, F.S., to provide school districts with greater spending flexibility between categorical funding within the FEFP. The bill authorizes the district school board, upon adoption of a resolution that these funds are urgently needed to maintain school board specified academic classroom instruction or improve school safety, to transfer funds from the guaranteed allocation, supplemental academic instruction allocation, Florida digital classroom allocation, and federally connected student supplement. This may provide school districts with additional funding resources to ensure the safety and security of students.

The bill also amends the safe schools allocation formula by requiring one-third (instead of two-thirds) be allocated to school districts based on the most recent official FDLE Florida Crime Index and two-thirds (instead of one-third) be allocated based on each school district's proportionate share of the state's total unweighted full-time equivalent student enrollment. Revising the formula in this manner more closely approximates the safe schools allocation for the 2018-2019 fiscal year resulting from the additional funds appropriated in Ch. 2018-3, Laws of Fla., which mitigates the likelihood of a school district receiving a disparate amount in future fiscal years.

The bill takes effect upon becoming a law, unless otherwise specified.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county and municipality mandate provisions of Article VII, section 18 of the Florida Constitution may apply because the bill requires a county sheriff under certain circumstances to implement a school guardian program, requiring the expenditure of funds. Article VII, section 18 (a) of the Florida Constitution provides in part that a county or municipality may not be bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met.

Article VII, section 18 (d) provides eight exemptions, which, if any single one is met, exempts the law from the limitations on mandates. Laws having an "insignificant fiscal impact" are exempt from the mandate requirements, which for Fiscal Year 2018-2019 is

⁸⁰ Specific Appropriation 92, Ch. 2018-9, Laws of Fla., the 2018-2019 General Appropriations Act, appropriated \$64.5 million for the safe schools allocation. Section 42, Ch. 2018-3, Laws of Fla., appropriated an additional \$97.5 million for the safe schools allocation.

⁸¹ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 105 (last visited Feb. 22, 2019).

forecast at slightly over \$2 million.^{82,83,84} It is unknown at this time if the costs for county sheriffs to implement the bill will collectively exceed the insignificant fiscal impact threshold.

As for applicable specified constitutional exceptions, a general law may be binding on cities and counties if the Legislature determines that the law fulfills an important state interest (see section 13), and estimated funds are appropriated to cover the mandate. In 2018-2019, the Legislature set aside \$67.5 million for this program, and it is anticipated that approximately \$57 million in unspent funds from this year will be included in the 2019-2020 budget. These funds should be sufficient to cover the costs to county sheriffs of implementing the school guardian program.

If the Legislature does not authorize adequate funding, a two-thirds vote of the membership of each house may be required for the provisions in the bill to be binding upon the county sheriffs.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

⁸² FLA. CONST. art. VII, s. 18(d).

⁸³ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 13, 2019).

⁸⁴ Based on the Florida Demographic Estimating Conference's February 6, 2019 population forecast for 2019 of 21,170,399. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Mar. 13, 2019).

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 30.15, 943.082, 1001.10, 1001.11, 1001.212, 1002.33, 1006.04, 1006.07, 1006.12, 1006.1493, and 1011.62

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



313254

LEGISLATIVE ACTION

Senate

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House

The Committee on Infrastructure and Security (Cruz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 119 - 127

and insert:

or abate an active assailant incident on a school premises.

Excluded from participating in the Coach Aaron Feis Guardian

Program are individuals who exclusively perform classroom duties

as classroom teachers as defined in s. 1012.01(2)(a). This

limitation does not apply to classroom teachers of a Junior

Reserve Officers' Training Corps program, a current



313254

servicemember, as defined in s. 250.01, or a current or former
law enforcement officer, as defined in s. 943.10(1), (6), or
(8). A ~~The~~ sheriff who establishes a ~~chooses to establish the~~

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 5 - 6

and insert:

condition; prohibiting



756112

LEGISLATIVE ACTION

Senate

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House

The Committee on Infrastructure and Security (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 386 - 418.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 50 - 53

and insert:

provisions; amending s. 1006.07, F.S.; requiring



307398

LEGISLATIVE ACTION

Senate

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House

The Committee on Infrastructure and Security (Taddeo)
recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 582 and 583
insert:

(10) LIABILITY.—Notwithstanding the limitations prescribed
in s. 768.28, any school district that participates in the Coach
Aaron Feis Guardian Program shall be liable for the negligent
discharge or use of a firearm by a school guardian when such
discharge or use occurs beyond the scope of an active shooter
situation or a defense situation. The school district may not be



307398

held liable to pay a claim or a judgment by any one person for
such tort which exceeds the sum of \$1 million. The limitations
of liability set forth in this subsection apply to claims
arising on or after July 1, 2019.

===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete line 420

and insert:

1006.07, Florida Statutes, are amended, and subsections (9)
and (10) are

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 83

and insert:

incident reports; providing that certain school
districts may be held liable for a certain tort;
providing a liability limitation on school districts
relating to such tort; providing applicability;
amending s. 1006.12, F.S.; requiring



664610

LEGISLATIVE ACTION

Senate

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House

The Committee on Infrastructure and Security (Cruz) recommended the following:

Senate Amendment

Delete lines 648 - 652
and insert:
officer. Except for individuals who exclusively perform
classroom duties as classroom teachers as defined in s.
1012.01(2)(a), the following individuals may serve as a school
guardian upon satisfactory completion of the requirements under
s. 30.15(1)(k) and certification by a sheriff:
(a) A school district employee or personnel, as defined



664610

11 under s. 1012.01, except for an individual who exclusively
12 perform classroom duties as a classroom teacher as defined in s.
13 1012.01(2)(a), or a charter school employee, as provided



420924

LEGISLATIVE ACTION

Senate

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House

The Committee on Infrastructure and Security (Taddeo)
recommended the following:

Senate Amendment (with title amendment)

Between lines 675 and 676
insert:

(5) A school district or charter school that elects to
participate in the Coach Aaron Feis Guardian Program shall
establish a policy by which notification is provided to parents
of students who will be attending a participating school. The
policy must require that such notice be provided before the
school year begins and must allow a parent to choose to decline



420924

to allow his or her child to be placed in a classroom in which a
school guardian is present at any time during the school day. A
school district or a charter school may not place a student in a
classroom in which a school guardian is present if the student's
parent has declined to allow his or her child to be so placed.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Between lines 87 and 88
insert:

requiring school districts and charter schools that
participate in the Coach Aaron Feis Guardian Program
to implement a policy that provides notice to parents;
requiring that the policy allow parents to decline to
allow their children to be placed in a classroom in
which a school guardian is present; prohibiting school
districts and charter schools from placing in a
classroom with a school guardian students whose
parents have declined such authorization;

By the Committee on Education

581-02354-19

20197030__

1 A bill to be entitled
 2 An act relating to school safety and security;
 3 amending s. 30.15, F.S.; requiring a sheriff to
 4 establish a school guardian program under a certain
 5 condition; removing the prohibition against classroom
 6 teachers serving as school guardians; prohibiting
 7 individuals from serving as school guardians unless
 8 they are appointed by a superintendent; amending s.
 9 943.082, F.S.; requiring school districts to promote a
 10 mobile suspicious activity reporting tool through
 11 specified mediums; amending s. 1001.10, F.S.;
 12 requiring the Commissioner of Education to review
 13 recommendations from the School Hardening and Harm
 14 Mitigation Workgroup; requiring the commissioner to
 15 submit a summary to the Governor and the Legislature
 16 by a specified date; providing requirements for the
 17 summary; amending s. 1001.11, F.S.; revising the
 18 duties of the commissioner to include oversight of
 19 compliance with the safety and security requirements
 20 of the Marjory Stoneman Douglas High School Public
 21 Safety Act by specified persons and entities; amending
 22 s. 1001.212, F.S.; requiring the Office of Safe
 23 Schools to annually provide training for specified
 24 personnel; requiring the office to convene a School
 25 Hardening and Harm Mitigation Workgroup; providing for
 26 membership and duties of the workgroup; requiring the
 27 workgroup to submit a report and recommendations to
 28 the commissioner; requiring the office to provide
 29 technical assistance for school safety incident

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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20197030__

30 reporting; requiring the office to review and evaluate
 31 school district reports for compliance; requiring a
 32 district school board to withhold a superintendent's
 33 salary in response to the superintendent's
 34 noncompliance; requiring the office to develop a
 35 behavioral threat assessment instrument; providing
 36 requirements for the instrument; requiring the office
 37 to establish the Statewide Threat Assessment Database
 38 Workgroup to make certain recommendations relating to
 39 a statewide threat assessment database; providing
 40 requirements for the database; requiring the workgroup
 41 to report recommendations to the office by a specified
 42 date; providing requirements for such recommendations;
 43 requiring the office to monitor school district and
 44 public school, including charter schools, compliance
 45 with requirements relating to school safety; requiring
 46 the office to review and approve district school board
 47 and charter school active assailant policies and
 48 report deficiencies; amending s. 1002.33, F.S.;
 49 requiring a charter school to comply with specified
 50 provisions; amending s. 1006.04, F.S.; establishing
 51 timeframes within which students with mental,
 52 emotional, or behavioral disorders must be referred
 53 for services; amending s. 1006.07, F.S.; requiring
 54 that a school safety specialist be a school
 55 administrator employed by the school district or a law
 56 enforcement officer employed by the sheriff's office
 57 located in the school district; providing requirements
 58 for a school safety specialist designated from a

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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20197030__

59 sheriff's office; providing that a school safety
 60 specialist designated from a sheriff's office remains
 61 an employee of such office for certain purposes;
 62 authorizing the sheriff and school superintendent to
 63 determine by agreement the reimbursement of or sharing
 64 of costs associated with employment of the law
 65 enforcement officer as a school safety specialist;
 66 requiring district school boards to adopt and submit
 67 to the office an active assailant response policy;
 68 requiring that the policy be recommended by the
 69 district superintendent; requiring that any school-
 70 specific modifications to the policy be approved by
 71 the district superintendents; requiring that certain
 72 policies adopted by school districts include
 73 procedures for behavioral threat assessments;
 74 requiring threat assessment teams to utilize the
 75 behavioral threat assessment instrument and the threat
 76 assessment database developed by the office when they
 77 become available; requiring district school boards to
 78 adopt policies for accurate and timely reporting of
 79 school environmental safety incidents; providing
 80 penalties for noncompliance with such policies;
 81 requiring the State Board of Education to adopt by
 82 rule requirements for school environmental safety
 83 incident reports; amending s. 1006.12, F.S.; requiring
 84 a charter school governing board to partner with law
 85 enforcement agencies to establish or assign a safe-
 86 school officer; expanding the categories of
 87 individuals who may serve as school guardians;

Page 3 of 30

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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20197030__

88 amending s. 1006.1493, F.S.; requiring the Florida
 89 Safe Schools Assessment Tool (FSSAT) to be the primary
 90 site security assessment tool for school districts;
 91 requiring the office to provide FSSAT training;
 92 requiring the superintendent to certify FSSAT
 93 assessments within a certain timeframe; providing
 94 penalties for failure to comply with requirements;
 95 deleting obsolete language; amending s. 1011.62, F.S.;
 96 modifying the required use of funds in the safe
 97 schools allocation; providing for retroactive
 98 application; providing legislative intent; expanding,
 99 as of a specified date, the categorical fund that may
 100 be accessed to improve classroom instruction or
 101 improve school safety; deleting obsolete language;
 102 providing a declaration of important state interest;
 103 providing an effective date.

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

106
 107 Section 1. Paragraph (k) of subsection (1) of section
 108 30.15, Florida Statutes, is amended to read
 109 30.15 Powers, duties, and obligations.—
 110 (1) Sheriffs, in their respective counties, in person or by
 111 deputy, shall:
 112 (k) Establish, if the sheriff so chooses, a Coach Aaron
 113 Feis Guardian Program to aid in the prevention or abatement of
 114 active assailant incidents on school premises. However, if a
 115 local school board has voted by a majority to implement such a
 116 program, the sheriff in that county shall establish a program. A

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school guardian ~~may not~~ ~~has no authority to~~ act in any law enforcement capacity except to the extent necessary to prevent or abate an active assailant incident on a school premises. A ~~Excluded from participating in the Coach Aaron Feis Guardian Program are individuals who exclusively perform classroom duties as classroom teachers as defined in s. 1012.01(2)(a). This limitation does not apply to classroom teachers of a Junior Reserve Officers' Training Corps program, a current servicemember, as defined in s. 250.01, or a current or former law enforcement officer, as defined in s. 943.10(1), (6), or (8). The sheriff who establishes a chooses to establish the~~ program shall certify ~~appoint~~ as school guardians, without the power of arrest, school employees or contract employees, as specified in s. 1006.12(3), who volunteer and who:

1. Hold a valid license issued under s. 790.06.

2. Complete 132 total hours of comprehensive firearm safety and proficiency training conducted by Criminal Justice Standards and Training Commission-certified instructors, which must include:

a. Eighty hours of firearms instruction based on the Criminal Justice Standards and Training Commission's Law Enforcement Academy training model, which must include at least 10 percent but no more than 20 percent more rounds fired than associated with academy training. Program participants must achieve an 85 percent pass rate on the firearms training.

b. Sixteen hours of instruction in precision pistol.

c. Eight hours of discretionary shooting instruction using state-of-the-art simulator exercises.

d. Eight hours of instruction in active shooter or

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assailant scenarios.

e. Eight hours of instruction in defensive tactics.

f. Twelve hours of instruction in legal issues.

3. Pass a psychological evaluation administered by a psychologist licensed under chapter 490 and designated by the Department of Law Enforcement and submit the results of the evaluation to the sheriff's office. The Department of Law Enforcement is authorized to provide the sheriff's office with mental health and substance abuse data for compliance with this paragraph.

4. Submit to and pass an initial drug test and subsequent random drug tests in accordance with the requirements of s. 112.0455 and the sheriff's office.

5. Successfully complete ongoing training, weapon inspection, and firearm qualification on at least an annual basis.

6. Successfully complete at least 12 hours of a certified nationally recognized diversity training program.

The sheriff shall issue a school guardian certificate to individuals who meet the requirements of this paragraph and subparagraph 2. ~~The sheriff~~ shall maintain documentation of weapon and equipment inspections, as well as the training, certification, inspection, and qualification records of each school guardian certified ~~appointed~~ by the sheriff. At a superintendent's discretion, any such certified school guardian may be appointed to a school by its respective superintendent. An individual may not serve as a school guardian in a school unless he or she is appointed by the superintendent.

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175 Section 2. Subsection (4) of section 943.082, Florida
 176 Statutes, is amended to read:
 177 943.082 School Safety Awareness Program.—
 178 (4)(a) Law enforcement dispatch centers, school districts,
 179 schools, and other entities identified by the department must
 180 ~~shall~~ be made aware of the mobile suspicious activity reporting
 181 tool.
 182 (b) The district school board shall promote the use of the
 183 mobile suspicious activity reporting tool by advertising it on
 184 the school district website, in newsletters, on school campuses,
 185 and in school publications and by installing it on all computer
 186 devices issued to students.
 187 Section 3. Subsection (9) is added to section 1001.10,
 188 Florida Statutes, to read:
 189 1001.10 Commissioner of Education; general powers and
 190 duties.—
 191 (9) The commissioner shall review the report of the School
 192 Hardening and Harm Mitigation Workgroup regarding hardening and
 193 harm mitigation strategies and recommendations submitted by the
 194 Office of Safe Schools, pursuant to s. 1001.212(12). By
 195 September 1, 2019, the commissioner shall submit a summary of
 196 such recommendations to the Governor, the President of the
 197 Senate, and the Speaker of the House of Representatives. At a
 198 minimum, the summary must include policy and funding
 199 enhancements and the estimated costs of and timeframes for
 200 implementation of the campus hardening and harm mitigation
 201 strategies recommended by the workgroup.
 202 Section 4. Subsection (9) of section 1001.11, Florida
 203 Statutes, is added to read:

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204 1001.11 Commissioner of Education; other duties.—
 205 (9) The commissioner shall oversee compliance with the
 206 safety and security requirements of the Marjory Stoneman Douglas
 207 High School Public Safety Act, chapter 2018-03, Laws of Florida,
 208 by school districts; district school superintendents; public
 209 schools, including charter schools; and regional and state
 210 entities. The commissioner must facilitate compliance to the
 211 maximum extent provided under law, identify incidents of
 212 noncompliance, and impose or recommend to the State Board of
 213 Education, the Governor, or the Legislature enforcement and
 214 sanctioning actions pursuant to s. 1008.32 and other authority
 215 granted under law.
 216 Section 5. Subsection (1) is amended, and subsections (12)
 217 through (17) are added to section 1001.212, Florida Statutes, to
 218 read:
 219 1001.212 Office of Safe Schools.—There is created in the
 220 Department of Education the Office of Safe Schools. The office
 221 is fully accountable to the Commissioner of Education. The
 222 office shall serve as a central repository for best practices,
 223 training standards, and compliance oversight in all matters
 224 regarding school safety and security, including prevention
 225 efforts, intervention efforts, and emergency preparedness
 226 planning. The office shall:
 227 (1) Establish and update as necessary a school security
 228 risk assessment tool for use by school districts pursuant to s.
 229 1006.07(6). The office shall make the security risk assessment
 230 tool available for use by charter schools. The office shall
 231 provide annual training to appropriate school district and
 232 charter school personnel on the proper assessment of physical

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233 site security and completion of the school security risk
 234 assessment tool.

235 (12) (a) Convene a School Hardening and Harm Mitigation
 236 Workgroup comprised of individuals with subject matter expertise
 237 on school campus hardening best practices. The workgroup shall
 238 meet as necessary to review school hardening and harm mitigation
 239 policies including, but not limited to, the target hardening
 240 practices implemented in other states; the school safety
 241 guidelines developed by organizations such as the Partner
 242 Alliance for Safer Schools; the tiered approach to target campus
 243 hardening strategies identified in the initial report submitted
 244 by the Marjory Stoneman Douglas High School Public Safety
 245 Commission pursuant to s. 943.687(9); and the Florida Building
 246 Code for educational facilities construction to determine
 247 whether the building code may need to be modified to strengthen
 248 school safety and security. Based on this review of school
 249 safety best practices, by August 1, 2019, the workgroup shall
 250 submit a report to the executive director of the office, which
 251 includes, at a minimum:

252 1. A prioritized list for the implementation of school
 253 campus hardening and harm mitigation strategies and the
 254 estimated costs of and timeframes for implementation of the
 255 strategies by school districts and charter schools. The
 256 estimated costs must include regional and statewide projections
 257 of the implementation costs.

258 2. Recommendations for policy and funding enhancements to
 259 strengthen school safety and security.

260 (b) Submit to the commissioner:

261 1. The workgroup's report pursuant to paragraph (a); and

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262 2. Recommendations regarding procedures for the office to
 263 use to monitor and enforce compliance by the school districts
 264 and charter schools in the implementation of the workgroup's
 265 recommended campus hardening and harm mitigation strategies.

266 (13) Provide technical assistance to school districts and
 267 charter school governing boards for school environmental safety
 268 incident reporting as required under s. 1006.07(9). The office
 269 shall review and evaluate school district reports to ensure
 270 compliance with reporting requirements. Upon notification by the
 271 department that a superintendent has failed to comply with the
 272 requirements of s. 1006.07(9), the district school board shall
 273 withhold further payment of his or her salary as authorized
 274 under s. 1001.42(13)(b) and impose other appropriate sanctions
 275 that the commissioner or state board by law may impose.

276 (14) By August 1, 2019, develop a standardized, statewide
 277 behavioral threat assessment instrument for use by all public
 278 schools, including charter schools, which addresses early
 279 identification, evaluation, early intervention, and student
 280 support.

281 (a) The standardized, statewide behavioral threat
 282 assessment instrument must include, but need not be limited to,
 283 components and forms that address:

284 1. An assessment of the threat, which includes an
 285 assessment of the student, family, and school and social
 286 dynamics.

287 2. An evaluation to determine if the threat is transient or
 288 substantive.

289 3. The response to a substantive threat, which includes the
 290 school response and the role of law enforcement agencies.

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291 4. The response to a serious substantive threat, including
 292 mental health and law enforcement referrals.
 293 5. Ongoing monitoring to assess implementation of safety
 294 strategies.
 295 6. Training for members of threat assessment teams
 296 established under s. 1006.07(7) and school administrators
 297 regarding the use of the instrument.
 298 (b) The office shall:
 299 1. By August 1, 2020, evaluate each school district's
 300 behavioral threat assessment procedures for compliance with this
 301 subsection.
 302 2. Notify the district school superintendent if the school
 303 district behavioral threat assessment is not in compliance with
 304 this subsection.
 305 3. Report any issues of ongoing noncompliance with this
 306 subsection to the district school superintendent, commissioner,
 307 and state board.
 308 (15) Establish the Statewide Threat Assessment Database
 309 Workgroup, comprised of members appointed by the department, to
 310 make recommendations regarding the development of a statewide
 311 threat assessment database. The database must allow authorized
 312 public school personnel to enter information related to any
 313 threat assessment conducted at their respective schools using
 314 the instrument developed by the office pursuant to subsection
 315 (14), and must provide such information to authorized personnel
 316 in each school district and public school and to appropriate
 317 stakeholders. By December 31, 2019, the workgroup shall provide
 318 a report to the office with recommendations that include, but
 319 need not be limited to:

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320 (a) Threat assessment data that should be required to be
 321 entered into the database.
 322 (b) School district and public school personnel who should
 323 be allowed to input student records to the database and view
 324 such records.
 325 (c) Database design and functionality, to include data
 326 security.
 327 (d) Restrictions and authorities on information sharing,
 328 including:
 329 1. Section 1002.22 and other applicable state laws.
 330 2. The Family Educational Rights and Privacy Act (FERPA),
 331 20 U.S.C. s. 1232g, 42 C.F.R. part 2; the Health Insurance
 332 Portability and Accountability Act (HIPAA), 42 U.S.C. s. 1320d6,
 333 45 C.F.R. part 164, subpart E; and other applicable federal
 334 laws.
 335 3. The appropriateness of interagency agreements that will
 336 allow law enforcement to view database records.
 337 (e) The cost to develop and maintain a statewide online
 338 database.
 339 (f) An implementation plan and timeline for the workgroup
 340 recommendations.
 341 (16) Monitor compliance with requirements relating to
 342 school safety by school districts and public schools, including
 343 charter schools. The office shall report incidents of
 344 noncompliance to the commissioner pursuant to 1001.11(9) and the
 345 state board pursuant to s. 1008.32 and other requirements of
 346 law, as appropriate.
 347 (17) Review and approve each district school board's and
 348 charter school governing board's active assailant response

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349 policy submitted pursuant to ss. 1006.07(6)(c) and
 350 1002.33(16)(b). The office shall report any policy deficiencies
 351 or issues of noncompliance to the commissioner pursuant to
 352 1001.11(9) and the state board pursuant to s. 1008.32 and other
 353 requirements of law, as appropriate.

354 Section 6. Paragraph (b) of subsection (16) of section
 355 1002.33, Florida Statutes, is amended, to read:
 356 1002.33 Charter schools.—
 357 (16) EXEMPTION FROM STATUTES.—
 358 (b) Additionally, a charter school shall be in compliance
 359 with the following statutes:

360 1. Section 286.011, relating to public meetings and
 361 records, public inspection, and criminal and civil penalties.
 362 2. Chapter 119, relating to public records.
 363 3. Section 1003.03, relating to the maximum class size,
 364 except that the calculation for compliance pursuant to s.
 365 1003.03 shall be the average at the school level.
 366 4. Section 1012.22(1)(c), relating to compensation and
 367 salary schedules.
 368 5. Section 1012.33(5), relating to workforce reductions.
 369 6. Section 1012.335, relating to contracts with
 370 instructional personnel hired on or after July 1, 2011.
 371 7. Section 1012.34, relating to the substantive
 372 requirements for performance evaluations for instructional
 373 personnel and school administrators.
 374 8. Section 1006.12, relating to safe-school officers.
 375 9. Section 1006.07(7), relating to threat assessment teams.
 376 10. Section 1006.07(9), relating to School Environmental
 377 Safety Incident Reporting.

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378 11. Section 1006.1493, relating to Florida Safe School
 379 Assessment Tool.
 380 12. Section 1006.07(6)(c), relating to adopting an active
 381 assailant response policy.
 382 13. Section 943.082(4)(b), relating to the mobile
 383 suspicious activity reporting tool.
 384 14. Section 1012.584, relating to youth mental health
 385 awareness and assistance training.

386 Section 7. Paragraph (c) of subsection (1) of section
 387 1006.04, Florida Statutes, is amended to read:
 388 1006.04 Educational multiagency services for students with
 389 severe emotional disturbance.—
 390 (1)
 391 (c) The multiagency network shall:
 392 1. Support and represent the needs of students in each
 393 school district in joint planning with fiscal agents of
 394 children's mental health funds, including the expansion of
 395 school-based mental health services, transition services, and
 396 integrated education and treatment programs.
 397 2. Improve coordination of services for children with or at
 398 risk of emotional or behavioral disabilities and their families:
 399 a. By assisting multi-agency collaborative initiatives to
 400 identify critical issues and barriers of mutual concern and
 401 develop local response systems that increase home and school
 402 connections and family engagement.
 403 b. To provide that children who are referred for an
 404 evaluation or screening to determine eligibility for services
 405 receive the appropriate evaluation or screening within 45 days
 406 after the referral. Students who are eligible for services, and

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407 their families, must be provided a referral for the appropriate
 408 services within 30 days after completion of the evaluation or
 409 screening.

410 3. Increase parent and youth involvement and development
 411 with local systems of care.

412 4. Facilitate student and family access to effective
 413 services and programs for students with and at risk of emotional
 414 or behavioral disabilities that include necessary educational,
 415 residential, and mental health treatment services, enabling
 416 these students to learn appropriate behaviors, reduce
 417 dependency, and fully participate in all aspects of school and
 418 community living.

419 Section 8. Subsection (6) and subsection (7) of section
 420 1006.07, Florida Statutes, are amended, and subsection (9) is
 421 added to that section, to read:

422 1006.07 District school board duties relating to student
 423 discipline and school safety.—The district school board shall
 424 provide for the proper accounting for all students, for the
 425 attendance and control of students at school, and for proper
 426 attention to health, safety, and other matters relating to the
 427 welfare of students, including:

428 (6) SAFETY AND SECURITY BEST PRACTICES.—Each district
 429 school superintendent shall establish policies and procedures
 430 for the prevention of violence on school grounds, including the
 431 assessment of and intervention with individuals whose behavior
 432 poses a threat to the safety of the school community.

433 (a) Each district school superintendent shall designate a
 434 ~~school administrator as~~ a school safety specialist for the
 435 district. The school safety specialist must be a school

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436 administrator employed by the school district or a law
 437 enforcement officer employed by the sheriff's office located in
 438 the school district. Any school safety specialist designated
 439 from the sheriff's office must first be authorized and approved
 440 by the sheriff employing the law enforcement officer. Any school
 441 safety specialist designated from the sheriff's office remains
 442 the employee of the office for purposes of compensation,
 443 insurance, workers' compensation, and other benefits authorized
 444 by law for a law enforcement officer employed by the sheriff's
 445 office. The sheriff and the school superintendent may determine
 446 by agreement the reimbursement for such costs, or may share the
 447 costs, associated with employment of the law enforcement officer
 448 as a school safety specialist. The school safety specialist must
 449 earn a certificate of completion of the school safety specialist
 450 training provided by the Office of Safe Schools within 1 year
 451 after appointment and is responsible for the supervision and
 452 oversight for all school safety and security personnel,
 453 policies, and procedures in the school district. The school
 454 safety specialist shall:

455 1. Review policies and procedures for compliance with state
 456 law and rules.

457 2. Provide the necessary training and resources to students
 458 and school district staff in matters relating to youth mental
 459 health awareness and assistance; emergency procedures, including
 460 active shooter training; and school safety and security.

461 3. Serve as the school district liaison with local public
 462 safety agencies and national, state, and community agencies and
 463 organizations in matters of school safety and security.

464 4. Conduct a school security risk assessment in accordance

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with s. 1006.1493 at each public school using the school security risk assessment tool developed by the Office of Safe Schools. Based on the assessment findings, the district's school safety specialist shall provide recommendations to the district school board which identify strategies and activities that the district school board should implement in order to improve school safety and security. Annually, each district school board must receive such findings and the school safety specialist's recommendations at a publicly noticed district school board meeting to provide the public an opportunity to hear the district school board members discuss and take action on the findings and recommendations. Each school safety specialist shall report such findings and school board action to the Office of Safe Schools within 30 days after the district school board meeting.

(b) Each school safety specialist shall coordinate with the appropriate public safety agencies, as defined in s. 365.171, that are designated as first responders to a school's campus to conduct a tour of such campus once every 3 years and provide recommendations related to school safety. The recommendations by the public safety agencies must be considered as part of the recommendations by the school safety specialist pursuant to paragraph (a).

(c) Each district school board must adopt a well-developed, written, distributed, and trained upon active assailant response policy, which must be recommended by the district superintendent. The superintendent must approve any school-specific modifications to the district policy. Each district school board's active assailant response policy, including

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school-specific modifications, must be submitted to the Office of Safe Schools for approval pursuant to s. 1001.212(17) by August 1, 2019.

(7) THREAT ASSESSMENT TEAMS.—Each district school board shall adopt policies for the establishment of threat assessment teams at each school whose duties include the coordination of resources and assessment and intervention with individuals whose behavior may pose a threat to the safety of school staff or students consistent with the model policies developed by the Office of Safe Schools. Such policies must ~~shall~~ include procedures for referrals to mental health services identified by the school district pursuant to s. 1012.584(4), when appropriate, and procedures for behavioral threat assessments in compliance with the instrument developed pursuant to s. 1001.212(14).

(a) A threat assessment team shall include persons with expertise in counseling, instruction, school administration, and law enforcement. The threat assessment teams shall identify members of the school community to whom threatening behavior should be reported and provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the community, school, or self. Upon the availability of the behavioral threat assessment instrument developed pursuant to s. 1001.212(14), the threat assessment team shall use that instrument.

(b) Upon a preliminary determination that a student poses a threat of violence or physical harm to himself or herself or others, a threat assessment team shall immediately report its determination to the superintendent or his or her designee. The

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523 superintendent or his or her designee shall immediately attempt
524 to notify the student's parent or legal guardian. Nothing in
525 this subsection shall preclude school district personnel from
526 acting immediately to address an imminent threat.

527 (c) Upon a preliminary determination by the threat
528 assessment team that a student poses a threat of violence to
529 himself or herself or others or exhibits significantly
530 disruptive behavior or need for assistance, the threat
531 assessment team may obtain criminal history record information,
532 as provided in s. 985.047. A member of a threat assessment team
533 may not disclose any criminal history record information
534 obtained pursuant to this section or otherwise use any record of
535 an individual beyond the purpose for which such disclosure was
536 made to the threat assessment team.

537 (d) Notwithstanding any other provision of law, all state
538 and local agencies and programs that provide services to
539 students experiencing or at risk of an emotional disturbance or
540 a mental illness, including the school districts, school
541 personnel, state and local law enforcement agencies, the
542 Department of Juvenile Justice, the Department of Children and
543 Families, the Department of Health, the Agency for Health Care
544 Administration, the Agency for Persons with Disabilities, the
545 Department of Education, the Statewide Guardian Ad Litem Office,
546 and any service or support provider contracting with such
547 agencies, may share with each other records or information that
548 are confidential or exempt from disclosure under chapter 119 if
549 the records or information are reasonably necessary to ensure
550 access to appropriate services for the student or to ensure the
551 safety of the student or others. All such state and local

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552 agencies and programs shall communicate, collaborate, and
553 coordinate efforts to serve such students.

554 (e) If an immediate mental health or substance abuse crisis
555 is suspected, school personnel shall follow policies established
556 by the threat assessment team to engage behavioral health crisis
557 resources. Behavioral health crisis resources, including, but
558 not limited to, mobile crisis teams and school resource officers
559 trained in crisis intervention, shall provide emergency
560 intervention and assessment, make recommendations, and refer the
561 student for appropriate services. Onsite school personnel shall
562 report all such situations and actions taken to the threat
563 assessment team, which shall contact the other agencies involved
564 with the student and any known service providers to share
565 information and coordinate any necessary followup actions.

566 (f) Each threat assessment team established pursuant to
567 this subsection shall report quantitative data on its activities
568 to the Office of Safe Schools in accordance with guidance from
569 the office and shall utilize the threat assessment database
570 developed pursuant to s. 1001.212(15) upon the availability of
571 the database.

572 (9) SCHOOL ENVIRONMENTAL SAFETY INCIDENT REPORTING.—Each
573 district school board shall adopt policies to ensure the
574 accurate and timely reporting of incidents related to school
575 safety and discipline. The district school superintendent is
576 responsible for school environmental safety incident reporting.
577 A district school superintendent who fails to comply with this
578 subsection is subject to the penalties specified in law,
579 including, but not limited to, s. 1001.42(13)(b) or s.
580 1001.51(12)(b), as applicable. The State Board of Education

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581 shall adopt rules establishing the requirements for the school
 582 environmental safety incident report.

583 Section 9. Section 1006.12, Florida Statutes, is amended to
 584 read:

585 1006.12 Safe-school officers at each public school.—For the
 586 protection and safety of school personnel, property, students,
 587 and visitors, each district school board, ~~and~~ school district
 588 superintendent, and charter school governing board, as
 589 applicable, shall partner with law enforcement agencies to
 590 establish or assign one or more safe-school officers at each
 591 school facility within the district by implementing any
 592 combination of the following options which best meets the needs
 593 of the school district:

594 (1) Establish school resource officer programs, through a
 595 cooperative agreement with law enforcement agencies.

596 (a) School resource officers shall undergo criminal
 597 background checks, drug testing, and a psychological evaluation
 598 and be certified law enforcement officers, as defined in s.
 599 943.10(1), who are employed by a law enforcement agency as
 600 defined in s. 943.10(4). The powers and duties of a law
 601 enforcement officer shall continue throughout the employee's
 602 tenure as a school resource officer.

603 (b) School resource officers shall abide by district school
 604 board policies and shall consult with and coordinate activities
 605 through the school principal, but shall be responsible to the
 606 law enforcement agency in all matters relating to employment,
 607 subject to agreements between a district school board and a law
 608 enforcement agency. Activities conducted by the school resource
 609 officer which are part of the regular instructional program of

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610 the school shall be under the direction of the school principal.

611 (c) Complete mental health crisis intervention training
 612 using a curriculum developed by a national organization with
 613 expertise in mental health crisis intervention. The training
 614 shall improve officers' knowledge and skills as first responders
 615 to incidents involving students with emotional disturbance or
 616 mental illness, including de-escalation skills to ensure student
 617 and officer safety.

618 (2) Commission one or more school safety officers for the
 619 protection and safety of school personnel, property, and
 620 students within the school district. The district school
 621 superintendent may recommend, and the district school board may
 622 appoint, one or more school safety officers.

623 (a) School safety officers shall undergo criminal
 624 background checks, drug testing, and a psychological evaluation
 625 and be law enforcement officers, as defined in s. 943.10(1),
 626 certified under the provisions of chapter 943 and employed by
 627 either a law enforcement agency or by the district school board.
 628 If the officer is employed by the district school board, the
 629 district school board is the employing agency for purposes of
 630 chapter 943, and must comply with the provisions of that
 631 chapter.

632 (b) A school safety officer has and shall exercise the
 633 power to make arrests for violations of law on district school
 634 board property and to arrest persons, whether on or off such
 635 property, who violate any law on such property under the same
 636 conditions that deputy sheriffs are authorized to make arrests.
 637 A school safety officer has the authority to carry weapons when
 638 performing his or her official duties.

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(c) A district school board may enter into mutual aid agreements with one or more law enforcement agencies as provided in chapter 23. A school safety officer's salary may be paid jointly by the district school board and the law enforcement agency, as mutually agreed to.

(3) At the school district's, or charter school governing board's, discretion, participate in the Coach Aaron Feis Guardian Program ~~if such program is established pursuant to s. 30.15~~, to meet the requirement of establishing a safe-school officer. The following individuals may serve as a school guardian upon satisfactory completion of the requirements under s. 30.15(1)(k) and certification by a sheriff:

(a) A school district employee or personnel, as defined under s. 1012.01, or a charter school employee, as provided under s. 1002.33(12)(a), who volunteers to serve as a school guardian in addition to his or her official job duties;

(b) An employee of a school district or a charter school who is hired for the specific purpose of serving as a school guardian; or

(c) A contract employee licensed under s. 493.6301 who works in the school district or for a charter school through a contract with a security agency as that term is defined in s. 493.6101(18). Contract employees may receive school guardian training through a participating sheriff's office contingent upon defined financial or service obligations by the security agency enumerated in the contract between the school district or the charter school governing board, as appropriate, and the security agency.

(4) Any information that would identify whether a

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particular individual has been appointed as a safe-school officer pursuant to this section held by a law enforcement agency, school district, or charter school is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 10. Section 1006.1493, Florida Statutes, is amended to read:

1006.1493 Florida Safe Schools Assessment Tool.—

(1) The department, through the Office of Safe Schools pursuant s. 1001.212, shall contract with a security consulting firm that specializes in the development of risk assessment software solutions and has experience in conducting security assessments of public facilities to develop, update, and implement a risk assessment tool, which shall be known as the Florida Safe Schools Assessment Tool (FSSAT). The FSSAT must be the primary physical site security assessment tool as revised and required by the Office of Safe Schools that is used by school officials at each school district and public school site in the state in conducting security assessments ~~for use by school officials at each school district and public school site in the state.~~

(2) The FSSAT must help school officials identify threats, vulnerabilities, and appropriate safety controls for the schools that they supervise, pursuant to the security risk assessment requirements of s. 1006.07(6).

(a) At a minimum, the FSSAT must address all of the

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following components:

1. School emergency and crisis preparedness planning;
2. Security, crime, and violence prevention policies and procedures;
3. Physical security measures;
4. Professional development training needs;
5. An examination of support service roles in school safety, security, and emergency planning;
6. School security and school police staffing, operational practices, and related services;
7. School and community collaboration on school safety; and
8. A return on investment analysis of the recommended physical security controls.

(b) The department shall require by contract that the security consulting firm:

1. Generate written automated reports on assessment findings for review by the department and school and district officials;
2. Provide training to the department and school officials in the use of the FSSAT and other areas of importance identified by the department; and
3. Advise in the development and implementation of templates, formats, guidance, and other resources necessary to facilitate the implementation of this section at state, district, school, and local levels.

(3) The Office of Safe Schools must provide annual training to each district's school safety specialist and other appropriate school district personnel on the assessment of physical site security and completing the FSSAT.

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(4) Each district school superintendent, by August 1 of each year, shall submit an FSSAT assessment to the department for each school site. Each school-specific assessment must be approved by the district superintendent or his or her designee, who must be the district's school safety specialist or a deputy superintendent or assistant superintendent. Any superintendent who fails to comply with the requirements of this subsection is subject to penalties under s. 1001.51(12)(b) and other sanctions that may be applied by the commissioner or state board.

(5) By December 1 of each year, ~~By December 1, 2018,~~ and ~~annually by that date thereafter,~~ the department shall ~~must~~ report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of implementation across school districts and schools. The report must include a summary of the positive school safety measures in place at the time of the assessment and any recommendations for policy changes or funding needed to facilitate continued school safety planning, improvement, and response at the state, district, or school levels.

(6) ~~(4)~~ In accordance with ss. 119.071(3)(a) and 281.301, data and information related to security risk assessments administered pursuant to this section and s. 1006.07(6) and the security information contained in the annual report required pursuant to subsection (3) are confidential and exempt from public records requirements.

Section 11. Subsection (15) of section 1011.62, Florida Statutes, is amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each

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district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(15) SAFE SCHOOLS ALLOCATION.—A safe schools allocation is created to provide funding to assist school districts in their compliance with s. 1006.07, with priority given to implementing the district's school resource officer program pursuant to s. 1006.12. Each school district shall receive a minimum safe schools allocation in an amount provided in the General Appropriations Act. Of the remaining balance of the safe schools allocation, two-thirds shall be allocated to school districts based on the most recent official Florida Crime Index provided by the Department of Law Enforcement and one-third shall be allocated based on each school district's proportionate share of the state's total unweighted full-time equivalent student enrollment. Any additional funds appropriated to this allocation in the 2018-2019 fiscal year must to the school resource officer program established pursuant to s. 1006.12 shall be used exclusively for employing or contracting for safe-school resource officers, established or assigned under s. 1006.12 which shall be in addition to the number of officers employed or contracted for in the 2017-2018 fiscal year. This subsection applies retroactively to July 1, 2018. The amendments to this subsection are intended to be clarifying and remedial in nature.

Section 12. Effective July 1, 2019, paragraph (b) of subsection (6) of section 1011.62, Florida Statutes, and subsection (15) of that section, as amended by this act, are amended to read:

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1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(6) CATEGORICAL FUNDS.—

(b) If a district school board finds and declares in a resolution adopted at a regular meeting of the school board that the funds received for any of the following categorical appropriations are urgently needed to maintain school board specified academic classroom instruction or improve school safety, the school board may consider and approve an amendment to the school district operating budget transferring the identified amount of the categorical funds to the appropriate account for expenditure:

1. Funds for student transportation.

2. Funds for research-based reading instruction if the required additional hour of instruction beyond the normal school day for each day of the entire school year has been provided for the students in each low-performing elementary school in the district pursuant to paragraph (9) (a).

3. Funds for instructional materials if all instructional material purchases necessary to provide updated materials that are aligned with applicable state standards and course descriptions and that meet statutory requirements of content and learning have been completed for that fiscal year, but no sooner than March 1. Funds available after March 1 may be used to purchase hardware for student instruction.

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813 4. Funds for the guaranteed allocation as provided in
 814 subparagraph (1)(e)2.
 815 5. Funds for the supplemental academic instruction
 816 allocation as provided in paragraph (1)(f).
 817 6. Funds for Florida digital classrooms allocation as
 818 provided in subsection (12).
 819 7. Funds for the federally connected student supplement as
 820 provided in subsection (13).
 821 8. Funds for class size reduction as provided in s.
 822 1011.685.
 823 (15) SAFE SCHOOLS ALLOCATION.—A safe schools allocation is
 824 created to provide funding to assist school districts in their
 825 compliance with s. 1006.07, with priority given to implementing
 826 the district's school resource officer program pursuant to s.
 827 1006.12. Each school district shall receive a minimum safe
 828 schools allocation in an amount provided in the General
 829 Appropriations Act. Of the remaining balance of the safe schools
 830 allocation, one-third ~~two-thirds~~ shall be allocated to school
 831 districts based on the most recent official Florida Crime Index
 832 provided by the Department of Law Enforcement and two-thirds
 833 ~~one-third~~ shall be allocated based on each school district's
 834 proportionate share of the state's total unweighted full-time
 835 equivalent student enrollment. ~~Any additional funds appropriated~~
 836 ~~to this allocation in the 2018-2019 fiscal year must be used~~
 837 ~~exclusively for employing or contracting for safe-school~~
 838 ~~officers, established or assigned under s. 1006.12. This~~
 839 ~~subsection applies retroactively to July 1, 2018. The amendments~~
 840 ~~to this subsection are intended to be clarifying and remedial in~~
 841 ~~nature.~~

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842 Section 13. The Legislature finds that a proper and
 843 legitimate state purpose is served when district school boards
 844 are afforded options for the provision of safe-school officers
 845 for the protection and safety of school personnel, property,
 846 students, and visitors. School guardians must be available to
 847 any district school board that chooses such an option.
 848 Therefore, the Legislature determines and declares that this act
 849 fulfills an important state interest.
 850 Section 14. Except as otherwise expressly provided in this
 851 act, this act shall take effect upon becoming a law.

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Infrastructure and Security

BILL: SB 7048

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: Disclosure of Confidential Records

DATE: March 21, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Delia	Hendon		CF Submitted as Committee Bill
1.	Price	Miller	IS	Favorable
2.			RC	

I. Summary:

SB 7048 requires that when a patient communicates a specific threat against an identifiable individual to a mental health service provider, the provider must release information from the clinical record of the patient sufficient to inform the threatened individual. The provider must also inform law enforcement of the threat.

The bill provides immunity from civil or criminal liability to the administrator of a mental health facility, psychiatrists, psychologists, social workers, and other treatment providers who disclose information conveyed to them by a patient communicating a threat to a specific, readily identifiable third party.

The fiscal impact on the state is indeterminate, and the bill has an effective date of July 1, 2019.

II. Present Situation:

Clinical Records and Confidentiality

Clinical records maintained by mental health facilities in Florida “include[] all medical records, progress notes, charts, and admission and discharge data, and all other information recorded by facility staff which pertains to the patient’s hospitalization or treatment¹.” Clinical records are confidential and exempt by statute.² Instances in which clinical records must be disclosed to certain individuals include:

- Authorization from patient or guardian.
- Authorization from patient’s attorney needed “for adequate representation.”
- Court order.

¹ Section 394.4615, F.S.

² *Id.*

- The Department of Corrections, if the patient is committed to, or is to be returned to, the Department of Corrections from the Department of Children and Families.³

Therapist-Client Privilege

In 1996, the U.S. Supreme Court established a federal psychotherapist-patient privilege protecting a patient's confidential communication with a psychotherapist in the course of treatment or diagnosis.⁴ The privilege protects a patient's confidential communication from compelled disclosure.⁵ The majority of states have laws that either permit or require mental health professionals to disclose otherwise confidential information received from patients who the professional reasonably believes may become violent.⁶

Tarasoff and the Duty to Protect

In *Tarasoff v. Regents of the University of California*,⁷ a University of California (UC) Berkeley student, Prosenjit Poddar, told his therapist of his plan to purchase a gun and murder another student, Tatiana Tarasoff.⁸ The therapist informed the campus police of the threat but neither the police nor the therapist warned Tarasoff directly.⁹ Poddar proceeded to carry out his plan and murder Tarasoff roughly two months later. Tarasoff's parents sued the UC Regents and the Supreme Court of California ultimately developed what is now known as a *Tarasoff* duty: "The general formulation is that a mental health worker is obligated promptly to notify either the potential victim or the police when a patient makes an explicit threat of serious physical harm against a readily identifiable third party"¹⁰

The *Tarasoff* duty has expanded into many different forms and requirements among the different states.¹¹ There is no blanket federal duty to warn or protect; instead, there is substantial state-by-state variation in whether and how the duties are defined and codified. There are three general categories of states: those that mandate some duty to warn or protect (and that often specify whether law enforcement, the victim, or a combination should be "warned," generally considered 'mandatory' states); those that allow therapists to warn by protecting them from liability for breach of confidentiality if they do so, but do not require them to issue a warning (permissive states); and those that offer no statutory or case law guidance.¹²

Duties of Mental Health Professionals in Florida

Florida is considered a 'permissive' duty to warn/protect state: mental health providers are given discretion to breach confidentiality with patients and warn of a threat to a third party where a

³ Section 394.4615(2), F.S.

⁴ See *Jaffee v. Redmond*, 518 U.S. 1 (1996).

⁵ *Id.*

⁶ Edwards, Griffin Sims, Database of State Tarasoff Laws (February 11, 2010), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1551505 (last visited February 16, 2019).

⁷ 551 P.2d 334 (Cal. 1976).

⁸ *Id.*

⁹ *Id.*

¹⁰ Paul B. Herbert & Kathryn A. Young, *Tarasoff at Twenty-Five*, 30 J. Am. Acad. Psychiatry L. 275, 277 (2002).

¹¹ *supra* at Note 6.

¹² *Id.*

patient has “declared an intention to harm other persons.”¹³ The Legislature first added a dangerous patient exception to the confidentiality requirement for psychiatrists,¹⁴ and later for psychologists¹⁵ and for social workers and other mental health professionals.¹⁶ Communications between a licensed or certified mental health worker and the patient or client are confidential, and may be waived, only when “there is a clear and immediate probability of physical harm to the patient or client, to other individuals, or to society...” and the licensed professional communicates the information “only to the potential victim, appropriate family member, or ...other appropriate authorities.”¹⁷

III. Effect of Proposed Changes:

Section 1 amends section 394.4615, F.S., requiring the release of confidential information from a patient’s clinical record sufficient to inform a third party of a specific threat to cause serious bodily injury or death to the individual. The threat must be communicated to both law enforcement and the threatened individual by the administrator of a mental health treatment facility or hospital once the patient has made the threat to a service provider at the facility or hospital.

Section 2 amends section 456.059, F.S., requiring a psychiatrist to disclose patient communications to the extent necessary to warn law enforcement and a potential victim of a threat of serious bodily injury or death made by the patient of the threat. The bill provides that such disclosure of confidential communications may not be the basis of legal action or any civil or criminal liability against the psychiatrist.

Section 3 amends section 490.0147, F.S., requiring a psychologist to disclose patient communications to the extent necessary to warn law enforcement and a potential victim of a threat of serious bodily injury or death made by the patient of the threat. The bill provides that such disclosure of confidential communications may not be the basis of legal action or any civil or criminal liability against the psychologist.

Section 4 amends section 491.0147, F.S., requiring a health care professional licensed under Chapter 491, Florida Statutes, to disclose patient communications to the extent necessary to warn law enforcement and a potential victim of a threat of serious bodily injury or death made by the patient of the threat. The bill provides that such disclosure of confidential communications may not be the basis of legal action or any civil or criminal liability against the health care professional.

Section 5 reenacts paragraph (u) of section 490.009(1), F.S., for the purpose of incorporating changes made by the bill to s. 490.0147, F.S.

Section 6 reenacts paragraph (u) of section 491.009(1), F.S., for the purpose of incorporating changes made by the bill to s. 491.0147, F.S.

¹³ Section 394.4615, F.S.

¹⁴ Section 456.059, F.S.

¹⁵ Section 490.0147, F.S.

¹⁶ Section 491.0147, F.S.

¹⁷ *Id.*

Section 7 provides an effective date of July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Local law enforcement offices may need additional training and/or to add personnel to handle what may be an increased threat response from mandatory reporting. However, the impact of these potential needs cannot be determined.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.4615, 456.059, 490.0147, and 491.0147.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Children, Families, and Elder Affairs

586-02489-19

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A bill to be entitled

An act relating to disclosure of confidential records; amending s. 394.4615, F.S.; requiring service providers to disclose information from a clinical record under certain circumstances relating to threats to cause seriously bodily injury or death; amending s. 456.059, F.S.; requiring, rather than authorizing, psychiatrists to disclose certain patient communications for purposes of notifying potential victims and law enforcement agencies of certain threats; amending s. 490.0147, F.S.; requiring, rather than authorizing, psychologists to disclose certain patient and client communications for purposes of notifying potential victims and law enforcement agencies of certain threats; providing psychologists with immunity from specified liability and actions under certain circumstances; amending s. 491.0147, F.S.; requiring, rather than authorizing, certain license holders and certificate holders to disclose certain patient and client communications for purposes of notifying potential victims and law enforcement agencies of certain threats; providing such persons with immunity from specified liability and actions; reenacting s. 490.009, F.S., relating to discipline of psychiatrists; reenacting s. 491.009, F.S., relating to discipline of psychologists; providing an effective date.

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

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Section 1. Present subsections (4) through (11) of section 394.4615, Florida Statutes, are redesignated as subsections (5) through (12), respectively, a new subsection (4) is added to that section, and subsection (3) of that section is amended, to read:

394.4615 Clinical records; confidentiality.-

(3) Information from the clinical record must ~~may~~ be released ~~in the following circumstances:~~

~~(a)~~ when a patient has communicated to a service provider a specific threat to cause serious bodily injury or death to an identified or a readily available person, if the service provider reasonably believes, or should reasonably believe according to the standards of his or her profession, that the client has the apparent intent and ability to imminently or immediately carry out such threat ~~declared an intention to harm other persons~~. When such communication declaration has been made, the administrator must ~~may~~ authorize the release of sufficient information to provide adequate warning to the person threatened with harm by the patient and communicate the threat to law enforcement.

(4) (a) (b) Information from the clinical record may be released when the administrator of the facility or secretary of the department deems release to a qualified researcher as defined in administrative rule, an aftercare treatment provider, or an employee or agent of the department is necessary for treatment of the patient, maintenance of adequate records, compilation of treatment data, aftercare planning, or evaluation of programs.

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(b) For the purpose of determining whether a person meets the criteria for involuntary outpatient placement or for preparing the proposed treatment plan pursuant to s. 394.4655, the clinical record may be released to the state attorney, the public defender or the patient's private legal counsel, the court, and to the appropriate mental health professionals, including the service provider identified in s.

394.4655(7)(b)2., in accordance with state and federal law.

Section 2. Section 456.059, Florida Statutes, is amended to read:

456.059 Communications confidential; exceptions.—

Communications between a patient and a psychiatrist, as defined in s. 394.455, shall be held confidential and ~~may~~ shall not be disclosed except upon the request of the patient or the patient's legal representative. Provision of psychiatric records and reports are ~~shall be~~ governed by s. 456.057. Notwithstanding any other provision of this section or s. 90.503, when ~~where~~:

(1) A patient is engaged in a treatment relationship with a psychiatrist;

(2) Such patient has communicated to the psychiatrist a specific threat to cause serious bodily injury or death to an identified or a readily available person ~~made an actual threat to physically harm an identifiable victim or victims~~; and

(3) The treating psychiatrist makes a clinical judgment that the patient has the apparent intent and ability to imminently or immediately carry out such threat ~~capability to commit such an act and that it is more likely than not that in the near future the patient will carry out that threat~~,

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the psychiatrist shall ~~may~~ disclose patient communications to the extent necessary to warn any potential victim or to communicate the threat to a law enforcement agency. A psychiatrist's disclosure of confidential communications when communicating a threat pursuant to this section may not be the basis of any legal action or criminal or civil liability against the psychiatrist ~~No civil or criminal action shall be instituted, and there shall be no liability on account of disclosure of otherwise confidential communications by a psychiatrist in disclosing a threat pursuant to this section.~~

Section 3. Section 490.0147, Florida Statutes, is amended to read:

490.0147 Confidentiality and privileged communications.—

(1) Any communication between a psychologist ~~any person licensed under this chapter~~ and her or his patient or client is ~~shall be~~ confidential. This privilege may be waived under the following conditions:

(a) ~~(1)~~ When the psychologist ~~person licensed under this chapter~~ is a party defendant to a civil, criminal, or disciplinary action arising from a complaint filed by the patient or client, in which case the waiver shall be limited to that action; ~~or—~~

(b) ~~(2)~~ When the patient or client agrees to the waiver, in writing, or when more than one person in a family is receiving therapy, when each family member agrees to the waiver, in writing.

(2) Such privilege must be waived, and the psychologist shall disclose patient and client communications to the extent necessary to warn any potential victim and to communicate the

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threat to a law enforcement agency, if a patient or client has communicated to the psychologist a specific threat to cause serious bodily injury or death to an identified or readily available person, and the psychologist makes a clinical judgment that the patient or client has the apparent intent and ability to imminently or immediately carry out such threat. A psychologist's disclosure of confidential communications when communicating a threat pursuant to this subsection may not be the basis of any legal action or criminal or civil liability against the psychologist

~~(3) When there is a clear and immediate probability of physical harm to the patient or client, to other individuals, or to society and the person licensed under this chapter communicates the information only to the potential victim, appropriate family member, or law enforcement or other appropriate authorities.~~

Section 4. Section 491.0147, Florida Statutes, is amended to read:

491.0147 Confidentiality and privileged communications.—Any communication between any person licensed or certified under this chapter and her or his patient or client is shall be confidential.

(1) This ~~privilege~~ ~~secrecy~~ may be waived under the following conditions:

(a) ~~(1)~~ When the person licensed or certified under this chapter is a party defendant to a civil, criminal, or disciplinary action arising from a complaint filed by the patient or client, in which case the waiver shall be limited to that action.

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(b) ~~(2)~~ When the patient or client agrees to the waiver, in writing, or, when more than one person in a family is receiving therapy, when each family member agrees to the waiver, in writing.

(2) This privilege must be waived, and the person licensed or certified under this chapter shall disclose patient and client communications to the extent necessary to warn any potential victim and to communicate the threat to a law enforcement agency, if a patient or client has communicated to such person a specific threat to cause serious bodily injury or death to an identified or readily available person, and the person licensed or certified under this chapter makes a clinical judgment that the patient or client has the apparent intent and ability to imminently or immediately carry out such threat. A disclosure of confidential communications by a person licensed or certified under this chapter when communicating a threat pursuant to this subsection may not be the basis of any legal action or criminal or civil liability against such person

~~(3) When, in the clinical judgment of the person licensed or certified under this chapter, there is a clear and immediate probability of physical harm to the patient or client, to other individuals, or to society and the person licensed or certified under this chapter communicates the information only to the potential victim, appropriate family member, or law enforcement or other appropriate authorities. There shall be no liability on the part of, and no cause of action of any nature shall arise against, a person licensed or certified under this chapter for the disclosure of otherwise confidential communications under this subsection.~~

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175 Section 5. For the purpose of incorporating the amendment
176 made by this act to section 490.0147, Florida Statutes, in a
177 reference thereto, paragraph (u) of subsection (1) of section
178 490.009, Florida Statutes, is reenacted to read:

179 490.009 Discipline.—

180 (1) The following acts constitute grounds for denial of a
181 license or disciplinary action, as specified in s. 456.072(2):

182 (u) Failing to maintain in confidence a communication made
183 by a patient or client in the context of such services, except
184 as provided in s. 490.0147.

185 Section 6. For the purpose of incorporating the amendment
186 made by this act to section 491.0147, Florida Statutes, in a
187 reference thereto, paragraph (u) of subsection (1) of section
188 491.009, Florida Statutes, is reenacted to read:

189 491.009 Discipline.—

190 (1) The following acts constitute grounds for denial of a
191 license or disciplinary action, as specified in s. 456.072(2):

192 (u) Failure of the licensee, registered intern, or
193 certificateholder to maintain in confidence a communication made
194 by a patient or client in the context of such services, except
195 as provided in s. 491.0147.

196 Section 7. This act shall take effect July 1, 2019.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/20/19
Meeting Date

7048
Bill Number (if applicable)

Topic Discontinue CONF RECORDS

Amendment Barcode (if applicable)

Name BOB GUALTIERI

Job Title Sheriff

Address 10750 WINTER RD
Street

Phone 727-582-6206

Canal FL 33779
City State Zip

Email Regulation@flsenate.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Innovation, Industry, and Technology

BILL: CS/SB 536

INTRODUCER: Innovation, Industry, and Technology Committee and Senators Brandes and Perry

SUBJECT: 911 Services

DATE: March 19, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Imhof	IT	Fav/CS
2.	Proctor	Miller	IS	Favorable
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 536 requires each county to develop a countywide implementation plan for text-to-911 services and, by January 1, 2022, to have a system in place to receive Enhanced 911 (E911) text messages from providers.

The bill requires the Technology Program within the Department of Management Services (department) to develop and implement, by January 1, 2020, a plan to require that a call to 911 can be transferred from one local, multijurisdictional, or regional E911 system to another within this state when necessary.

The bill addresses the Marjory Stoneman Douglas High School Public Safety Commission's recommendations of allowing direct radio communication between 911 public safety answering points and first responders.

The bill may increase the costs incurred by state and local governments by significant but indeterminate amounts. The local government cost increases may trigger the mandates provisions of the State Constitution, requiring a legislative determination that the law fulfills an important state interest and approval by two-thirds of the membership in each house of the Legislature. The bill sets out legislative findings relating to the important state interest regarding the Act.

The bill takes effect July 1, 2019.

II. Present Situation:

The Technology Program within the department oversees the E911 system in Florida,¹ and is required to develop, maintain, and implement appropriate modifications for a statewide emergency communications E911 system plan. The plan must provide for:

- The public agency emergency communications requirements for each entity of local government² in the state.
- A system to meet specific local government requirements. The system is required to include law enforcement, firefighting, and emergency medical services and may include other emergency services such as poison control, suicide prevention, and emergency management services.
- Identification of the mutual aid agreements necessary to obtain an effective E911 system.
- A funding provision that identifies the cost necessary to implement the E911 system.

The Technology Program is responsible for the implementation and coordination of the plan, and must adopt any necessary rules and schedules related to public agencies³ for implementing and coordinating the plan.

In 2007, the Florida Legislature established the E911 Board, which is composed of eleven members. The secretary of the department designates the chair of the E911 Board. The Governor appoints five members who are county 911 coordinators and five members from the telecommunications industry. The E911 Board's primary function is to administer the funds derived from a monthly fee on each subscriber with a Florida billing address (place of primary use). The E911 Board makes disbursements from the Wireless Emergency Telephone System Trust Fund to county governments and wireless providers in accordance with s. 365.173, F.S.

The Secretary of the department, or his or her designee, is the director of the statewide emergency communications number E911 system and is authorized to coordinate the activities of the system with state, county, local, and private agencies.⁴ In implementing the system, the director must consult, cooperate, and coordinate with local law enforcement agencies.

Section 365.176(6), F.S., permits the formation of multijurisdictional or regional systems, and any system established pursuant to the section may include the jurisdiction, or any portion thereof, of more than one public agency.

¹ Section 365.171, F.S.

² The term "local government" means any city, county, or political subdivision of the state and its agencies. Section 365.171(3)(b), F.S.

³ The term "public agency" means the state and any city, county, city and county, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state which provides, or has authority to provide, firefighting, law enforcement, ambulance, medical, or other emergency services. Section 365.171(3)(c), F.S.

⁴ Section 365.171(5), F.S.

Within the E911 system, public safety answering points (PSAPs) are the public safety agencies⁵ that receive incoming 911 requests for assistance and dispatch appropriate public safety agencies to respond to the requests in accordance with the state E911 plan.⁶

The Marjory Stoneman Douglas High School Public Safety Commission reviewed 911 and first responder dispatch communications on February 14, 2018, related to the shootings at the high school.⁷ The commission found the City of Parkland's public safety services were provided through contracts with two separate agencies, the Broward County Sheriff's Office and Coral Springs/Parkland Fire Rescue, and Parkland's decision to contract with both agencies for its police and fire/EMS services caused issues with inter-agency communications interoperability and 911 call routing. The commission made the following recommendations to address these issues:

- Law enforcement agencies should be required to have communications interoperability with all other law enforcement agencies in their county. The methodology for accomplishing this is immaterial, but interoperability is essential.
- If a law enforcement agency asks another law enforcement agency for access to its primary dispatch radio channels, honoring the request should be mandatory.
- Law enforcement agencies should tactically train their personnel so they are familiar with all radio functionality.
- Florida law should require that all primary 911 call centers have the ability to directly communicate via radio with the first responder units for which they are receiving 911 calls without having to transfer calls.
- All public safety agencies should work toward consolidation of 911 call centers and eliminate the 911 call transfer process.
- School districts and law enforcement agencies should strive for radio interoperability.

III. Effect of Proposed Changes:

The bill amends s. 365.172, F.S., to require each county to develop a countywide implementation plan for text-to-911 services and, by January 1, 2022, have in place a system to receive E911 text messages from providers.

The bill creates s. 365.177, F.S., to require the Technology Program within the department to develop and implement a plan by January 1, 2020, to require that a 911 public safety telecommunicator be able to transfer an emergency call from one local, multijurisdictional, or regional E911 system to another local, multijurisdictional, or regional E911 system in this state,

⁵ See s. 365.172(3)(x), F.S., which defines "Public safety agency" to mean a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services.

⁶ Section 365.172(3)(y), F.S.

⁷ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report Submitted to the Governor, Speaker of the House of Representatives, and Senate President*, (January 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf> (last accessed March 12, 2019). This subject is addressed in Chapter 7 on incident communications, interoperability and 911, radio, and computer-aided dispatch (CAD) systems, pages 215-230.

when deemed prudent and requested by a caller or when deemed necessary. In developing and implementing this plan, the Technology Program is required to:

- Coordinate with public agencies to identify and resolve any technological or logistical issues in implementing this requirement;
- Identify or establish a system or clearinghouse for maintaining contact information for all E911 systems in this state; and
- Establish a date, considering any technological, logistical, financial, or other identified issues, by which all E911 systems in this state must be able to transfer emergency calls as required.

The bill sets out legislative findings that appear to relate to only the call-transfer portion of the bill. There is an important state interest in ensuring that 911 telecommunications are routed to the most appropriate 911 system in the most expeditious manner possible in order to protect public safety. A proper and legitimate state purpose is served when local government 911 public safety telecommunicators are able to transfer and receive transfers of emergency calls from other local, multijurisdictional, or regional E911 systems in this state. Therefore, the Legislature finds and declares that this act fulfills an important state interest.

The bill creates s. 365.179, F.S., to address the Marjory Stoneman Douglas High School Public Safety Commission's recommendations and provide for direct radio communication between 911 public safety answering points and first responders. It creates the following definitions:

- "911 public safety answering point" or "PSAP" means a municipal or county emergency communications call center in this state which receives cellular, landline, or text 911 communications; and
- "First responders" includes the law enforcement agencies, fire service agencies, and emergency management services providers that are designated as first responders for the service area in which a PSAP receives 911 calls.

The bill establishes the following requirements.

- Each PSAP must be able to directly communicate by radio with first responders.
- Each sheriff must enter into a written agreement with each first responder in his or her county to establish protocols under which a PSAP that does not dispatch calls for a first responder agency will directly notify the first responder agency's on-duty personnel of an emergency by radio.
- Each PSAP must install, in at least one dispatch console within its emergency communications center, the primary radio dispatch channels of each first responder in the county it serves. If there are multiple PSAPs in a county, each PSAP must have this capability.
- Each law enforcement agency head must, upon the written request of another law enforcement agency head in the same county or an adjoining jurisdiction in another county, authorize the requesting agency to install the other agency's primary dispatch channel or channels in the requesting agency's mobile or portable radios.
- Each sheriff must, by January 1, 2020, certify in writing to the Department of Law Enforcement that all PSAPs in his or her county are in compliance with these requirements.

The bill takes effect July 1, 2019.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Article VII, s. 18(a) of the State Constitution provides, in pertinent part, that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or take an action requiring the expenditure of funds unless the Legislature has determined that such law fulfills an important state interest and the law requiring such expenditure is approved by two-thirds of the membership in each house of the Legislature.”

The bill requires:

- The development and implementation of a plan requiring 911 public safety telecommunicators to be able to transfer and receive transfers of emergency calls from other local, multijurisdictional, or regional E911 systems in the state under certain circumstances;
- The development and implementation of a plan requiring a text-to-911 service countywide; and
- The development and implementation of communication systems that allow direct radio communication between 911 public safety answering points and first responders.

The bill sets out legislative findings declaring that the act fulfills an important state interest.

If the Legislature does not authorize adequate funding, it appears a two-thirds vote of the membership of each house may be required for the provisions in the bill to be binding upon local governments.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill's requirements are expected to increase costs incurred by state and local governments by a significant but indeterminate amount.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 365.172 of the Florida Statutes.

This bill creates sections 365.177 and 365.179 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Innovation, Industry, and Technology on March 12, 2019:

- The committee substitute addresses the Marjory Stoneman Douglas High School Public Safety Commission's recommendations by requiring that all local governments and first responders develop and implement communications systems allowing direct radio communication between 911 public safety answering points and first responders.

B. Amendments:

None.



134900

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/20/2019	.	
	.	
	.	
	.	

The Committee on Infrastructure and Security (Brandes)
recommended the following:

Senate Amendment (with title amendment)

Delete lines 266 - 307
and insert:

Section 4. The E911 Board for Enhanced 911 Services within
the Department of Management Services shall, by January 1, 2020,
prepare and submit a report on the 911 system and first
responder communications interoperability to the President of
the Senate and the Speaker of the House of Representatives. The
report must contain findings and recommendations on the most



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11 effective, efficient, and cost effective methods of creating and
12 implementing a system of receiving and processing emergency 911
13 calls and dispatching appropriate first responders to the
14 emergency situation. The report must include an estimate of the
15 costs of the system. The report must address the following
16 capabilities for the system:

17 (1) A requirement that each 911 Public Safety Answering
18 Point or PSAP in the state have the capability of directly
19 communicating via radio with the law enforcement, fire, and
20 emergency medical services providers that are designated first
21 responders for the service area in which the PSAP receives 911
22 calls. The PSAP must be able to complete all necessary
23 communications with the designated first responders without
24 having to transfer the call, or relay information received
25 during a 911 call, to another PSAP or emergency communications
26 center for dispatch.

27 (2) A requirement that each PSAP that receives 911 calls
28 have installed, in at least one dispatch console within its
29 emergency communications center, the primary radio dispatch
30 channels of every law enforcement, fire, and emergency medical
31 services provider in the county.

32 (3) A requirement that each sheriff establish protocols
33 under which a PSAP that does not dispatch calls for a law
34 enforcement, fire, or emergency medical services agency can
35 directly notify on-duty personnel of the first responder agency
36 of an emergency via radio without having first transferred the
37 911 call for dispatch to that agency or relayed information via
38 telephone or other indirect means.

39 (4) A requirement that each law enforcement agency head,



134900

upon written request of any other law enforcement agency head in
the same county or an adjoining jurisdiction in another county,
authorize the requesting agency to install the other agency's
primary dispatch channel in their mobile or portable radios.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 13 - 29

and insert:

interest; requiring a study and report to the
Legislature by the E911 Board for Enhanced 911
Services within the Department of Management Services
on methods of creating and implementing a system of
receiving and processing emergency 911 calls and
dispatching appropriate first responders to the
emergency situation; specifying capabilities of the
system; providing an effective date.

By the Committee on Innovation, Industry, and Technology; and
Senators Brandes and Perry

580-02955-19

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1 A bill to be entitled
2 An act relating to 911 services; amending s. 365.172,
3 F.S.; revising the applicability of definitions;
4 requiring counties to develop a plan for implementing
5 a text-to-911 system and to implement a system to
6 receive E911 text messages by a specified date;
7 creating s. 365.177, F.S.; requiring that the
8 Technology Program within the Department of Management
9 Services develop and implement a plan to require that
10 emergency dispatchers be able to transfer an emergency
11 call from one E911 system to another E911 system in
12 this state; providing a declaration of important state
13 interest; creating s. 365.179, F.S.; defining the
14 terms "first responders" and "911 public safety
15 answering point" or "PSAP"; requiring a PSAP to be
16 able to directly communicate by radio with first
17 responders; requiring each sheriff, in collaboration
18 with first responders in his or her county, to enter
19 into specified written agreements; requiring each PSAP
20 to install local first responder radio dispatch
21 channels in its emergency communications center;
22 requiring a law enforcement agency head to authorize
23 the installation of his or her agency's primary
24 dispatch channel or channels on certain other law
25 enforcement agency's mobile or portable radios, upon
26 request; requiring each county sheriff to certify
27 compliance in writing with the Department of Law
28 Enforcement by a specified date; providing an
29 effective date.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30
31 Be It Enacted by the Legislature of the State of Florida:
32
33 Section 1. Present subsection (15) of section 365.172,
34 Florida Statutes, is redesignated as subsection (16), a new
35 subsection (15) is added to that section, and subsection (3) of
36 that section is amended, to read:
37 365.172 Emergency communications number "E911."—
38 (3) DEFINITIONS.—Only as used in this section and ss.
39 365.171, 365.173, ~~and~~ 365.174, and 365.177, the term:
40 (a) "Authorized expenditures" means expenditures of the
41 fee, as specified in subsection (10).
42 (b) "Automatic location identification" means the
43 capability of the E911 service which enables the automatic
44 display of information that defines the approximate geographic
45 location of the wireless telephone, or the location of the
46 address of the wireline telephone, used to place a 911 call.
47 (c) "Automatic number identification" means the capability
48 of the E911 service which enables the automatic display of the
49 service number used to place a 911 call.
50 (d) "Board" or "E911 Board" means the board of directors of
51 the E911 Board established in subsection (5).
52 (e) "Building permit review" means a review for compliance
53 with building construction standards adopted by the local
54 government under chapter 553 and does not include a review for
55 compliance with land development regulations.
56 (f) "Collocation" means the situation when a second or
57 subsequent wireless provider uses an existing structure to
58 locate a second or subsequent antennae. The term includes the

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ground, platform, or roof installation of equipment enclosures, cabinets, or buildings, and cables, brackets, and other equipment associated with the location and operation of the antennae.

(g) "Designed service" means the configuration and manner of deployment of service the wireless provider has designed for an area as part of its network.

(h) "Enhanced 911" or "E911" means an enhanced 911 system or enhanced 911 service that is an emergency telephone system or service that provides a subscriber with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated, or as otherwise provided in the state plan under s. 365.171, and that provides for automatic number identification and automatic location-identification features. E911 service provided by a wireless provider means E911 as defined in the order.

(i) "Existing structure" means a structure that exists at the time an application for permission to place antennae on a structure is filed with a local government. The term includes any structure that can structurally support the attachment of antennae in compliance with applicable codes.

(j) "Fee" means the E911 fee authorized and imposed under subsections (8) and (9).

(k) "Fund" means the Emergency Communications Number E911 System Fund established in s. 365.173 and maintained under this section for the purpose of recovering the costs associated with providing 911 service or E911 service, including the costs of implementing the order. The fund shall be segregated into

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wireless, prepaid wireless, and nonwireless categories.

(l) "Historic building, structure, site, object, or district" means any building, structure, site, object, or district that has been officially designated as a historic building, historic structure, historic site, historic object, or historic district through a federal, state, or local designation program.

(m) "Land development regulations" means any ordinance enacted by a local government for the regulation of any aspect of development, including an ordinance governing zoning, subdivisions, landscaping, tree protection, or signs, the local government's comprehensive plan, or any other ordinance concerning any aspect of the development of land. The term does not include any building construction standard adopted under and in compliance with chapter 553.

(n) "Local exchange carrier" means a "competitive local exchange telecommunications company" or a "local exchange telecommunications company" as defined in s. 364.02.

(o) "Local government" means any municipality, county, or political subdivision or agency of a municipality, county, or political subdivision.

(p) "Medium county" means any county that has a population of 75,000 or more but less than 750,000.

(q) "Mobile telephone number" or "MTN" means the telephone number assigned to a wireless telephone at the time of initial activation.

(r) "Nonwireless category" means the revenues to the fund received from voice communications services providers other than wireless providers.

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(s) "Office" means the Technology Program within the Department of Management Services, as designated by the secretary of the department.

(t) "Order" means:

1. The following orders and rules of the Federal Communications Commission issued in FCC Docket No. 94-102:

a. Order adopted on June 12, 1996, with an effective date of October 1, 1996, the amendments to s. 20.03 and the creation of s. 20.18 of Title 47 of the Code of Federal Regulations adopted by the Federal Communications Commission pursuant to such order.

b. Memorandum and Order No. FCC 97-402 adopted on December 23, 1997.

c. Order No. FCC DA 98-2323 adopted on November 13, 1998.

d. Order No. FCC 98-345 adopted December 31, 1998.

2. Orders and rules subsequently adopted by the Federal Communications Commission relating to the provision of 911 services, including Order Number FCC-05-116, adopted May 19, 2005.

(u) "Prepaid wireless category" means all revenues in the fund received through the Department of Revenue from the fee authorized and imposed under subsection (9).

(v) "Prepaid wireless service" means a right to access wireless service that allows a caller to contact and interact with 911 to access the 911 system, which service must be paid for in advance and is sold in predetermined units or dollars, which units or dollars expire on a predetermined schedule or are decremented on a predetermined basis in exchange for the right to access wireless service.

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(w) "Public agency" means the state and any municipality, county, municipal corporation, or other governmental entity, public district, or public authority located in whole or in part within this state which provides, or has authority to provide, firefighting, law enforcement, ambulance, medical, or other emergency services.

(x) "Public safety agency" means a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services.

(y) "Public safety answering point," "PSAP," or "answering point" means the public safety agency that receives incoming 911 requests for assistance and dispatches appropriate public safety agencies to respond to the requests in accordance with the state E911 plan.

(z) "Rural county" means any county that has a population of fewer than 75,000.

(aa) "Service identifier" means the service number, access line, or other unique identifier assigned to a subscriber and established by the Federal Communications Commission for purposes of routing calls whereby the subscriber has access to the E911 system.

(bb) "Tower" means any structure designed primarily to support a wireless provider's antennae.

(cc) "Voice communications services" means two-way voice service, through the use of any technology, which actually provides access to E911 services, and includes communications services, as defined in s. 202.11, which actually provide access to E911 services and which are required to be included in the provision of E911 services pursuant to orders and rules adopted

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by the Federal Communications Commission. The term includes voice-over-Internet-protocol service. For the purposes of this section, the term "voice-over-Internet-protocol service" or "VoIP service" means interconnected VoIP services having the following characteristics:

1. The service enables real-time, two-way voice communications;
2. The service requires a broadband connection from the user's locations;
3. The service requires IP-compatible customer premises equipment; and
4. The service offering allows users generally to receive calls that originate on the public switched telephone network and to terminate calls on the public switched telephone network.

(dd) "Voice communications services provider" or "provider" means any person or entity providing voice communications services, except that the term does not include any person or entity that resells voice communications services and was assessed the fee authorized and imposed under subsection (8) by its resale supplier.

(ee) "Wireless 911 system" or "wireless 911 service" means an emergency telephone system or service that provides a subscriber with the ability to reach an answering point by accessing the digits 911.

(ff) "Wireless category" means the revenues to the fund received from a wireless provider from the fee authorized and imposed under subsection (8).

(gg) "Wireless communications facility" means any equipment or facility used to provide service and may include, but is not

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limited to, antennae, towers, equipment enclosures, cabling, antenna brackets, and other such equipment. Placing a wireless communications facility on an existing structure does not cause the existing structure to become a wireless communications facility.

(hh) "Wireless provider" means a person who provides wireless service and:

1. Is subject to the requirements of the order; or
2. Elects to provide wireless 911 service or E911 service in this state.

(ii) "Wireless service" means "commercial mobile radio service" as provided under ss. 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C. ss. 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, August 10, 1993, 107 Stat. 312. The term includes service provided by any wireless real-time two-way wire communication device, including radio-telephone communications used in cellular telephone service; personal communications service; or the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, or a network radio access line. The term does not include wireless providers that offer mainly dispatch service in a more localized, noncellular configuration; providers offering only data, one-way, or stored-voice services on an interconnected basis; providers of air-to-ground services; or public coast stations.

(15) TEXT-TO-911 SERVICE.—Each county shall develop a countywide implementation plan for text-to-911 services and, by January 1, 2022, have in place a system to receive E911 text

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233 messages from providers.

234 Section 2. Section 365.177, Florida Statutes, is created to
235 read:

236 365.177 Transfer of E911 calls between systems.-

237 (1) The office shall develop and implement a plan by
238 January 1, 2020, to require that a 911 public safety
239 telecommunicator, when deemed prudent and requested by a caller
240 or when deemed necessary, be able to transfer an emergency call
241 from one local, multijurisdictional, or regional E911 system to
242 another local, multijurisdictional, or regional E911 system in
243 this state.

244 (2) In developing and implementing this plan, the office
245 shall:

246 (a) Coordinate with public agencies to identify and resolve
247 any technological or logistical issues in implementing this
248 section.

249 (b) Identify or establish a system or clearinghouse for
250 maintaining contact information for all E911 systems in this
251 state.

252 (c) Establish a date, considering any technological,
253 logistical, financial, or other identified issues, by which all
254 E911 systems in this state must be able to transfer emergency
255 calls pursuant to subsection (1).

256 Section 3. The Legislature finds that there is an important
257 state interest in ensuring that 911 telecommunications are
258 routed to the most appropriate 911 system in the most
259 expeditious manner possible in order to protect public safety.
260 Thus, a proper and legitimate state purpose is served when local
261 government 911 public safety telecommunicators are able to

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262 transfer and receive transfers of emergency calls from other
263 local, multijurisdictional, or regional E911 systems in this
264 state. Therefore, the Legislature finds and declares that this
265 act fulfills an important state interest.

266 Section 4. Section 365.179, Florida Statutes, is created to
267 read:

268 365.179 Direct radio communication between 911 public
269 safety answering points and first responders.-

270 (1) As used in this section, the term:

271 (a) "First responders" includes the law enforcement
272 agencies, fire service agencies, and emergency management
273 services providers that are designated as first responders for
274 the service area in which a PSAP receives 911 calls.

275 (b) "911 public safety answering point" or "PSAP" means a
276 municipal or county emergency communications call center in this
277 state which receives cellular, landline, or text 911
278 communications.

279 (2) A PSAP must be able to directly communicate by radio
280 with first responders. The PSAP must be able to make such
281 communication without having to transfer a 911 call or having to
282 relay information received during a 911 call to another PSAP or
283 emergency communications center for dispatch.

284 (3) In collaboration with all first responders in his or
285 her county, each sheriff shall enter into a written agreement
286 with each first responder to establish protocols under which a
287 PSAP that does not dispatch calls for a first responder agency
288 will directly notify the first responder agency's on-duty
289 personnel of an emergency by radio. The agreement must require
290 the PSAP to be able to communicate with the personnel without

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291 having to transfer the 911 call for dispatch to that agency or
292 having to relay the information received during a 911 call by
293 telephone or other indirect means.

294 (4) Each PSAP shall install, in at least one dispatch
295 console within its emergency communications center, the primary
296 radio dispatch channels of each first responder in the county it
297 serves. If there are multiple PSAPs in a county, each PSAP must
298 have this capability.

299 (5) Upon the written request of a law enforcement agency
300 head, any other law enforcement agency head in the same county
301 or an adjoining jurisdiction in another county shall authorize
302 the requesting agency to install the other agency's primary
303 dispatch channel or channels in the requesting agency's mobile
304 or portable radios.

305 (6) By January 1, 2020, each county sheriff shall certify
306 in writing to the Department of Law Enforcement that all PSAPs
307 in his or her county are in compliance with this section.

308 Section 5. This act shall take effect July 1, 2019.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-20-19
Meeting Date

536
Bill Number (if applicable)

Topic 911 Services

Amendment Barcode (if applicable)

Name Sheriff Bob Gualtieri

Job Title Sheriff of Pinellas County

Address D.O. Box 2500
Street

Phone 727-582-6200

Largo FL 33779
City State Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/20/19

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

536

Meeting Date

Bill Number (if applicable)

Topic 911 Services

Amendment Barcode (if applicable)

Name Chief Gary Hester

Job Title Gov't Affairs

Address 2636 Mitcham Drive

Phone 850-219-3631

Street

Tallahassee

FL

32308

City

State

Zip

Email ghester@fpca.com

Speaking: ☐ For ☐ Against ☒ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Police Chiefs Association

Appearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Infrastructure and Security

BILL: SB 676

INTRODUCER: Senator Hooper

SUBJECT: Certificates of Title for Vessels

DATE: March 19, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	IS	Pre-meeting
2.			ATD	
3.			AP	

I. Summary:

SB 676 incorporates the Uniform Certificate of Title for Vessels Act into Florida's existing vessel titling and lien law. The bill contains numerous revisions to current title application requirements, revises information that must be included on a certificate of title for a vessel, provides for the perfection of security interests in a vessel and for the rights of a secured party, provides requirements for the transfer of ownership in a vessel, and revises various duties and responsibilities of the Department of Highway Safety and Motor Vehicles (DHSMV) with respect to titling of vessels.

Generally, the bill:

- Defines numerous terms relating to titling of vessels.
- Provides requirements for applications for certificates of titles for vessels, including their detailed content, and provides exceptions from the requirement to apply for a certificate.
- Provides responsibilities of an owner and insurer of a hull-damaged vessel, and of the DHSMV when creating a certificate of title.
- Specifies that possession of a certificate of title does not by itself provide a right to obtain possession of a vessel, but nothing prohibits enforcement of a security interest in, levy on, or foreclosure of a statutory or common-law lien on a vessel.
- Provides the DHSMV with duties relating to creation, issuance, refusal to issue, or cancellation of a certificate of title, and provides additional requirements for obtaining a duplicate certificate of title.
- Sets out requirements for the determination and perfection of a security interest in a vessel and for the delivery of a statement of the termination of a security interest.
- Provides for the rights of a purchaser of a vessel who is not a secured party, and for rights of a purchaser who is a secured party.
- Repeals provisions replaced by the bill's provisions.

- Specifies circumstances by which the DHSMV may create a new certificate of title after the receipt of an application for a transfer of ownership or termination of a security interest, without the applicant providing a certificate of title.
- Provides rules for the voluntary transfer of vessel title ownership, transfer by a secured party, and transfer by operation of law.
- Sets out “grandfathering” provisions, provides for application, and makes technical and conforming changes.

The bill appears to have an indeterminate, negative fiscal impact on resources of the DHSMV. See the Fiscal Impact Statement heading for details.

The bill takes effect October 1, 2019.

II. Present Situation:

The bill substantially revises Part I of Chapter 328, F.S. For ease of organization and readability, the present situation for each section of the bill is discussed in conjunction with the effect of proposed changes.

III. Effect of Proposed Changes:

The bill revises current law by enacting the Uniform Certificate of Title for Vessels Act.

Current Situation

Vessel Titling

Application for Certificate of Title

An owner of a vessel that is required to be titled must apply to the DHSMV or county tax collector for a certificate of title. The application¹ must include the true name of the owner, the address of the owner, and the complete description of the vessel, including the hull identification number. The application must be signed by the owner, and the owner must provide valid identification and pay the prescribed fee.²

An original copy of the manufacturer’s statement of origin for the vessel must be submitted with the application for title of a manufactured vessel sold in Florida. The owner of a manufactured vessel initially sold outside of Florida must provide an original copy of the manufacturer’s statement of origin, or the original copy of the executed bill of sale, and the most recent certificate of registration for the vessel.³

The owner of a homemade vessel must establish proof of ownership by submitting with the application a notarized statement of the builder (if the vessel is less than 16 feet in length) or a

¹ Department of Highway Safety and Motor Vehicles, *Application for Certificate of Title With/Without Registration*, available at <https://www.flhsmv.gov/dmv/forms/btr/82040.pdf> (last viewed March 17, 2019).

² Section 328.01(1)(a), F.S.

³ Section 328.01(2)(a)&(b), F.S.

certificate of inspection from the Fish and Wildlife Conservation Commission and a notarized statement of the builder (if the vessel is 16 feet or more in length).⁴

The owner of a non-titled vessel registered outside of Florida must establish proof of ownership by surrendering the original copy of the most current certificate of registration issued by the other state or country.⁵ If a vessel is titled in another state or country, the DHSMV will not issue a Florida title until all existing titles are surrendered to DHSMV.⁶

In making application for a title upon transfer of ownership of a vessel, the new owner must surrender a properly executed last title document issued for that vessel. If a lien exists and the application for transfer of title is based upon a contractual default, the recorded lienholder must establish proof of right to ownership by submitting with the application the original certificate of title and a copy of the applicable contract upon which the claim of ownership is made. If the claim is based upon a court order or judgment, a copy of such document must accompany the application for transfer of title. If there appears to be any other lien on the vessel, the certificate of title must contain a statement of such a lien.⁷

In making application for transfer of title from a deceased titled owner, the new owner or surviving co-owner must establish proof of ownership by submitting with the application the original certificate of title and the decedent's probated last will and, or letters of administration appointing the personal representative of the decedent. In lieu of a probated last will and testament or letters of administration, a copy of the decedent's death certificate, a copy of the decedent's last will and testament, and an affidavit by the decedent's surviving spouse or heirs affirming rights of ownership may be accepted by DHSMV.⁸

An owner who has made a valid sale or transfer of a vessel and has delivered possession to a purchaser will not be considered the owner of the vessel and subject to civil liability for the operation of the vessel as long as the owner has surrendered the properly endorsed certificate of title to DHSMV.⁹

Certificate of Title Required

All vessels operated, used, or stored on the waters of Florida must be titled by DHSMV unless it is:

- A vessel operated, used, or stored exclusively on private lakes and ponds;
- A vessel owned by the United States Government;
- A non-motor-powered vessel less than 16 feet in length;
- A federally documented vessel;
- A vessel already covered by a registration number, if the vessel is not located in this state for a period in excess of 90 consecutive days;
- A vessel from a country other than the United States temporarily used, operated, or stored on the waters of this state for a period that is not in excess of 90 days;

⁴ Section 328.01(2)(c), F.S.

⁵ Section 328.01(2)(d), F.S.

⁶ Section 328.01(2)(e), F.S.

⁷ Section 328.01(3)(a)&(b), F.S.

⁸ Section 328.01(3)(c), F.S.

⁹ Section 328.01(3)(d), F.S.

- An amphibious vessel for which a vehicle title is issued by DHSMV;
- A vessel used solely for demonstration, testing, or sales promotional purposes by the manufacturer or dealer; or
- A vessel owned and operated by the state.¹⁰

However, a vessel may be operated, used, or stored for up to 180 days after the date of application for a certificate of title while the application is pending.¹¹ When selling, assigning, or transferring a titled vessel, the seller must deliver a valid certificate of title to the purchaser. The purchaser has 30 days to file an application for title transfer. The purchaser will be charged a \$10 fee for filing a transfer application after the 30-day period.¹² A certificate of title is prima facie evidence of the ownership of the vessel.¹³

Refusal to Issue and Authority to Cancel a Certificate of Title or Registration

DHSMV may refuse to issue a certificate of title or registration to any applicant who provides a false statement pertaining to the application for a certificate of title. If DHSMV determines that an owner or dealer named in a certificate of title provided a false statement in applying for the certificate of title, DHSMV may cancel the certificate. DHSMV may cancel any pending application or certificate of title if DHSMV determines that any title or registration fee or sales tax pertaining to such registration has not been paid, upon reasonable notice. DHSMV may not issue a certificate of title to any applicant for any vessel that has been deemed derelict by a law enforcement officer.¹⁴

Duplicate Certificate of Title

DHSMV may issue a duplicate certificate of title if it receives an application from the person entitled to hold such a certificate and if DHSMV is satisfied that the original certificate has been lost, destroyed, or mutilated. DHSMV must charge a fee of \$6 for issuing a duplicate certificate. DHSMV may impose a fee of \$5 for expedited service in issuing a duplicate certificate of title.¹⁵

If the certificate is lost in transit and is not delivered to the addressee, the owner of the vessel or the holder of a lien may, within 180 days after the date of issuance of the title, apply to DHSMV for reissuance of the certificate of title. An additional fee may not be charged by DHSMV. If the address shown on the application is different from the address shown for the applicant, DHSMV will verify the certificate is delivered to an authorized receiver.¹⁶

¹⁰ Section 328.03(1), F.S.

¹¹ Section 328.03(2), F.S.

¹² Section 328.03(3), F.S.

¹³ Section 328.03(4), F.S.

¹⁴ Section 328.09, F.S.

¹⁵ Section 328.11(1)-(2), F.S.

¹⁶ Section 328.11(3)-(4), F.S.

Notice of Lien on Vessel and Recording

A lien for purchase money or as security for a debt in the form of a retain-title contract, conditional bill of sale, chattel mortgage, or otherwise on a vessel, is enforceable unless a sworn notice of such lien is recorded. The lien certificate must contain the following information:

- Name and address of the registered owner;
- Date of lien;
- Description of the vessel to include make, type, motor and serial number; and
- Name and address of lienholder.

The lien must be recorded by DHSMV.¹⁷

DHSMV will not record a lien unless the official certificate of title is furnished with the notice of lien. Once the lien is recorded, the certificate of title will be held by the first lien holder until the lien is paid in full.¹⁸

When a vessel is registered in the names of two or more people by the use of the word “or” each person has the right to place a lien or notice of lien with only his or her signature. When the vessel is registered by the use of the word “and,” the signature of each co-owner is required in order to place a lien on the vessel.¹⁹

If the owner of the vessel or the director of the state child support enforcement program desires to place a second or subsequent lien against the vessel when the title certificate is in the possession of the first lienholder, the owner must send a written request to the first lienholder by certified mail and the first lienholder must forward the certificate to DHSMV for endorsement.²⁰

Once the lien is paid in full, the lienholder must provide the owner with a satisfaction of lien, which will be filed with DHSMV.²¹ DHSMV may promulgate rules to substitute the formal satisfaction of liens.²²

DHSMV may collect a fee of \$1 for the recording of each notice of lien, but no fee may be collected for recording the satisfaction of a lien.²³

A lienholder holding a satisfied lien who fails to issue a satisfaction of the lien within 30 days of satisfaction will be held liable for all costs, damages, and expenses by the registered owner of such vessel. If the certificate of title shows a subsequent lien that has not been discharged, an executed satisfaction of the first lien must be delivered by the lienholder to the owner, and the certificate of title showing satisfaction of the first lien must be forwarded by the lienholder to the DHSMV within 10 days after satisfaction of the lien.²⁴ A lienholder who is noncompliant with the 10-day time period commits a misdemeanor of the second degree.²⁵

¹⁷ Section 328.15(1), F.S.

¹⁸ Section 328.15(2)(a), F.S.

¹⁹ Section 328.15(2)(b), F.S.

²⁰ Section 328.15(2)(c), F.S.

²¹ Section 328.15(3), F.S.

²² Section 328.15(4), F.S.

²³ Section 328.15(6), F.S.

²⁴ Section 328.15(7), F.S.

²⁵ Section 328.15(9), F.S.

If the original certificate of title cannot be returned to DHSMV by the lienholder, and all liens have been satisfied, upon application by the owner, a duplicate copy of the certificate of title without lien will be issued to the owner.²⁶ If the original lienholder assigns his or her lien to another person, the new lienholder may have his or her name substituted as lienholder.²⁷

Uniform Law Commission

The Uniform Law Commission (ULC), also known as the National Conference of Commissioners on Uniform State Laws, was established in 1892 and provides states with legislation that strives to bring clarity to areas of state statutory law.²⁸ ULC commissioners must be lawyers qualified to practice law. State governments as well as the District of Columbia, Puerto Rico, and the U.S. Virgin Islands appoint ULC commissioners to research, draft, and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical.²⁹ The ULC aims to strengthen the federal system by providing rules and procedures that are consistent from state to state.³⁰

Uniform Certificate of Title for Vessels Act

The Uniform Certificate of Title for Vessels Act (UCOTVA) was drafted by the ULC in 2011.³¹ The principal objectives of the UCOTVA are to:

- Qualify as a state titling law that the Coast Guard will approve;
- Facilitate transfers of ownership of a vessel;
- Deter and impede the theft of vessels by making information about the ownership of vessels available to both government officials and those interested in acquiring an interest in a vessel;
- Accommodate existing financing arrangements for vessels;
- Work seamlessly with the Uniform Commercial Code;
- Manage, to the extent possible, the complications that can arise from a vessel's transition in or out of federal documentation;
- Provide clear rules on the consequences of compliance or noncompliance;
- Impose minimal or no new burdens or costs on state titling offices; and
- Protect buyers and others acquiring an interest in an undocumented vessel by requiring that the title for the vessel be branded if a casualty or sinking has caused significant damage to the vessel's hull integrity.

The UCOTVA has been enacted in Virginia (2013), Connecticut (2014), Washington D.C. (2015), and Hawaii (2018).³²

²⁶ Section 328.15(8), F.S.

²⁷ Section 328.15(11), F.S.

²⁸ Uniform Law Commission, *About Us*, available at <http://www.uniformlaws.org/aboutulc/overview> (last viewed March 17, 2019).

²⁹ *Id.*

³⁰ *Id.*

³¹ See National Conference of Commissioner on Uniform State Laws, *Uniform Certificate of Title for Vessels Act*, at p. 6, available at http://www.lawrev.state.nj.us/UCOTVA/UCOTVA_FinalAct_2011.pdf (last viewed March 17, 2019).

³² See Uniform Law Commission, *Certificate of Title for Vessels Act*, table entitled "Legislation," available at <https://www.uniformlaws.org/committees/community-home?CommunityKey=61fb3255-092e-4e91-982b-6fa1ae66fd82> (last viewed March 17, 2019).

Effect of Proposed Changes

Short Title

Section 1 of the bill creates s. 328.001, F.S., providing the short title for Part I of Chapter 328, F.S., the “Uniform Certificate of Title for Vessels Act.”

Definitions

Section 2 creates s. 328.0015, F.S., to establish definitions for numerous terms. Specifically, the bill creates the following definitions of terms:

The bill creates s. 328.0015, F.S., providing the following definitions:

- "Barge" means a vessel that is not self-propelled or fitted for propulsion by sail, paddle, oar, or similar device.
- "Builder's certificate" means a certificate of the facts of the build of a vessel described in 46 C.F.R. s. 67.99.
- "Buyer" means a person who buys or contracts to buy a vessel.
- "Cancel," with respect to a certificate of title, means to make the certificate ineffective.
- "Certificate of origin" means a record created by a manufacturer or importer as the manufacturer's or importer's proof of identity of a vessel. The term includes a manufacturer's certificate or statement of origin and an importer's certificate or statement of origin. The term does not include a builder's certificate.
- "Certificate of title" means a record, created by the department or by a governmental agency of another jurisdiction under the law of that jurisdiction that is designated as a certificate of title by the department or agency and is evidence of ownership of a vessel.
- "Dealer" means a person, including a manufacturer, in the business of selling vessels.
- "Department" means the Department of Highway Safety and Motor Vehicles.
- "Documented vessel" means a vessel covered by a certificate of documentation issued pursuant to 46 U.S.C. s. 12105. The term does not include a foreign-documented vessel.
- "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- "Electronic certificate of title" means a certificate of title consisting of information that is stored solely in an electronic medium and is retrievable in perceivable form.
- "Foreign-documented vessel" means a vessel of which the ownership is recorded in a registry maintained by a country other than the United States which identifies each person who has an ownership interest in a vessel and includes a unique alphanumeric designation for the vessel.
- "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.
- "Hull damaged" means compromised with respect to the integrity of a vessel's hull by a collision, allision, lightning strike, fire, explosion, running aground, or similar occurrence, or the sinking of a vessel in a manner that creates a significant risk to the integrity of the vessel's hull.
- "Hull identification number" means the alphanumeric designation assigned to a vessel pursuant to 33 C.F.R. part 181.

- "Lien creditor," with respect to a vessel, means:
 - A creditor that has acquired a lien on the vessel by attachment, levy, or the like;
 - An assignee for benefit of creditors from the time of assignment;
 - A trustee in bankruptcy from the date of the filing of the petition; or
 - A receiver in equity from the time of appointment.
- "Owner" means a person who has legal title to a vessel.
- "Owner of record" means the owner indicated in the files of the department or, if the files indicate more than one owner, the one first indicated.
- "Person" means an individual, corporation, business trust, estate, trust, statutory trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- "Purchase" means to take by sale, lease, mortgage, pledge, consensual lien, security interest, gift, or any other voluntary transaction that creates an interest in a vessel.
- "Purchaser" means a person who takes by purchase.
- "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- "Secured party," with respect to a vessel, means a person:
 - In whose favor a security interest is created or provided for under a security agreement, regardless of whether any obligation to be secured is outstanding;
 - Who is a consignor as defined under chapter 679, F.S.; or
 - Who holds a security interest arising under s. 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5), F.S.
- "Secured party of record" means the secured party whose name is indicated as the name of the secured party in the files of the department or, if the files indicate more than one secured party, the one first indicated.
- "Security interest" means an interest in a vessel which secures payment or performance of an obligation if the interest is created by contract or arises under s. 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5), F.S. The term includes any interest of a consignor in a vessel in a transaction that is subject to chapter 679, F.S. The term does not include the special property interest of a buyer of a vessel on identification of that vessel to a contract for sale under s. 672.501, F.S., but a buyer also may acquire a security interest by complying with chapter 679. Except as otherwise provided in s. 672.505, F.S., the right of a seller or lessor of a vessel under chapter 672 or chapter 680, F.S., to retain or acquire possession of the vessel is not a security interest, but a seller or lessor also may acquire a security interest by complying with chapter 679, F.S.. The retention or reservation of title by a seller of a vessel, notwithstanding shipment or delivery to the buyer under s. 672.401, F.S., is limited in effect to a reservation of a security interest. Whether a transaction in the form of a lease creates a security interest is determined as provided in part II of chapter 671, F.S.
- "Sign" means, with present intent to authenticate or adopt a record, to:
 - Make or adopt a tangible symbol; or
 - Attach to or logically associate with the record an electronic symbol, sound, or process.
- "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

- "State of principal use" means the state on the waters of which a vessel is or will be used, operated, navigated, or employed more than on the waters of any other state during a calendar year.
- "Title brand" means a designation of previous damage, use, or condition that must be indicated on a certificate of title.
- "Transfer of ownership" means a voluntary or involuntary conveyance of an interest in a vessel.
- "Vessel" means a watercraft used or capable of being used as a means of transportation on water, except:
 - A seaplane;
 - An amphibious vehicle for which a certificate of title is issued pursuant to chapter 319, F.S. or a similar statute of another state;
 - Watercraft less than 16 feet in length and propelled solely by sail, paddle, oar, or an engine of less than 10 horsepower;
 - Watercraft that operate only on a permanently fixed, manufactured course and the movement of which is restricted to or guided by means of a mechanical device to which the watercraft is attached or by which the watercraft is controlled;
 - A stationary floating structure that:
 - Does not have and is not designed to have a mode of propulsion of its own;
 - Is dependent for utilities upon a continuous utility hookup to a source originating on shore; and
 - Has a permanent, continuous hookup to a shoreside sewage system.
 - Watercraft owned by the United States, a state, or a foreign government, or a political subdivision of either; and
 - Watercraft used solely as a lifeboat on another watercraft.
- "Vessel number" means the alphanumeric designation for a vessel issued pursuant to 46 U.S.C. s. 12301.
- "Written certificate of title" means a certificate of title consisting of information inscribed on a tangible medium.

The bill also incorporates by reference numerous terms currently defined elsewhere in Florida law.

Application for Certificate of Title

Section 3 amends s. 328.01, F.S., providing that with certain newly created and amended statutory exceptions (discussed below), only an owner (a person who has legal title to a vessel) may apply for a certificate of title.

The bill also requires additional information on the application for a certificate of title. The bill requires that an application for certificate of title must be signed by the applicant and contain:

- The applicant's name, the street address of the applicant's principal residence, and, if different, the applicant's mailing address;
- The name and mailing address of each other owner of the vessel;
- The hull identification number for the vessel or, if none, an application for the issuance of a hull identification number for the vessel;

- The vessel number for the vessel or, if none issued by DHSMV, an application for a vessel number;
- A description of the vessel, which must include:
 - The official number for the vessel, if any, assigned by the United States Coast Guard;
 - The name of the manufacturer, builder, or maker;
 - The model year or the year in which the manufacture or build of the vessel was completed;
 - The overall length of the vessel;
 - The vessel type;
 - The hull material;
 - The propulsion type;
 - The engine drive type, if any; and
 - The fuel type, if any;
- An indication of all security interests in the vessel known to the applicant and the name and mailing address of each secured party;
- A statement that the vessel is not a documented vessel or a foreign-documented vessel;
- Any title brand known to the applicant and, if known, the jurisdiction under whose law the title brand was created;
- If the applicant knows that the vessel is hull damaged, a statement that the vessel is hull damaged;
- If the application is made in connection with a transfer of ownership, the transferor's name, the street address of the transferor's principal residence and, if different, mailing address, the sales price if any, and the date of the transfer; and
- If the vessel was previously registered or titled in another jurisdiction, a statement identifying each jurisdiction known to the applicant in which the vessel was registered or titled.

Additionally, the bill amends s. 328.01, F.S., authorizing an application for a certificate of title to contain an electronic address for the owner, transferor, or secured party. The application for certificate of title must be accompanied by:

- A certificate of title signed by the owner shown on the certificate and that:
 - Identifies the applicant as the owner of the vessel; or
 - Is accompanied by a record that identifies the applicant as the owner; or
- If there is no certificate of title:
 - If the vessel was a documented vessel, a record issued by the United States Coast Guard which shows the vessel is no longer a documented vessel and identifies the applicant as the owner;
 - If the vessel was a foreign-documented vessel, a record issued by the foreign country which shows the vessel is no longer a foreign-documented vessel and identifies the applicant as the owner; or
 - In all other cases, a certificate of origin, bill of sale, or other record that to the satisfaction of the DHSMV identifies the applicant as the owner.

Lastly, the bill amends s. 328.01, F.S., requiring the DHSMV to maintain any records submitted in connection with an application, and authorizing the DHSMV to require an application for a certificate of title to be accompanied by payment of all fees and taxes by the applicant.

DHSMV Records

Section 4 creates s. 328.015, F.S. requiring the DHSMV to retain the evidence used to establish the accuracy of the information in its files relating to the current ownership of a vessel and the information on the certificate of title. The DHSMV must retain all information regarding a security interest in a vessel for at least 10 years after the DHSMV receives a termination statement regarding the security interest. The information must be accessible by the hull identification number for the vessel.

A person who submits a record to the DHSMV may request an acknowledgement of the filing by the DHSMV. The DHSMV must send the person an acknowledgment showing the hull identification number, the information in the filed record, and the date and time the record was received by or the submission was accepted by the DHSMV. The DHSMV must send the following information to any person who requests it and pays a \$1 fee:³³

- Whether the DHSMV's files indicate, as of the a date specified by the DHSMV but no earlier than three days before the request is received, a copy of any certificate of title, security interest, termination statement, or title brand that relates to a vessel;
 - Identified by a hull identification number designated in the request;
 - Identified by a vessel number designated in the request; or
 - Owned by a person designated in the request.
- With respect to the vessel:
 - The name and address of any owner and the secured party as indicated in the DHSMV's files;
 - A copy of any termination statement indicated in the DHSMV's files and the statement's effective date; and
 - A copy of any certificate of origin, secured party transfer statement, transfer-by-law statement, and other evidence of previous or current transfers of ownership.

The DHSMV must, upon request, send the requested information in a record that is self-authenticating.

Governing Vessel Law

Section 5 creates s. 328.02, F.S., providing that the local law of the jurisdiction under whose certificate of title a vessel is covered governs all issues relating to the certificate from the time the vessel becomes covered by the certificate until the vessel becomes covered by another certificate, or becomes a documented vessel, even if no relationship exists between the jurisdiction and the vessel or its owner. A vessel becomes covered when an application and the applicable fee are delivered to the DHSMV or to the governmental agency that creates a certificate in another jurisdiction.

³³ Section 320.05(3)(b)2., F.S.

Certificate of Title Required

Section 6 amends s. 328.03, F.S., requiring a vessel owner to deliver an application and fee for certificate of title for the vessel, not later than 20 days from the date of ownership or the date Florida becomes the state of principal use.

The bill creates new exceptions for titling vessels in Florida, providing that an application for a certificate is not required for:

- A documented vessel;
- A foreign-documented vessel;
- A barge;
- A vessel before delivery if the vessel is under construction or completed pursuant to contract;
- A vessel held by a dealer for sale or lease; and
- A vessel used solely for demonstration, testing, or sales promotional purposes by the manufacturer or dealer.

The bill also deletes the following current exceptions:

- A non-motor-powered vessel less than 16 feet in length;
- A federally documented vessel;
- An amphibious vessel for which a vehicle title is issued by DHSMV;
- A vessel used solely for demonstration, testing, or sales promotional purposes by the manufacturer or dealer; and
- A vessel owned and operated by the state.

Additionally, the bill provides requirements for issuing, transferring, or renewing a certificate of number of an undocumented vessel issued under federal law.

The bill deletes the provisions providing that a vessel may be operated, used, or stored for up to 180 days after the date of application for a certificate of title while the application is pending. The bill also deletes the provisions providing that when selling, assigning, or transferring a titled vessel, the seller must deliver a valid certificate of title to the purchaser. The bill amends the provision requiring the purchaser to file an application for title transfer within 30 days and changes it to 20 days.

Lastly, the bill specifies that a certificate of title is not only prima facie evidence of the ownership of the vessel, but also of the accuracy of the information in the record that constitutes the certificate.

Certificate of Title Content

Section 7 creates s. 328.04, F.S., providing requirements for the content of a certificate of title. A certificate must contain:

- The date the certificate was created;
- The name of the owner of record and, if not all owners are listed, an indication that there are additional owners indicated in the DHSMV's files;
- The mailing address of the owner of record;

- The hull identification number;
- A description of the vessel as required in s. 328.01(2)(e);
- The name and mailing address of the secured party of record; and
- All title brands indicated in the DHSMV's files.

Each title brand indicated on a certificate of title must identify the jurisdiction under whose law the title brand was created. If the vessel was previously registered or titled in a foreign country, the DHSMV must indicate such fact on the certificate of title. The written certificate of title must contain a form, signed under penalty of perjury that all owners consent to a transfer of an ownership interest to another person. The written certificate of title must also contain a form for the owner of record to indicate that the vessel is hull damaged.

Title Brands for Hull-Damaged Vehicles

Section 8 creates s. 328.045, F.S., providing responsibilities of an owner and insurer of a hull-damaged vessel. If damage occurred to a vessel while the owner was the owner of the vessel and the owner has notice of the damage at the time of the transfer, the owner must:

- Deliver to the DHSMV an application for a new certificate and include the title brand designation "Hull Damaged"; or
- Indicate on the certificate that the vessel is hull damaged and deliver the certificate to the transferee.

Before an insurer transfers an ownership interest in a hull-damaged vessel that is covered by a certificate of title created by the DHSMV, the insurer must deliver an application to the DHSMV and include the title brand "Hull Damaged." Once the DHSMV receives the above information, the DHSMV has 20 days to create a new certificate that indicates that the vessel is branded "Hull Damaged." An owner or insurer who fails to comply with the above disclosures is subject to a civil penalty of \$1,000.

Maintenance and Access to Vessel Title Files

Section 9 creates s. 328.055, F.S., requiring the DHSMV to maintain the information contained in all certificates of title and the information submitted with the application. Specifically, the DHSMV must:

- Ascertain or assign the hull identification number for the vessel;
- Maintain the hull identification number and all the information submitted with the application pursuant to which the record relates, including the date and time the record was delivered to the DHSMV;
- Maintain the files for public inspection; and
- Index the files of the DHSMV by hull identification number, vessel number, and name of the owner of record, and any other method used by the DHSMV.

Additionally, the DHSMV must also maintain in its files for each vessel, all title brands, the name of each secured party known to the DHSMV, the name of each person known to DHSMV to be claiming an ownership interest in the vessel, and all stolen property reports the DHSMV has received. The DHSMV is required to release the information in its files to federal, state, or

local governments, and the information provided on the certificate of title is subject to public record.

Creation of Title

Section 10 creates s. 328.06, F.S., providing responsibilities of the DHSMV when creating a certificate of title. On creation of a written or electronic certificate of title, the DHSMV must promptly send the certificate or record evidencing the certificate to the secured party or owner of record. If the DHSMV creates a written certificate of title, any electronic certificate of title for the vessel is canceled and replaced by the written certificate.

Before the DHSMV creates an electronic certificate of title, any written certificate must be surrendered to the department. If the DHSMV creates an electronic certificate, the DHSMV must destroy the written certificate. The DHSMV must maintain in its files the date and time of destruction.

Effect of Possession of Title

Section 11 creates s. 328.065, F.S., specifying that possession of a certificate of title does not by itself provide a right to obtain possession of a vessel, but nothing prohibits enforcement of a security interest in, levy on, or foreclosure of a statutory or common-law lien on a vessel. Absence of an indication of such a lien on a certificate does not invalidate the lien.

Duties Relating to Refusal to Issue/Authority to Cancel a Certificate of Title or Registration

Section 12 substantially amends s. 328.09, F.S., providing the DHSMV with duties relating to creation, issuance, refusal to issue, or cancellation of a certificate of title. Unless an application for a certificate of title is rejected, the DHSMV must create a certificate for the vessel not later than 20 days after delivery of the application to the DHSMV. The DHSMV must create an electronic certificate of title unless the owner requests a written certificate.

The DHSMV may reject an application for a certificate of title only if:

- The application is not in compliance;
- The application does not contain sufficient documentation for the DHSMV to determine whether the applicant is entitled to a certificate;
- There is a reasonable basis for concluding that the application is fraudulent or issuance of a certificate would facilitate a fraudulent or illegal act; or
- The application does not comply with the laws of this state.

The DHSMV must reject an application for a certificate of title for a vessel that is a documented vessel or a foreign-documented vessel. The DHSMV may cancel a created certificate of title only if the DHSMV:

- Could have rejected the application for the certificate;
- Is required to cancel the certificate under another provision of this part; or
- Receives satisfactory evidence that the vessel is a documented vessel or a foreign-documented vessel.

Lastly, the bill provides for the opportunity for a hearing during which the owner may present evidence in support of or opposition to cancellation of a certificate of title.

Effect of Missing or Incorrect Information

Section 13 creates s. 328.101, F.S., specifying that a certificate of title is effective even if it contains incorrect information or does not contain required information.

Duplicate Certificates of Title

Section 14 creates s. 328.11, F.S., providing additional requirements for obtaining a duplicate certificate of title. In addition to a certificate of title being lost, destroyed, or mutilated, if a certificate is stolen, the owner of record may apply for and, by furnishing information satisfactory to the DHSMV, obtain a duplicate certificate in the name of the owner of record.

An applicant for a duplicate certificate of title must sign the application and comply with all requirements for title application. The application must include the existing certificate unless the certificate is lost, stolen, mutilated, destroyed, or otherwise unavailable.

The bill provides that a duplicate certificate of title created by the DHSMV must comply with all the requirements for the contents of a certificate of title. The duplicate certificate of title must state that it is a “duplicate.” If a person receiving a duplicate certificate of title finds the original certificate, the person must destroy the original certificate.

Lastly, the bill removes the provision allowing an applicant for duplicate certificate of title to apply for reissuance of the certificate if the applicant has not received the duplicate title from the DHSMV within 180 days after the date of issuance of the certificate.

Perfection of Security Interests

Section 15 creates s. 328.12, F.S., providing requirements for the determination and perfection of a security interest in a vessel. A security interest in a vessel can be perfected only by delivery of an application for a certificate of title to the DHSMV that identifies the secured party and otherwise complies with all title application requirements. An application identifies a person as a secured party if a person named as an owner, lessor, consignor, or bailor in an application for a certificate of title is a security interest.

The bill provides that if the DHSMV has created a certificate of title for a vessel, a security interest in the vessel may be perfected by delivery to the DHSMV of an application to have the security interest added to the certificate. The application must be signed by an owner of the vessel or by the secured party and must include:

- The name of the owner of record;
- The name and mailing address of the secured party;
- The hull identification number for the vessel; and
- If DHSMV has created a written certificate of title for the vessel, the certificate.

On delivery of an application and payment of fees, the DHSMV must create a new certificate of title and deliver the new certificate or a record evidencing an electronic certificate. The DHSMV must maintain in its files the date and time of delivery of the application.

If a secured party assigns a perfected security interest in a vessel, the receipt by the DHSMV of a statement providing the name of the assignee as secured party is not required to continue the perfected status of the security interest. A purchaser of a vessel subject to a security interest who obtains a release from the secured party takes free of the security interest and of the rights of a transferee, unless the transfer is indicated in the files the DHSMV's files or on the certificate. This section of the bill expressly does not apply to a security interest:

- Created in a vessel by a person during any period in which the vessel is inventory held for sale or lease by the person or is leased by the person as lessor if the person is in the business of selling vessels;
- In a barge for which no application for a certificate of title has been delivered to the DHSMV; or
- In a vessel before delivery if the vessel is under construction, or completed, pursuant to a contract and for which no application for a certificate has been delivered to the DHSMV.

However, the new section does apply if a certificate of documentation for a documented vessel is deleted or canceled.

The bill also contains provisions specifying when perfected security interests attach, depending on the law under which the security interest arises.

Lastly, the bill authorizes DHSMV to adopt rules to administer the new section of law created by the bill.

Termination Statements

Section 16 creates s. 328.125, F.S., providing requirements for the delivery of a statement of the termination of a security interest. A secured party must deliver a termination statement to the DHSMV and, on the debtor's request, to the debtor, by the earlier of:

- Twenty days after the secured party receives a signed demand from an owner for a termination statement if there is no obligation secured by the vessel and no commitment to make an advance, incur an obligation, or otherwise give value secured by the vessel; or
- If the vessel is consumer goods, 30 days after there is no obligation secured by the vessel under the same conditions.

If a written certificate of title has been created and delivered to a secured party and a termination statement is required, the secured party must deliver the certificate to the debtor or to the DHSMV with the statement.

The bill provides that on delivery to the DHSMV of a termination statement authorized by the secured party, the security interest to which the statement relates ceases to be perfected. If the security interest to which the statement relates is indicated on the certificate of title, the DHSMV must create and deliver a new certificate. Additionally, the DHSMV must maintain in its files the date and time of delivery of the statement to the DHSMV.

Lastly, the bill provides that a secured party that fails to comply with the new section of law is liable for any loss that the secured party had reason to know might result from its lack of compliance.

Rights of a Purchaser Other Than Secured Party

Section 17, creates s. 328.14, F.S., providing for the rights of a purchaser of a vessel who is not a secured party. A buyer in the ordinary course of business is afforded protection under state law even if an existing certificate of title was not signed and delivered to the buyer or a new certificate listing the buyer as owner of record was not created.

Rights of Secured Party

Section 18 creates s. 328.145, F.S., providing for the rights of a secured party. If, a security interest in a vessel is perfected and the DHSMV creates a certificate of title that does not indicate that the vessel is subject to the security interest:

- A buyer of the vessel takes free of the security interest if the buyer, without knowledge of the security interest, pays for and receives possession of the vessel; and
- The security interest is subordinate to a conflicting security interest in the vessel that is perfected after creation of the certificate and without the conflicting secured party's knowledge of the security interest.

Notice of Vessel Lien

Section 19 amends s. 328.15, F.S., to repeal provisions replaced by the bill, including the following:

- Requirements relating to enforceable liens and the content of lien certificates;
- Direction to the DHSMV regarding entry of a lien in its records;
- Provisions specifying the result of vessel registration in the names of two or more persons as co-owners using the conjunctives “or” and “and.”
- The process for second or subsequent liens placed on a vessel by the owner or by the state child support enforcement program.
- Repeal of the \$1 fee to the DHSMV to recording each notice of lien.

The bill sunsets the following provisions of s. 328.15, F.S., on October 1, 2022, at which time the expired provisions in this section are replaced by those in the bill:

- Authorization of a debtor or registered owner to demand and receive a satisfaction of lien.
- Provisions allowing the DHSMV to adopt rules permitting the use of other methods of lien satisfaction, such as a stamp.
- Assessment of liability for costs and attorney fees for failure to furnish a debtor or registered owner of a vessel a satisfaction of lien and related provisions governing satisfaction of liens.
- Authorization for duplicate certificates of title.
- Penalties for failure to return a certificate of title after demand by the DHSMV or for failure to forward satisfactions of lien after such demand.

- The requirement that the DHSMV use the last known address of record when sending any required notice.
- Provisions for substitution of an original lienholder's name on the certificate of title by an assignee.

Applications for Transfer of Ownership or Termination of Security Interest

Section 22 creates s. 328.215, F.S., specifying circumstances by which the DHSMV may create a new certificate of title after the receipt of an application for a transfer of ownership or termination of a security interest, without the applicant providing a certificate of title. If the DHSMV receives an application for a new certificate of title unaccompanied by a signed certificate of title, the DHSMV may create a new certificate of title if:

- The requirements for application for and information to be included in a certificate of title as well as the requirements for fraud prevention are met;
- The applicant provides an affidavit stating facts showing the applicant is entitled to a transfer of ownership or termination statement;
- The applicant provides the DHSMV with evidence that proper notification of the application has been sent to the owner of record; and
- The applicant submits any other information required by the DHSMV as evidence of the applicant's ownership or right to terminate the security interest, and the DHSMV has no credible information indicating theft, fraud, or an undisclosed or unsatisfied security interest, lien, or other claim to an interest in the vessel.

The DHSMV may indicate in the certificate of title that the certificate was created without submission of a signed certificate or termination statement. If after one year, the DHSMV has not received any credible information indicating theft, fraud, unsatisfied security interest, or lien on the vessel, the DHSMV must remove the indication from the certificate if requested by the applicant.

The bill authorizes DHSMV to require a bond, indemnity, or other security for a vessel title that has a transfer of ownership or security interest and is titled without a signed certificate of title. Unless the value of a vessel is less than \$5,000, DHSMV may require the applicant to post a bond or provide an equal source of indemnity or security (not to exceed twice the value of the vessel). Unless DHSMV receives a claim for indemnity within one year after creation of the certificate of title, DHSMV must release any bond, indemnity, or other security at the request of the applicant.

Transfer of Ownership

Section 23 creates s. 328.22, F.S., providing rules for the transfer of ownership in a vessel. On a voluntary transfer of vessel title ownership, the following rules apply:

- If the transferor's interest is noted on the paper certificate, the transferor must promptly sign the certificate and deliver it to the transferee. If the transferor does not have possession of the certificate, the person in possession of the certificate has a duty to facilitate the transfer.
- If the certificate of title is an electronic certificate, the transferor must promptly sign and deliver to the transferee a record evidencing the transfer of ownership to the transferee.

- The transferee has a right to enforce, by specific performance, the transfer of the certificate of title from the transferor.

Failure to comply with the above rules does not render the transfer of ownership of a vessel ineffective between the parties; however, the transfer may not be effective against another person claiming an interest in the vessel. A transferor who complies with the above rules is not liable as owner of the vessel for an event occurring after the transfer.

Transfer of Ownership by Secured Party

Section 24 creates s. 328.23, F.S., providing a definition for “secured party’s transfer statement.” “Secured party’s transfer statement” means a record signed by the secured party of record stating:

- That there has been a default on an obligation secured by the vessel;
- That the secured party of record is exercising or has exercised post-default remedies with respect to the vessel;
- That by reason of the exercise, the secured party of record has the right to transfer the ownership interest of an owner, and the name of the owner;
- The name and last known mailing address of the owner of record and the secured party of record;
- The name of the transferee;
- Other information required in the application for certificate of title; and
- One of the following:
 - The certificate of title is an electronic certificate.
 - The secured party does not have possession of the written certificate of title created in the name of the owner of record.
 - The secured party is delivering the written certificate of title to DHSMV with the secured party's transfer statement.

Additionally, the bill provides DHSMV’s duties upon receipt of a secured party’s transfer statement. Unless DHSMV has cause to reject a secured party’s transfer statement, the department must:

- Accept the statement;
- Amend its files to reflect the transfer; and
- If the name of the owner whose interest is being transferred is indicated on the certificate:
 - Cancel the certificate even if the certificate has not been delivered to DHSMV;
 - Create a new certificate indicating the transferee as owner; and
 - Deliver the new certificate or a record evidencing an electronic certificate.

The secured party is still held to the duties under the Uniform Commercial Code for secured transactions.

Transfer by Operation of Law

Section 25 creates s. 328.24, F.S., providing a definition for “by operation of law”. “By operation of law” means pursuant to a law or judicial order affecting ownership of a vessel:

- Because of death, divorce, or other family law proceeding, merger, consolidation, dissolution, or bankruptcy;
- Through the exercise of the rights of a lien creditor or a person having a lien created by statute or rule of law; or
- Through other legal process.

The bill provides the requirements for a transfer of ownership by operation of law. A transfer-by-law statement must contain:

- The name and last known mailing address of the owner of record and the transferee, and the other information required for application of title;
- Documentation sufficient to establish the transferee's ownership interest or right to acquire the ownership interest;
- A statement that:
 - The certificate of title is an electronic certificate of title;
 - The transferee does not have possession of the written certificate of title created in the name of the owner of record; or
 - The transferee is delivering the written certificate to the department with the transfer-by-law statement; and
- Except for a transfer due to death, divorce, family law proceeding, merger, consolidation, dissolution, or bankruptcy, evidence that notification of the transfer and the intent to file the transfer-by-law statement has been sent to all persons indicated in the DHSMV's files as having an interest, including a security interest, in the vessel.

Unless the DHSMV has cause to reject the transfer, the department must:

- Accept the statement;
- Amend its files to reflect the transfer; and
- If the name of the owner whose interest is being transferred is indicated on the certificate:
 - Cancel the certificate even if the certificate has not been delivered to the DHSMV;
 - Create a new certificate indicating the transferee as owner;
 - Indicate on the new certificate any security interest indicated on the canceled certificate, unless a court order provides otherwise; and
 - Deliver the new certificate or a record evidencing an electronic certificate.

This new section of law does not apply to defaults under the Uniform Commercial Code.

Supplemental Principles of Law and Equity

Section 26 creates s. 328.25, F.S., provides that the principles of law and equity supplement the provisions of the bill.

“Grandfather” Provisions

Sections 30 creates an undesignated section of law providing that the rights, duties, and interests flowing from a transaction, certificate of title, or record relating to a vessel which was validly entered into or created before October 1, 2019, remains valid.

The bill does not affect an action or proceeding commenced before October 1, 2019.

A security interest that is enforceable immediately before October 1, 2019, that would have priority over the rights of a lien creditor at that time, is deemed a perfected security interest. A security interest perfected immediately before the same date remains perfected until the earlier of:

- The time perfection would have ceased under the law under which the security interest was perfected; or
- October 1, 2022.

The bill does not affect the priority of a security interest in a vessel if immediately before October 1, 2019, the security interest is enforceable and perfected, and that priority is established.

Retroactive Application

Section 31 creates an undesignated section of law, subject to the provisions relating to transfer of ownership by law described above, applying the bill to any transaction, certificate of title, or record relating to a vessel, even if the transaction, certificate, or record was entered into or created before October 1, 2019.

Technical Revisions

Sections 20, 21, 27, 28, and 29 of the bill amend ss. 328.16, 328.165, 409.2575, 705.103, and 721.08, F.S., conforming provisions and cross-references to changes made by the bill.

Effective Date

Section 30 requires the bill take effect October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Section 8 of the bill requires, at or before the time an owner of record transfers an ownership interest in a hull-damaged vessel covered by a certificate of title created by the DHSMV, if the damage occurred while that person was an owner and the person has notice of the damage at the time of the transfer, the owner shall either apply to the DHSMV for a new certificate that includes the title brand, “Hull Damaged,” or indicate on the certificate that the vessel is hull damaged. Additionally, before an insurer transfers an ownership in a hull-damaged vessel covered by a certificate of title created by the DHSMV, the insurer must apply for a new certificate that includes the title brand. The existing fee for issuance of each vessel certificate of title is \$5.25, of which \$3.75 is retained by the tax collector.³⁴ However, the requirement to obtain a new certificate as described above is a new requirement that imposes a fee previously not required. These revisions may be subject to Amendment 5 to the Florida Constitution adopted by voters in November of 2018, prohibiting the Legislature from imposing, authorizing, or raising a state tax or fee except through legislative approval by a two-thirds vote of each house of the Legislature containing no other subject. The bill may require a supermajority vote.

The tax collector offices could see an increase in vessel certificate of title applications and application fees.

B. Private Sector Impact:

The bill may improve the integrity of the vessel titling process by requiring a more detailed description of the vessel on the title and requiring the DHSMV to maintain the information contained in certificates of title and title applications.

C. Government Sector Impact:

Indeterminate. The bill requires the DHSMV to implement extensive changes to vessel titling procedures. The DHSMV has indicated that the bill will likely require additional resources and could negatively impact the delivery of the on-going Motorist Modernization initiative.³⁵

VI. Technical Deficiencies:

None.

³⁴ However, if the vessel was previously registered outside the state, the DHSMV is directed to charge an additional fee of \$4. Section 328.03(6) and (7), F.S.

³⁵ See email from DHSMV staff dated March 18, 2019. (On file in the Senate Infrastructure and Security Committee.)

VII. Related Issues:

Section 19 of the bill amends s. 328.15, F.S., deleting current subsections (1), (2), and (6) and re-designating the remaining subsections. A new subsection (9) included in the revisions to s. 328.15, F.S., provides that re-designated subsections (1), (2), and (4)-(8) expire on October 1, 2019.

Current s. 328.15(2), F.S., contains the procedure for obtaining a certificate of title for a vessel that reflects a child support lien filed by the Department of Revenue Child Support Program. Thus, no procedure for obtaining a certificate of title for a vessel that reflects a child support lien filed by the Child Support Program would exist after the effective date of the bill, as no alternative procedure is provided for in the bill.

The Department of Revenue notes that “It is unclear how the cross-reference or amended s. 328.15 applies to the Child Support Program’s authority to petition the circuit court for an order enforcing the requirements of s. 328.15. It is also unclear what if any procedure is available to the [DOR] to have a support lien reflected on a new or amended certificate of title.”³⁶

The DOR advises that under Title IV-D of the Social Security Act, which authorizes federal assistance for state child support enforcement programs, states must have a state plan that sets out and implements a procedure for filing liens against personal property to collect unpaid child support.³⁷ Should this procedure be repealed, the state’s plan would be out of compliance, which could ultimately lead to a significant loss of federal funding.³⁸

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 328.01, 328.03, 328.09, 328.11, 328.15, 328.16, 328.165, 409.2575, 705.103, and 721.08.

This bill creates the following sections of the Florida Statutes: 328.001, 328.0015, 328.015, 328.02, 328.04, 328.045, 328.055, 328.06, 328.065, 328.09, 328.101, 328.12, 328.125, 328.14, 328.145, 328.215, 328.22, 328.23, 328.24, and 328.25.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

³⁶ See the DOR 2019 Agency Legislative Bill Analysis of identical language contained in CS/HB 475. (On file in the Senate Infrastructure and Security Committee.)

³⁷ See 42 U.S.C. s. 666(a)(4) and 42 U.S.C. 666(c)(1)(G)(iv).

³⁸ Conversation with DOR staff, March 18, 2019.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Infrastructure and Security (Hooper)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

328.001 Short title.—This part may be cited as the “Uniform
Certificate of Title for Vessels Act.”

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



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328.0015 Definitions.—

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

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

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

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

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

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

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

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

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

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

(j) "Electronic" means relating to technology having



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electrical, digital, magnetic, wireless, optical,
electromagnetic, or similar capabilities.

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

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

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

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

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

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

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

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

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

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

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

(r) "Owner of record" means the owner indicated in the



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files of the department or, if the files indicate more than one owner, the one first indicated.

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

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

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

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

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

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

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

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

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

(y) "Security interest" means an interest in a vessel which secures payment or performance of an obligation if the interest



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is created by contract or arises under s. 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5). The term includes any interest of a consignor in a vessel in a transaction that is subject to chapter 679. The term does not include the special property interest of a buyer of a vessel on identification of that vessel to a contract for sale under s. 672.501, but a buyer also may acquire a security interest by complying with chapter 679. Except as otherwise provided in s. 672.505, the right of a seller or lessor of a vessel under chapter 672 or chapter 680 to retain or acquire possession of the vessel is not a security interest, but a seller or lessor also may acquire a security interest by complying with chapter 679. The retention or reservation of title by a seller of a vessel notwithstanding shipment or delivery to the buyer under s. 672.401 is limited in effect to a reservation of a security interest. Whether a transaction in the form of a lease creates a security interest is determined as provided in part II of chapter 671.

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

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

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

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



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calendar year.

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

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

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

1. A seaplane;

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

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

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

5. A stationary floating structure that:

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

328.01 Application for certificate of title.—

~~(1)(a)~~ The owner of a vessel which is required to be titled shall apply to the county tax collector for a certificate of



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185 title. Except as otherwise provided in ss. 328.045, 328.11,
186 328.12, 328.215, 328.23, and 328.24, only an owner may apply for
187 a certificate of title.

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

190 (a) The applicant's name, the street address of the
191 applicant's principal residence, and, if different, the
192 applicant's mailing address;

193 (b) The name and mailing address of each other owner of the
194 vessel;

195 (c) The hull identification number for the vessel or, if
196 none, an application for the issuance of a hull identification
197 number for the vessel;

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

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

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

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

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

207 4. The overall length of the vessel;

208 5. The vessel type;

209 6. The hull material;

210 7. The propulsion type;

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

212 9. The fuel type, if any;

213 (f) An indication of all security interests in the vessel



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known to the applicant and the name and mailing address of each
secured party;

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

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

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

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

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

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

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

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

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

(b) If there is no certificate of title:

1. If the vessel was a documented vessel, a record issued



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by the United States Coast Guard which shows the vessel is no longer a documented vessel and identifies the applicant as the owner;

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

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

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

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

(7) (a) The application shall be signed by the owner and shall be accompanied by personal or business identification and the prescribed fee. An individual applicant must provide a valid driver license or identification card issued by this state or another state or a valid passport. A business applicant must



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provide a federal employer identification number, if applicable, verification that the business is authorized to conduct business in the state, or a Florida city or county business license or number.

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

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

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

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

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

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



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

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

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

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

~~(f) In making application for the titling of a vessel previously documented by the Federal Government, the current owner shall establish proof of ownership by submitting with the~~



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~~application a copy of the canceled documentation papers or a properly executed release from documentation certificate provided by the United States Coast Guard. In the event such documentation papers or certification are in the name of a person other than the current owner, the current owner shall provide the original copy of all subsequently executed bills of sale applicable to the vessel.~~

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

~~(b) If the application for transfer of title is based upon a contractual default, the recorded lienholder shall establish proof of right to ownership by submitting with the application the original certificate of title and a copy of the applicable contract upon which the claim of ownership is made. If the claim is based upon a court order or judgment, a copy of such document shall accompany the application for transfer of title. If, on the basis of departmental records, there appears to be any other lien on the vessel, the certificate of title must contain a~~



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~~statement of such a lien, unless the application for a
certificate of title is either accompanied by proper evidence of
the satisfaction or extinction of the lien or contains a
statement certifying that any lienholder named on the last-
issued certificate of title has been sent notice by certified
mail, at least 5 days before the application was filed, of the
applicant's intention to seek a repossessed title. If such
notice is given and no written protest to the department is
presented by a subsequent lienholder within 15 days after the
date on which the notice was mailed, the certificate of title
shall be issued showing no liens. If the former owner or any
subsequent lienholder files a written protest under oath within
the 15-day period, the department shall not issue the
repossessed certificate for 10 days thereafter. If, within the
10-day period, no injunction or other order of a court of
competent jurisdiction has been served on the department
commanding it not to deliver the certificate, the department
shall deliver the repossessed certificate to the applicant, or
as is otherwise directed in the application, showing no other
liens than those shown in the application.~~

~~(c) In making application for transfer of title from a
deceased titled owner, the new owner or surviving coowner shall
establish proof of ownership by submitting with the application
the original certificate of title and the decedent's probated
last will and testament or letters of administration appointing
the personal representative of the decedent. In lieu of a
probated last will and testament or letters of administration, a
copy of the decedent's death certificate, a copy of the
decedent's last will and testament, and an affidavit by the~~



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~~decedent's surviving spouse or heirs affirming rights of ownership may be accepted by the department. If the decedent died intestate, a court order awarding the ownership of the vessel or an affidavit by the decedent's surviving spouse or heirs establishing or releasing all rights of ownership and a copy of the decedent's death certificate shall be submitted to the department.~~

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

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

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

a. The signature of one coowner if the vessel is held in joint tenancy, signified by the vessel's being registered in the names of two or more persons as coowners in the alternative by the use of the word "or." In a joint tenancy, each coowner is considered to have granted to each of the other coowners the absolute right to dispose of the title and interest in the vessel, and, upon the death of a coowner, the interest of the



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decedent in the jointly held vessel passes to the surviving coowner or coowners. This sub-subparagraph is applicable even if the coowners are husband and wife; or

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

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

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

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

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



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tax.

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

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

328.015 Duties and operation of the department.—

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

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

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



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

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

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

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

or

3. Owned by a person designated in the request;

(b) With respect to the vessel:

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

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

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

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

(5) In responding to a request under this section, the department may provide the requested information in any medium. On request, the department shall send the requested information



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in a record that is self-authenticating.

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

328.02 Law governing vessel covered by certificate of title.—

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

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

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

328.03 Certificate of title required.—

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

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

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



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

- (a) A documented vessel;
- (b) A foreign-documented vessel;
- (c) A barge;
- (d) A vessel before delivery if the vessel is under construction or completed pursuant to contract;
- (e) A vessel held by a dealer for sale or lease;
- (f) A vessel used solely for demonstration, testing, or sales promotional purposes by the manufacturer or dealer;
- (g) ~~(a)~~ A vessel operated, used, or stored exclusively on private lakes and ponds;
- (h) ~~(b)~~ A vessel owned by the United States Government;
- ~~(c) A non-motor-powered vessel less than 16 feet in length;~~
- ~~(d) A federally documented vessel;~~
- (i) ~~(e)~~ A vessel already covered by a registration number in full force and effect which was awarded to it pursuant to a federally approved numbering system of another state or by the United States Coast Guard in a state without a federally approved numbering system, if the vessel is not located in this state for a period in excess of 90 consecutive days; or
- (j) ~~(f)~~ A vessel from a country other than the United States temporarily used, operated, or stored on the waters of this state for a period that is not in excess of 90 days;
- ~~(g) An amphibious vessel for which a vehicle title is issued by the Department of Highway Safety and Motor Vehicles;~~
- ~~(h) A vessel used solely for demonstration, testing, or sales promotional purposes by the manufacturer or dealer; or~~
- ~~(i) A vessel owned and operated by the state or a political~~



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~~subdivision thereof.~~

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

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

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

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

(5)~~(4)~~ A certificate of title is prima facie evidence of



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the accuracy of the information in the record that constitutes the certificate and of the ownership of the vessel. A certificate of title is good for the life of the vessel so long as the certificate is owned or held by the legal holder. If a titled vessel is destroyed or abandoned, the owner, with the consent of any recorded lienholders, shall, within 30 days after the destruction or abandonment, surrender to the department for cancellation any and all title documents. If a titled vessel is insured and the insurer has paid the owner for the total loss of the vessel, the insurer shall obtain the title to the vessel and, within 30 days after receiving the title, forward the title to the department ~~of Highway Safety and Motor Vehicles~~ for cancellation. The insurer may retain the certificate of title when payment for the loss was made because of the theft of the vessel.

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

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

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



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certificate.

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

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

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

328.04 Content of certificate of title.—

(1) A certificate of title must contain:

(a) The date the certificate was created;

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

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

(d) The hull identification number;

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

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

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

(2) This part does not preclude the department from noting



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on a certificate of title the name and mailing address of a
secured party that is not a secured party of record.

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

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

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

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

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

328.045 Title brands.—

(1) Unless subsection (3) applies, at or before the time



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the owner of record transfers an ownership interest in a hull-
damaged vessel that is covered by a certificate of title created
by the department, if the damage occurred while that person was
an owner of the vessel and the person has notice of the damage
at the time of the transfer, the owner shall:

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

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

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

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

(4) An owner of record who fails to comply with subsection
(1), a person who solicits or colludes in a failure by an owner
of record to comply with subsection (1), or an insurer that
fails to comply with subsection (3) commits a noncriminal



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infraction under s. 327.73(1) for which the penalty is \$5,000
for the first offense, \$15,000 for a second offense, and \$25,000
for each subsequent offense.

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

328.055 Maintenance of and access to files.—

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

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

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

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

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

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

(3) The department shall maintain in its files, for each
vessel for which it has created a certificate of title, all
title brands known to the department, the name of each secured
party known to the department, the name of each person known to
the department to be claiming an ownership interest, and all



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736 stolen property reports the department has received.

737 (4) Upon request, for safety, security, or law enforcement
738 purposes, the department shall provide to federal, state, or
739 local government the information in its files relating to any
740 vessel for which the department has issued a certificate of
741 title.

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

745 Section 10. Section 328.06, Florida Statutes, is created to
746 read:

747 328.06 Action required on creation of certificate of
748 title.—

749 (1) On creation of a written certificate of title, the
750 department shall promptly send the certificate to the secured
751 party of record or, if none, to the owner of record at the
752 address indicated for that person in the files of the
753 department. On creation of an electronic certificate of title,
754 the department shall promptly send a record evidencing the
755 certificate to the owner of record and, if there is one, to the
756 secured party of record at the address indicated for each person
757 in the files of the department. The department may send the
758 record to the person's mailing address or, if indicated in the
759 files of the department, an electronic address.

760 (2) If the department creates a written certificate of
761 title, any electronic certificate of title for the vessel is
762 canceled and replaced by the written certificate. The department
763 shall maintain in the files of the department the date and time
764 of cancellation.



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

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

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

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

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

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

(1) Unless an application for a certificate of title is



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

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

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

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

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

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

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

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

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

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

(b) Is required to cancel the certificate under another



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provision of this part; or

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

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

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

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

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

328.11 Duplicate certificate of title.—

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



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

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

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

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

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

~~(3) If, following the issuance of an original, duplicate,~~



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~~or corrected certificate of title by the department, the certificate is lost in transit and is not delivered to the addressee, the owner of the vessel or the holder of a lien thereon may, within 180 days after the date of issuance of the title, apply to the department for reissuance of the certificate of title. An additional fee may not be charged for reissuance under this subsection.~~

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

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

328.12 Perfection of security interest.—

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

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



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security interest.

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

(a) The name of the owner of record;

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

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

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

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

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

(6) If a secured party assigns a perfected security interest in a vessel, the receipt by the department of a statement providing the name of the assignee as secured party is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor. A purchaser of a vessel subject to a security interest



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who obtains a release from the secured party indicated in the files of the department or on the certificate takes free of the security interest and of the rights of a transferee unless the transfer is indicated in the files of the department or on the certificate.

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

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

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

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

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

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



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(3) before the debtor obtains possession.

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

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

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

328.125 Termination statement.—

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

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

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

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



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

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

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

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

328.14 Rights of purchaser other than secured party.—

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

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



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the Uniform Commercial Code.

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

328.145 Rights of secured party.—

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

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

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

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

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

328.15 Notice of lien on vessel; recording.—

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



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

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

~~(b) Date of lien;~~

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

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

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

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

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



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

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

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



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Highway Safety and Motor Vehicles.

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

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

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



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

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

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

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



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

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

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

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



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

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

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

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

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

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

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

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



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1229 shown in the records of the department or as shown in the
1230 application, must deliver the certificate to the applicant or to
1231 another person as directed by the applicant or person, agent, or
1232 attorney submitting the application. If there are one or more
1233 liens, security interests, or encumbrances on the vessel, the
1234 department must deliver the certificate to the first lienholder
1235 or secured party as shown by department records. The department
1236 shall deliver to the first lienholder or secured party, along
1237 with the certificate, a form to be subsequently used by the
1238 lienholder or secured party as a satisfaction. If the
1239 application for certificate of title shows the name of a first
1240 lienholder or secured party which is different from the name of
1241 the first lienholder or secured party as shown by the records of
1242 the department, the certificate shall not be issued to any
1243 person until after the department notifies all parties who
1244 appear to hold a lien or a security interest and the applicant
1245 for the certificate, in writing by certified mail. If the
1246 parties do not amicably resolve the conflict within 10 days
1247 after the date the notice was mailed, the department shall serve
1248 notice in writing by certified mail on all persons that appear
1249 to hold liens or security interests on that particular vessel,
1250 including the applicant for the certificate, to show cause
1251 within 15 days after the date the notice is mailed why it should
1252 not issue and deliver the certificate to the secured party of
1253 record or person indicated in the notice of lien filed by the
1254 lienholder whose name appears in the application as the first
1255 lienholder without showing any lien or liens as outstanding
1256 other than those appearing in the application or those filed
1257 subsequent to the filing of the application for the certificate



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

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



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

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

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



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

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

328.165 Cancellation of certificates.—

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



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

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

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

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

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

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

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

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



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interest in the vessel.

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

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

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



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

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

328.22 Transfer of ownership.—

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

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

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

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

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



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transferee as owner of record satisfies subsection (1).

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

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

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

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

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

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

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

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

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

(e) The name of the transferee;



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(f) Other information required by s. 328.01(2); and
(g) One of the following:
1. The certificate of title is an electronic certificate.
2. The secured party does not have possession of the
written certificate of title created in the name of the owner of
record.
3. The secured party is delivering the written certificate
of title to the department with the secured party's transfer
statement.
(2) Unless the department rejects a secured party's
transfer statement for a reason stated in s. 328.09(3), not
later than 30 days after delivery to the department of the
statement and payment of fees and taxes payable under the laws
of this state, other than this part, in connection with the
statement or the acquisition or use of the vessel, the
department shall:
(a) Accept the statement;
(b) Amend the files of the department to reflect the
transfer; and
(c) If the name of the owner whose ownership interest is
being transferred is indicated on the certificate of title:
1. Cancel the certificate even if the certificate has not
been delivered to the department;
2. Create a new certificate indicating the transferee as
owner; and
3. Deliver the new certificate or a record evidencing an
electronic certificate.
(3) An application under subsection (1) or the creation of
a certificate of title under subsection (2) is not by itself a



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disposition of the vessel and does not by itself relieve the
secured party of its duties under chapter 679.

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

328.24 Transfer by operation of law.—

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

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

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

(c) Through other legal process.

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

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

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

(c) A statement that:

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

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

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

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



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

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

(a) Accept the statement;

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

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

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

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

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

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

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



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

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

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

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

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

409.2575 Liens on motor vehicles and vessels.—

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

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



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

705.103 Procedure for abandoned or lost property.—

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

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY. This property, to wit: ...(setting forth brief description)... is unlawfully upon public property known as ...(setting forth brief description of location)... and must be removed within 5 days; otherwise, it will be removed and disposed of pursuant to chapter 705, Florida Statutes. The owner will be liable for the costs of removal, storage, and publication of notice. Dated this: ...(setting forth the date of posting of notice)..., signed: ...(setting forth name, title, address, and telephone number of law enforcement officer).... Such notice shall be not less than 8 inches by 10 inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the law enforcement officer shall make a reasonable effort to ascertain the name and address of the owner. If such is reasonably available to the officer, she or he shall mail a copy of such notice to the owner on or before the date of posting. If the property is a motor vehicle as defined in s. 320.01(1) or a vessel as defined in s. 327.02, the law enforcement agency shall contact the Department of Highway Safety and Motor Vehicles in order to determine the name and address of the owner and any person who has filed a



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

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

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

1. If the agency elects to retain the property for use by
the unit of government, donate the property to a charitable
organization, surrender such property to the finder, sell the
property, or trade the property to another unit of local



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government or state agency, notice of such election shall be given by an advertisement published once a week for 2 consecutive weeks in a newspaper of general circulation in the county where the property was found if the value of the property is more than \$100. If the value of the property is \$100 or less, notice shall be given by posting a description of the property at the law enforcement agency where the property was turned in. The notice must be posted for not less than 2 consecutive weeks in a public place designated by the law enforcement agency. The notice must describe the property in a manner reasonably adequate to permit the rightful owner of the property to claim it.

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



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owner of the property to identify it.

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

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

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

(c) *Compliance with conditions.*—

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

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

(I) Expiration of the cancellation period.

(II) Completion of construction.

(III) Closing.

(IV) Either:

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

(B) Transfer by the developer of legal title to the subject accommodations and facilities, or all use rights therein, into a trust satisfying the requirements of subparagraph 4. and the



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execution, delivery, and recordation by each other
interestholder of the nondisturbance and notice to creditors
instrument, as described in this section.

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

c. One of the following:

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

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

2. Timeshare estates.—If the timeshare plan is one in which
timeshare estates are to be sold and no cancellation or default
has occurred, the escrow agent may release the escrowed funds or



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other property to or on the order of the developer upon
presentation of:

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

(I) Expiration of the cancellation period.

(II) Completion of construction.

(III) Closing.

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

c. Evidence that each accommodation and facility:

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

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

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

d. Evidence that the timeshare estate:

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

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



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721.17.

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

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

(I) Expiration of the cancellation period.

(II) Completion of construction.

(III) Closing.

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

c. Evidence that one of the following has occurred:

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

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

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

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



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

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

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

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

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

(D) Require that a description of the use rights of



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

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

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

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

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

The laws of the State of Florida govern the offering of this timeshare plan in this state. There are inherent risks in purchasing a timeshare interest in this timeshare plan because the accommodations and facilities of the timeshare plan are located on a vessel that will sail into international waters and



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into waters governed by many different jurisdictions. Therefore, the laws of the State of Florida cannot fully protect your purchase of an interest in this timeshare plan. Specifically, management and operational issues may need to be addressed in the jurisdiction in which the vessel is registered, which is (insert jurisdiction in which vessel is registered). Concerns of purchasers may be sent to (insert name of applicable regulatory agency and address).

4. Trust.—

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

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

(I) The trustee shall be an individual or a business entity authorized and qualified to conduct trust business in this state. Any corporation authorized to do business in this state



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may act as trustee in connection with a timeshare plan pursuant to this chapter. The trustee must be independent from any developer or managing entity of the timeshare plan or any interestholder of any accommodation or facility of such plan.

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

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

(IV) All purchasers of the timeshare plan or the owners' association of the timeshare plan shall be the express beneficiaries of the trust. The trustee shall act as a fiduciary to the beneficiaries of the trust. The personal liability of the trustee shall be governed by ss. 736.08125, 736.08163, 736.1013, and 736.1015. The agreement establishing the trust shall set forth the duties of the trustee. The trustee shall be required to furnish promptly to the division upon request a copy of the complete list of the names and addresses of the owners in the timeshare plan and a copy of any other books and records of the timeshare plan required to be maintained pursuant to s. 721.13



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that are in the possession, custody, or control of the trustee. All expenses reasonably incurred by the trustee in the performance of its duties, together with any reasonable compensation of the trustee, shall be common expenses of the timeshare plan.

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

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

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

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

5. Owners' association.—

a. If the subject accommodations or facilities, or all use rights therein, are to be transferred into an owners' association in order to comply with this paragraph, such



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transfer shall take place pursuant to this subparagraph.

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

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

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

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



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

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

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

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



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agreement or law governing such arrangement provides substantially similar protections for the purchaser as are required in this subparagraph for owners' associations holding property in a timeshare plan in this state.

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

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

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

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

8. In the event that use rights relating to an accommodation or facility are transferred into a trust pursuant to subparagraph 4. or into an owners' association pursuant to



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subparagraph 5., all other interestholders, including the owner of the underlying fee or underlying personal property, must execute a nondisturbance and notice to creditors instrument pursuant to subsection (3).

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

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

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

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

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

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

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

Section 32. Subject to section 25, this act applies to any



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transaction, certificate of title, or record relating to a
vessel, even if the transaction, certificate of title, or record
was entered into or created before the effective date of this
act.

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

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to certificates of title for vessels;
creating s. 328.001, F.S.; providing a short title;
creating s. 328.0015, F.S.; providing definitions;
amending s. 328.01, F.S.; revising requirements for
application for, and information to be included in, a
certificate of title for a vessel; creating s.
328.015, F.S.; requiring the Department of Highway
Safety and Motor Vehicles to retain certain
information relating to ownership and titling of
vessels; requiring the department to furnish certain
information upon request; creating s. 328.02, F.S.;
providing that the law of the state under which a
vessel's certificate of title is covered governs all
issues relating to a certificate of title; specifying
when a vessel becomes covered by such certificate;
amending s. 328.03, F.S.; requiring a vessel owner to
deliver an application for certificate of title to the
department by a specified time; revising circumstances



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2070 under which a vessel must be titled by this state;
2071 providing requirements for issuing, transferring, or
2072 renewing the number of an undocumented vessel issued
2073 under certain federal provisions; deleting provisions
2074 relating to operation, use, or storage of a vessel;
2075 deleting provisions relating to selling, assigning, or
2076 transferring a vessel; specifying that a certificate
2077 of title is prima facie evidence of the accuracy of
2078 the information in the record that constitutes the
2079 certificate; creating s. 328.04, F.S.; providing
2080 requirements for the contents of a certificate of
2081 title; creating s. 328.045, F.S.; providing
2082 responsibilities of an owner and insurer of a hull-
2083 damaged vessel when transferring an ownership interest
2084 in the vessel; requiring the department to create a
2085 new certificate indicating such damage; providing
2086 civil penalties; creating s. 328.055, F.S.; requiring
2087 the department to maintain certain information in its
2088 files and to provide certain information to
2089 governmental entities; specifying that certain
2090 information is a public record; creating s. 328.06,
2091 F.S.; providing responsibilities of the department
2092 when creating a certificate of title; creating s.
2093 328.065, F.S.; specifying effect of possession of a
2094 certificate of title; providing construction; amending
2095 s. 328.09, F.S.; providing duties of the department
2096 relating to creation, issuance, refusal to issue, or
2097 cancellation of a certificate of title; providing for
2098 a hearing; creating s. 328.101, F.S.; specifying that



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2099 a certificate of title and certain other records are
2100 effective despite missing or incorrect information;
2101 amending s. 328.11, F.S.; providing requirements for
2102 obtaining a duplicate certificate of title; creating
2103 s. 328.12, F.S.; providing requirements for
2104 determination and perfection of a security interest in
2105 a vessel; providing applicability; creating s.
2106 328.125, F.S.; providing requirements for the delivery
2107 of a statement of termination of a security interest;
2108 providing duties of the department; providing
2109 liability for noncompliance; creating s. 328.14, F.S.;
2110 providing for the rights of a purchaser of a vessel
2111 who is not a secured party; creating s. 328.145, F.S.;
2112 providing for the rights of a secured party; amending
2113 s. 328.15, F.S.; deleting certain provisions relating
2114 to notice of a lien; providing for future expiration
2115 of certain provisions; amending ss. 328.16 and
2116 328.165, F.S.; conforming provisions to changes made
2117 by the act; creating s. 328.215, F.S.; specifying
2118 circumstances under which the department may create a
2119 new certificate of title after receipt of an
2120 application for a transfer of ownership or termination
2121 of a security interest unaccompanied by a certificate
2122 of title; authorizing the department to indicate
2123 certain information on the new certificate;
2124 authorizing the department to require a bond,
2125 indemnity, or other security; providing for the
2126 release of such bond, indemnity, or other security;
2127 providing that the department is not liable for



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2128 creating a certificate of title based on erroneous or
2129 fraudulent information; providing penalties; creating
2130 s. 328.22, F.S.; providing requirements for the
2131 transfer of ownership in a vessel; providing effect of
2132 noncompliance; creating s. 328.23, F.S.; providing a
2133 definition; providing duties of the department upon
2134 receipt of a secured party's transfer statement;
2135 providing construction; creating s. 328.24, F.S.;
2136 providing a definition; providing requirements for a
2137 transfer of ownership by operation of law; providing
2138 duties of the department; providing applicability;
2139 creating s. 328.25, F.S.; providing that the
2140 principles and law of equity supplement the provisions
2141 of the act; creating s. 328.41, F.S.; authorizing the
2142 department to adopt rules to implement vessel
2143 registration provisions; amending ss. 409.2575,
2144 705.103, and 721.08, F.S.; conforming provisions and
2145 cross-references to changes made by the act; providing
2146 construction and applicability regarding transactions,
2147 certificates of title, and records entered into or
2148 created, actions or proceedings commenced, and
2149 security interests perfected before the effective date
2150 of the act; providing applicability; providing an
2151 effective date.

By Senator Hooper

16-01049A-19

2019676__

1 A bill to be entitled
 2 An act relating to certificates of title for vessels;
 3 creating s. 328.001, F.S.; providing a short title;
 4 creating s. 328.0015, F.S.; defining terms; amending
 5 s. 328.01, F.S.; revising requirements for application
 6 for, and information to be included in, a certificate
 7 of title for a vessel; creating s. 328.015, F.S.;
 8 requiring the Department of Highway Safety and Motor
 9 Vehicles to retain certain information relating to
 10 ownership and titling of vessels; requiring the
 11 department to furnish certain information upon
 12 request; creating s. 328.02, F.S.; providing that
 13 local law governs all issues relating to a certificate
 14 of title; specifying when a vessel becomes covered by
 15 such certificate; amending s. 328.03, F.S.; requiring
 16 a vessel owner to deliver an application for a
 17 certificate of title to the department by a specified
 18 time; revising circumstances under which a vessel must
 19 be titled by this state; providing requirements for
 20 issuing, transferring, or renewing the number of an
 21 undocumented vessel issued under certain federal
 22 provisions; deleting provisions relating to operation,
 23 use, or storage of a vessel; deleting provisions
 24 relating to selling, assigning, or transferring a
 25 vessel; specifying that a certificate of title is
 26 prima facie evidence of the accuracy of the
 27 information in the record that constitutes the
 28 certificate; creating s. 328.04, F.S.; providing
 29 requirements for the content of a certificate of

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

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

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88 providing applicability; creating s. 328.25, F.S.;
 89 providing that the principles and law of equity
 90 supplement the provisions of the act; amending ss.
 91 409.2575, 705.103, and 721.08, F.S.; conforming
 92 provisions and cross-references to changes made by the
 93 act; providing construction and applicability
 94 regarding transactions, certificates of title, and
 95 records entered into or created, actions or
 96 proceedings commenced, and security interests
 97 perfected before the effective date of the act;
 98 providing applicability; providing an effective date.
 99
 100 Be It Enacted by the Legislature of the State of Florida:
 101
 102 Section 1. Section 328.001, Florida Statutes, is created to
 103 read:
 104 328.001 Short title.—This part may be cited as the "Uniform
 105 Certificate of Title for Vessels Act."
 106 Section 2. Section 328.0015, Florida Statutes, is created
 107 to read:
 108 328.0015 Definitions.—
 109 (1) As used in this part, the term:
 110 (a) "Barge" means a vessel that is not self-propelled or
 111 fitted for propulsion by sail, paddle, oar, or similar device.
 112 (b) "Builder's certificate" means a certificate of the
 113 facts of the build of a vessel as described in 46 C.F.R. s.
 114 67.99.
 115 (c) "Buyer" means a person who buys or contracts to buy a
 116 vessel.

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

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

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

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

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

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

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

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

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

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

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

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

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

(p) "Lien creditor," with respect to a vessel, means:
1. A creditor who has acquired a lien on the vessel by attachment, levy, or the like;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Make or adopt a tangible symbol; or

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

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

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

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

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

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

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

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- 262 (a) "Agreement" as defined in s. 671.201(3).
- 263 (b) "Buyer in ordinary course of business" as defined in s.
- 264 671.201(9).
- 265 (c) "Conspicuous" as defined in s. 671.201(10).
- 266 (d) "Consumer goods" as defined in s. 679.1021(1)(w).
- 267 (e) "Debtor" as defined in s. 679.1021(1)(bb).
- 268 (f) "Knowledge" as defined in s. 671.209.
- 269 (g) "Lease" as defined in s. 680.1031(1)(j).
- 270 (h) "Lessor" as defined in 680.1031(1)(p).
- 271 (i) "Notice" as defined s. 671.209.
- 272 (j) "Representative" as defined in s. 671.201(36).
- 273 (k) "Sale" as defined in s. 672.106(1).
- 274 (l) "Security agreement" as defined in s. 679.1021(1)(uuu).
- 275 (m) "Seller" as defined in s. 672.103(1)(d).
- 276 (n) "Send" as defined in s. 671.201(39).
- 277 (o) "Value" as defined in s. 671.211.
- 278 Section 3. Section 328.01, Florida Statutes, is amended to
- 279 read:
- 280 328.01 Application for certificate of title.—
- 281 (1) ~~(a)~~ The owner of a vessel ~~that which~~ is required to be
- 282 titled shall apply to the county tax collector for a certificate
- 283 of title. Except as otherwise provided in ss. 328.045, 328.11,
- 284 328.12, 328.215, 328.23, and 328.24, only an owner may apply for
- 285 a certificate of title.
- 286 (2) An application for a certificate of title must be
- 287 signed by the applicant and contain:
- 288 (a) The applicant's name, the street address of the
- 289 applicant's principal residence, and, if different, the
- 290 applicant's mailing address;

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291 (b) The name and mailing address of each other owner of the
 292 vessel;
 293 (c) The hull identification number for the vessel or, if
 294 none, an application for the issuance of a hull identification
 295 number for the vessel;
 296 (d) The vessel number for the vessel or, if none issued by
 297 the department, an application for a vessel number;
 298 (e) A description of the vessel as required by the
 299 department, which must include:
 300 1. The official number for the vessel, if any, assigned by
 301 the United States Coast Guard;
 302 2. The name of the manufacturer, builder, or maker;
 303 3. The model year or the year in which the manufacture or
 304 build of the vessel was completed;
 305 4. The overall length of the vessel;
 306 5. The vessel type;
 307 6. The hull material;
 308 7. The propulsion type;
 309 8. The engine drive type, if any; and
 310 9. The fuel type, if any;
 311 (f) An indication of all security interests in the vessel
 312 known to the applicant and the name and mailing address of each
 313 secured party;
 314 (g) A statement that the vessel is not a documented vessel
 315 or a foreign-documented vessel;
 316 (h) Any title brand known to the applicant and, if known,
 317 the jurisdiction under whose law the title brand was created;
 318 (i) If the applicant knows that the vessel is hull damaged,
 319 a statement that the vessel is hull damaged;

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320 (j) If the application is made in connection with a
 321 transfer of ownership, the transferor's name, the street address
 322 of the transferor's principal residence, and, if different,
 323 mailing address, the sales price, if any, and the date of the
 324 transfer; and
 325 (k) If the vessel was previously registered or titled in
 326 another jurisdiction, a statement identifying each jurisdiction
 327 known to the applicant in which the vessel was registered or
 328 titled.
 329 (3) In addition to the information required by subsection
 330 (2), an application for a certificate of title may contain an
 331 electronic communication address of the owner, transferor, or
 332 secured party.
 333 (4) Except as otherwise provided in s. 328.11, s. 328.215,
 334 s. 328.23, or s. 328.24, an application for a certificate of
 335 title must be accompanied by:
 336 (a) A certificate of title that is signed by the owner
 337 shown on the certificate and that:
 338 1. Identifies the applicant as the owner of the vessel; or
 339 2. Is accompanied by a record that identifies the applicant
 340 as the owner; or
 341 (b) If there is no certificate of title:
 342 1. If the vessel was a documented vessel, a record issued
 343 by the United States Coast Guard which shows the vessel is no
 344 longer a documented vessel and which identifies the applicant as
 345 the owner;
 346 2. If the vessel was a foreign-documented vessel, a record
 347 issued by the foreign country which shows the vessel is no
 348 longer a foreign-documented vessel and which identifies the

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applicant as the owner; or

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

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

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

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

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

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of title by filing an application accompanied by the prescribed fee.

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

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

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

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

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

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

~~2. A certificate of inspection from the Fish and Wildlife Conservation Commission and a notarized statement of the builder or its equivalent, whichever is acceptable to the Department of~~

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Highway Safety and Motor Vehicles, if the vessel is 16 feet or more in length.

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

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

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

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sale applicable to the vessel.

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

(b) If the application for transfer of title is based upon a contractual default, the recorded lienholder shall establish proof of right to ownership by submitting with the application the original certificate of title and a copy of the applicable contract upon which the claim of ownership is made. If the claim is based upon a court order or judgment, a copy of such document shall accompany the application for transfer of title. If, on the basis of departmental records, there appears to be any other lien on the vessel, the certificate of title must contain a statement of such a lien, unless the application for a certificate of title is either accompanied by proper evidence of the satisfaction or extinction of the lien or contains a statement certifying that any lienholder named on the last issued certificate of title has been sent notice by certified mail, at least 5 days before the application was filed, of the

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

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

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494 the department.

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

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

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

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

520 b. The signatures of every coowner or of the respective
 521 personal representatives of the coowners if the vessel is
 522 registered in the names of two or more persons as coowners in

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the conjunctive by the use of the word "and."

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

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

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

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

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

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

328.015 Duties and operation of the department.—

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

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

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

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

(a) Whether the files of the department indicate, as of a date and time specified by the department, but not a date earlier than 3 days before the department received the request,

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any certificate of title, security interest, termination statement, or title brand that relates to a vessel:

1. Identified by a hull identification number designated in the request;
2. Identified by a vessel number designated in the request; or
3. Owned by a person designated in the request;

(b) With respect to the vessel:

1. The name and address of any owner as indicated in the files of the department or on the certificate of title;
2. The name and address of any secured party as indicated in the files of the department or on the certificate, and the effective date of the information; and
3. A copy of any termination statement indicated in the files of the department and the effective date of the termination statement; and

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

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

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

328.02 Law governing vessel covered by certificate of title.

(1) The local law of the jurisdiction under whose

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

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

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

328.03 Certificate of title required.—

(1) Except as otherwise provided in subsections (2) and (3), each vessel that is operated, used, or stored on the waters of this state must be titled by this state pursuant to this part, and the owner of a vessel for which this state is the state of principal use shall deliver to the department an application for a certificate of title for the vessel, with the applicable fee, not later than 20 days after the later of:

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

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

- (a) A documented vessel;
- (b) A foreign-documented vessel;
- (c) A barge;
- (d) A vessel before delivery if the vessel is under

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639 construction or completed pursuant to contract;

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

641 (f) A vessel used solely for demonstration, testing, or
 642 sales promotional purposes by the manufacturer or dealer;

643 (g) ~~(e)~~ A vessel operated, used, or stored exclusively on
 644 private lakes and ponds;

645 (h) ~~(b)~~ A vessel owned by the United States Government;

646 ~~(c) A non-motor-powered vessel less than 16 feet in length;~~

647 ~~(d) A federally documented vessel;~~

648 (i) ~~(c)~~ A vessel already covered by a registration number in
 649 full force and effect which was awarded to it pursuant to a
 650 federally approved numbering system of another state or by the
 651 United States Coast Guard in a state without a federally
 652 approved numbering system, if the vessel is not located in this
 653 state for a period in excess of 90 consecutive days; or

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

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

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

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

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

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668 been delivered to the department.

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

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

686 (4) An additional \$10 fee shall be charged against the
 687 purchaser or transferee if he or she files a title transfer
 688 application after the 20-day 30-day period. The county tax
 689 collector shall be entitled to retain \$5 of the additional
 690 amount.

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

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

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

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

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

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

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

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

328.04 Content of certificate of title.-

(1) A certificate of title must contain:

(a) The date the certificate was created;

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

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

(d) The hull identification number;

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

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

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

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

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

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

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

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

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

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

328.045 Title brands.-

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

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

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

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

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

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

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

328.055 Maintenance of and access to files.-

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

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submitted to the department, the department shall:

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

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

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

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

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

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

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

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

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

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

328.06 Action required on creation of certificate of title.-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

938 328.11 Duplicate certificate of title.—

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

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

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

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

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958 certificate of title.

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

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

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

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

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

989 328.12 Perfection of security interest.-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

328.125 Termination statement.—

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

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

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

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

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

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

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

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

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

1113 328.14 Rights of purchaser other than secured party.-

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

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

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

1125 328.145 Rights of secured party.-

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

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

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

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

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

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

1148 328.15 Notice of lien on vessel; recording.-

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

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

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

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

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

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

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

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

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

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~~or encumbrance against the vessel when the title certificate is in the possession of the first lienholder, the owner shall send a written request to the first lienholder by certified mail and such first lienholder shall forward the certificate to the department for endorsement. The department shall return the certificate to the first lienholder, as indicated in the notice of lien filed by the first lienholder, after endorsing the second or subsequent lien on the certificate and on the duplicate. If the first lienholder fails, neglects, or refuses to forward the certificate of title to the department within 10 days after the date of the owner's or the director's request, the department, on written request of the subsequent lienholder or an assignee thereof, shall demand of the first lienholder the return of such certificate for the notation of the second or subsequent lien or encumbrance.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1427 328.165 Cancellation of certificates.—

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

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

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

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

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

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

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

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

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

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

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1480 certificate.

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

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

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

1501 328.22 Transfer of ownership.—

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

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

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

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

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

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

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

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

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

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

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1538 (1) In this section, "secured party's transfer statement"
 1539 means a record signed by the secured party of record stating:

1540 (a) That there has been a default on an obligation secured
 1541 by the vessel;

1542 (b) That the secured party of record is exercising or has
 1543 exercised post-default remedies with respect to the vessel;

1544 (c) That by reason of the exercise, the secured party of
 1545 record has the right to transfer the ownership interest of an
 1546 owner, and the name of the owner;

1547 (d) The name and last known mailing address of the owner of
 1548 record and the secured party of record;

1549 (e) The name of the transferee;

1550 (f) Other information required by s. 328.01(2); and

1551 (g) One of the following:

1552 1. The certificate of title is an electronic certificate.

1553 2. The secured party does not have possession of the
 1554 written certificate of title created in the name of the owner of
 1555 record.

1556 3. The secured party is delivering the written certificate
 1557 of title to the department with the secured party's transfer
 1558 statement.

1559 (2) Unless the department rejects a secured party's
 1560 transfer statement for a reason stated in s. 328.09(3), not
 1561 later than 20 days after delivery to the department of the
 1562 statement and payment of fees and taxes payable under the laws
 1563 of this state other than this part in connection with the
 1564 statement or the acquisition or use of the vessel, the
 1565 department shall:

1566 (a) Accept the statement;

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1567 (b) Amend the files of the department to reflect the
 1568 transfer; and
 1569 (c) If the name of the owner whose ownership interest is
 1570 being transferred is indicated on the certificate of title:
 1571 1. Cancel the certificate even if the certificate has not
 1572 been delivered to the department;
 1573 2. Create a new certificate indicating the transferee as
 1574 owner; and
 1575 3. Deliver the new certificate or a record evidencing an
 1576 electronic certificate.
 1577 (3) An application under subsection (1) or the creation of
 1578 a certificate of title under subsection (2) is not by itself a
 1579 disposition of the vessel and does not by itself relieve the
 1580 secured party of its duties under chapter 679.
 1581 Section 25. Section 328.24, Florida Statutes, is created to
 1582 read:
 1583 328.24 Transfer by operation of law.—
 1584 (1) In this section, "by operation of law" means pursuant
 1585 to a law or judicial order affecting ownership of a vessel:
 1586 (a) Because of death, divorce, or other family law
 1587 proceeding, merger, consolidation, dissolution, or bankruptcy;
 1588 (b) Through the exercise of the rights of a lien creditor
 1589 or a person having a lien created by statute or rule of law; or
 1590 (c) Through other legal process.
 1591 (2) A transfer-by-law statement must contain:
 1592 (a) The name and last known mailing address of the owner of
 1593 record and the transferee and the other information required by
 1594 s. 328.01;
 1595 (b) Documentation sufficient to establish the transferee's

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1596 ownership interest or right to acquire the ownership interest;
 1597 (c) A statement that:
 1598 1. The certificate of title is an electronic certificate of
 1599 title;
 1600 2. The transferee does not have possession of the written
 1601 certificate of title created in the name of the owner of record;
 1602 or
 1603 3. The transferee is delivering the written certificate to
 1604 the department with the transfer-by-law statement; and
 1605 (d) Except for a transfer described in paragraph (1)(a),
 1606 evidence that notification of the transfer and the intent to
 1607 file the transfer-by-law statement has been sent to all persons
 1608 indicated in the department's files as having an interest,
 1609 including a security interest, in the vessel.
 1610 (3) Unless the department rejects a transfer-by-law
 1611 statement for a reason stated in s. 328.09(3) or because the
 1612 statement does not include documentation satisfactory to the
 1613 department as to the transferee's ownership interest or right to
 1614 acquire the ownership interest, not later than 20 days after
 1615 delivery to the department of the statement and payment of fees
 1616 and taxes payable under the law of this state other than this
 1617 part in connection with the statement or with the acquisition or
 1618 use of the vessel, the department shall:
 1619 (a) Accept the statement;
 1620 (b) Amend the files of the department to reflect the
 1621 transfer; and
 1622 (c) If the name of the owner whose ownership interest is
 1623 being transferred is indicated on the certificate of title:
 1624 1. Cancel the certificate even if the certificate has not

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been delivered to the department;

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

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

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

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

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

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

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

409.2575 Liens on motor vehicles and vessels.—

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

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

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

705.103 Procedure for abandoned or lost property.—

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

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

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

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

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

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

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

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

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

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

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

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

(c) *Compliance with conditions.*—

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

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

(I) Expiration of the cancellation period.

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(II) Completion of construction.

(III) Closing.

(IV) Either:

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

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

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

c. One of the following:

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

(II) A notice delivered for recording to the appropriate official responsible for maintaining the public records in each county in which the subject accommodations and facilities are located notifying all persons of the identity of an independent escrow agent or trustee satisfying the requirements of

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

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

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

(I) Expiration of the cancellation period.

(II) Completion of construction.

(III) Closing.

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

c. Evidence that each accommodation and facility:

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

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

(III) Has been transferred into a trust satisfying the

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requirements of subparagraph 4.

d. Evidence that the timeshare estate:

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

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

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

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

(I) Expiration of the cancellation period.

(II) Completion of construction.

(III) Closing.

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

c. Evidence that one of the following has occurred:

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

(II) Transfer by the owner of the underlying personal

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Trust.—

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

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

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

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

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

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

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

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

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

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

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

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

5. Owners' association.—

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

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

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

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

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2031 plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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(b) October 1, 2022.

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

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Innovation, Industry, and Technology

BILL: CS/CS/SB 796

INTRODUCER: Infrastructure and Security Committee; Innovation, Industry, and Technology Committee; and Senator Gruters and others

SUBJECT: Public Utility Storm Protection Plans

DATE: March 21, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Imhof	IT	Fav/CS
2.	Price	Miller	IS	Fav/CS
3.			AP	

I. Summary:

CS/CS/SB 796 creates a recovery clause¹ for storm protection costs instead of recovering these costs through base rates, as is done now; provides for recovery of a return on capital costs (profit) through the clause; and potentially requires the Public Service Commission (PSC or commission) to approve cost recovery without consideration of the actual costs. The bill makes specific legislative findings that it is in the public interest to promote storm protection activities that will reduce restoration costs and outage times and increase reliability.

The bill applies to only public utilities, which are the investor-owned utilities (IOUs): Florida Power and Light, Duke Energy Florida, Gulf Power Company, Tampa Electric Company, and the Florida Public Utilities Corporation. Initially, the bill builds on PSC rule, requiring that, as part of the storm hardening plan required by the rule, each IOU must submit to the commission for review and approval a transmission and distribution storm protection plan that covers the utility's immediate 10-year planning period.

The commission must approve or modify the proposed plan within 6 months after the IOU initially submits the plan. In reviewing the plan, the commission must give due consideration to:

- Whether the plan enhances reliability, strengthens infrastructure, and reduces restoration costs and outage times in a prudent, practical, and cost-efficient manner, including whether the plan prioritizes areas of lower reliability performance.
- Whether transmission and distribution storm protection of electric infrastructure is feasible, reasonable, or practical in certain areas of the public utility's service territory, including, but not limited to, flood zones and rural areas.

¹ Most of an investor-owned utility's costs and profits are recovered through base rates, the per-kilowatt-hour charges on a customer's bill. Recovery clause charges are additional charges, usually in separate line item charges on the bill. A recovery clause is typically used to make an annual recovery of costs that are difficult to plan for, are a simple pass-through of actual costs, do not include capital costs or a return on those capital costs, and for which regulatory lag in recovering such costs would be problematic.

- The estimated rate impact that will result from the implementation of the public utility's proposed transmission and distribution storm protection plan during the first three years addressed in the plan.

Each public utility must submit an updated transmission and distribution storm protection plan at least every three years after commission approval of its most recent plan. The commission must approve or modify the plan using the same considerations as applied to the original plan.

The bill creates a storm protection cost recovery clause and requires the commission to conduct an annual proceeding to allow a public utility to recover prudently incurred transmission and distribution storm protection plan costs through the cost recovery clause. Once the commission determines the costs were prudently incurred, the costs are not subject to further review, except for situations involving fraud, perjury, or intentional withholding of information by the public utility. Plan costs recoverable through the cost recovery clause do not include costs recovered through the public utility's base rates.

The annual cost recovery through the storm protection cost recovery clause must be stated separately from the public utility's base rates. If a capital expenditure cost is recoverable through the recovery clause, the IOU may recover annual depreciation and a return on capital.

The bill requires the commission to adopt rules to implement and administer its provisions.

The bill takes effect July 1, 2019.

II. Present Situation:

Electric Utilities and the Public Service Commission

Chapter 366, F.S., provides for regulation of electric utilities in Florida. Section 366.02, F.S., provides definitions for these purposes.

- "Commission" means the Florida Public Service Commission.
- "Electric utility" means any municipal electric utility, investor-owned electric utility, or rural electric cooperative which owns, maintains, or operates an electric generation, transmission, or distribution system within the state.
- "Public utility" means every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity ... to or for the public within this state; but the term "public utility" does not include either a cooperative now or hereafter organized and existing under the Rural Electric Cooperative Law of the state; a municipality or any agency thereof; ...

The commission has grid reliability authority over all Florida electric utilities.² It has full economic regulation authority over the public utilities, including setting rates, and ensuring service quality standards.³ The public utilities are the investor-owned utilities: Florida Power and

² Sections 366.04(2)(c) and 366.05(8), F.S.

³ Section 366.04(1), F.S.

Light, Duke Energy Florida, Gulf Power Company, Tampa Electric Company, and the Florida Public Utilities Corporation.

Hurricane-Related Costs

Until recently, the subject of electric utility costs associated with a hurricane meant the costs of post-hurricane repair of the electric grid, the system of transmission and distribution lines and associated infrastructure. Then after the 2004-2005 hurricane seasons, there was an emphasis on storm hardening and the resulting costs. The IOUs now incur, and recover from their ratepayers (their customers), two types of costs associated with hurricanes and storms: after-the-fact repair costs and pre-storm hardening costs.⁴

Storm hardening and cost recovery are governed by PSC rule.⁵ The rule applies to all IOUs and is intended:

- To ensure safe, adequate, and reliable electric transmission and distribution service for both operational and emergency purposes;
- To require the cost-effective strengthening of critical electric infrastructure to increase the ability of transmission and distribution facilities to withstand extreme weather conditions; and
- To reduce restoration costs and outage times associated with extreme weather conditions.

Under the rule, each IOU filed an initial plan for the PSC's review and approval, after which each utility's plan must be updated every three years. In a proceeding to approve a utility's plan, the commission is to consider whether the utility's plan meets the desired objectives of enhancing reliability and reducing restoration costs and outage times in a prudent, practical, and cost-effective manner to the affected parties.

The rule requires each utility storm-hardening plan to contain a detailed description of the construction standards, policies, practices, and procedures to be employed to enhance the reliability of overhead and underground electrical transmission and distribution facilities. Each filing must, at a minimum, address the extent to which the utility's storm hardening plan:

- Complies with a specified national safety code;
- Adopts specified extreme wind loading standards;
- Is designed to mitigate damage to underground and supporting overhead transmission and distribution facilities due to flooding and storm surges; and
- Provides for the placement of new and replacement distribution facilities to facilitate safe and efficient access for installation and maintenance.

Each storm hardening plan must explain the systematic approach the utility will follow to achieve the desired objectives of enhancing reliability and reducing restoration costs and outage

⁴ Florida Public Service Commission, *Review of Florida's Electric Utility Hurricane Preparedness and Restoration Actions 2018*, 5 (July 2018).

⁵ Fla. Admin. Code R. 25-6.0342 (2007).

times associated with extreme weather events. The explanation of the deployment strategy must include, but is not limited to, the following:

- A description of the facilities affected, including technical design specifications, construction standards, and construction methodologies employed;
- The communities and areas within the utility's service area where the electric infrastructure improvements are to be made;
- The extent to which the electric infrastructure improvements involve joint-use facilities on which third-party attachments exist;
- An estimate of the costs and benefits to the utility of making the improvements, including the effect on reducing storm restoration costs and customer outages; and
- An estimate of the costs and benefits to third-party attachers affected by the electric infrastructure improvements, including the effect on reducing storm restoration costs and customer outages realized by the third-party attachers.

Approval of an IOU's storm-hardening plan does not guarantee the IOU the recovery of all costs incurred to implement the plan. After the IOU takes steps to implement the plan, the IOU must seek cost recovery during its next general rate case proceeding, where the PSC reviews the costs and determines whether they were prudently incurred before adding the approved costs to the IOU's base rates.⁶ This helps to protect the IOU's ratepayers.

Each IOU has a rate-case settlement in place with a provision freezing the IOU's base rates and they can't get an increase to recover these costs until the settlement expires and they initiate another rate case.

Recovery Clauses

The vast majority of an IOU's general costs of providing service, including the IOU's profit, or allowed range of rates of return, is recovered through base rates. Base rates are set in a rate case, where all of an IOU's projected costs of doing business are reviewed and individual costs or categories of costs can be reviewed separately for a determination of accuracy and prudence. All approved costs are added together, an allowed range of rates of return is set, and a "revenue requirement" is established, the total revenue necessary to recover all these costs and the profit. The rates for different customer classes are then set that will provide recovery of this revenue requirement. The process protects the interests of both the IOU and its ratepayers.

There are, however, some exceptions where costs are recovered through a recovery clause, an additional charge usually in separate line item charge on the bill. The primary recovery clause is the fuel-cost recovery clause charge. Fuel costs can vary, sometimes significantly, from year to year and are recovered through the fuel-cost recovery clause. A recovery clause is used when the costs at issue are volatile, unusual, or short-term and are therefore difficult to plan for, and when regulatory lag in recovering such costs would be problematic. Recovery clause proceedings are typically conducted on an annual basis and provide only for a pass-through of actual costs. As capital expenditures are typically made based on long-term plans, recovery clauses typically do not include capital costs or a return on those capital costs. An IOU cannot use a recovery clause

⁶ Florida Public Service Commission, *Review of Florida's Electric Utility Hurricane Preparedness and Restoration Actions 2018*, 12 (July 2018).

to recover capital expenses and a rate of return on those expenses when there is an existing, applicable rate-settlement agreement containing a rate freeze.⁷

Undergrounding Lines

The construction of underground electrical distribution systems is more expensive than overhead systems, and the ratepayers served by the underground line are responsible for the difference in the costs between underground and overhead. The costs and benefits of storm hardening are factored into the cost difference calculation for new construction or conversion to underground facilities.⁸

The data collected after Hurricane Irma showed that underground lines suffered minimal outages during storms. It should be noted that while underground facilities fared particularly well during Hurricane Irma, they still are susceptible to damage caused by uprooted trees and flooding, and these repairs typically take longer to complete.⁹

In response to data requests from PSC staff, the three largest IOUs¹⁰ stated that approximately 40 percent of all distribution lines are underground and that the majority of recent underground projects were for new construction, rather than the conversion of overhead to underground. Since 2006, the installed underground facilities have increased by approximately 5,300 miles for the IOUs. The total amount of installed underground facilities during the past five years was approximately 2,200 miles for an average rate of 440 miles/year.¹¹

In an effort to further the deployment of underground facilities, Duke Energy Florida and Florida Power and Light have initiated targeted undergrounding programs that: began in 2018, focused on historically poor performing lateral circuits¹² to replace several hundred miles of overhead lines, and were funded through current base rates. Duke Energy Florida's pilot program is scheduled over a period of ten years and Florida Power and Light's for three years. The goal for each program is to test different construction techniques and identify impediments to converting these targeted overhead facilities to underground.¹³

III. Effect of Proposed Changes:

The bill creates s. 366.96, F.S., to require a recovery clause for storm protection costs, provide for recovery of a return on capital costs (profit) through the clause, and potentially require commission approval of recovery without consideration of the cost.

⁷ See, e.g., *Citizens of the State v. Graham*, 213 So. 3d 703, 715-717 (Fla. 2017).

⁸ Florida Public Service Commission, *Review of Florida's Electric Utility Hurricane Preparedness and Restoration Actions 2018*, 12 (July 2018).

⁹ *Id.*, 30.

¹⁰ Florida Power and Light, Duke Energy Florida, and Tampa Electric Company.

¹¹ Florida Public Service Commission, *Review of Florida's Electric Utility Hurricane Preparedness and Restoration Actions 2018*, 11-12 (July 2018).

¹² An IOU's distribution grid consists of feeder and lateral circuits. Feeders run outward from substations and can serve thousands of customers. Laterals branch out from feeders and are the final portion of the electric delivery system, serving smaller numbers of customers and typically associated with residential areas. Florida Public Service Commission, *Review of Florida's Electric Utility Hurricane Preparedness and Restoration Actions 2018*, 9-10 (July 2018).

¹³ *Id.*, 12.

The bill makes legislative findings that it is in the public interest to promote storm protection activities that will reduce restoration costs and outage times and increase reliability. It creates the following definitions:

- “Public utility” or “utility” has the same meaning as in s. 366.02(1), F.S.,¹⁴ except that the bill provides the new section of law does not apply to a gas utility.
- “Transmission and distribution storm protection plan” or “plan” means a plan for the overhead hardening of electric transmission and distribution facilities, undergrounding of electric distribution facilities, and vegetation management.
- “Transmission and distribution storm protection plan costs” means the reasonable and prudent costs to implement an approved transmission and distribution storm protection plan.
- “Vegetation management” means the actions a public utility takes to prevent or curtail vegetation from interfering with public utility infrastructure. The term includes the mowing of vegetation, application of herbicides, trimming of trees, and removal of trees or brush near and around electric transmission and distribution facilities.

The bill requires each public utility to file for commission review a transmission and distribution storm protection plan that covers the utility’s immediate 10-year planning period. The commission must approve or modify the plan within 6 months after the public utility files the plan with the commission. In doing so, the commission must give due consideration to all of the following:

- Whether the plan enhances reliability, strengthens infrastructure, and reduces restoration costs and outage times in a prudent, practical and cost-efficient manner, including whether the plan prioritizes areas of lower reliability performance.
- Whether storm protection of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the utility’s service territory, including in flood zones and rural areas.
- The estimated rate impact that will result from the implementation of the public utility’s proposed transmission and distribution storm protection plan during the first three years addressed in the plan.

After a storm protection plan has been approved, costs to implement the plan are not subject to challenge unless the commission finds that certain costs were imprudently incurred. Proceeding with actions to implement the plan does not constitute and is not evidence of imprudence.

Each public utility must submit an updated transmission and distribution storm protection plan at least every three years after commission approval of its most recent plan. The commission must approve or modify the plan using the same considerations as applied to the original plan.

The bill requires the commission to conduct an annual proceeding to allow a public utility to recover prudently incurred transmission and distribution storm protection plan costs through a storm protection cost recovery clause. Once the commission determines that the costs were prudently incurred, the costs are not subject to disallowance or further prudence review, except

¹⁴ Section 366.02(1), F.S., defines “public utility” to mean “every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity or gas (natural, manufactured, or similar gaseous substance) to or for the public within this state.” The definition also contains a list of exclusions from the definition.

for situation involving fraud, perjury, or the intentional withholding of key information by the public utility.

The annual transmission and distribution storm protection plan costs that are recoverable through the storm protection cost recovery clause do not include costs recoverable through the public utility's base rates and must be allocated to customer classes pursuant to the rate design most recently approved by the commission.

If a capital expenditure cost is recoverable through a storm protection cost recovery clause, the public utility may recover the annual depreciation on such cost, calculated at the public utility's current approved depreciation rates. The IOU may also recover a return on the depreciated balance of the costs calculated at the public utility's weighted average cost of capital using the return on equity last approved by the commission in a rate case or settlement order.

The bill requires the commission to adopt rules to implement and administer its provisions.

The bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Each IOU may have to wait until its currently applicable rate settlement agreement expires to use the storm protection cost recovery clause provisions of the bill. Both the federal and State constitutions prohibit passage or implementation of a law impairing the obligation of contracts.¹⁵ A settlement agreement is a contract, and this prohibition would be applicable. The question, then, is whether the State's "significant and legitimate public purpose" outweighs the intrusion into the parties' bargain.¹⁶ Allowing an IOU to recover capital expenses and a rate of return despite a rate freeze provision in a settlement agreement may violate the constitution's prohibition against impairment of contract.

¹⁵ U.S. CONST. art. I, s. 10 and FLA. CONST. art. I, s.10.

¹⁶ See, e.g., *Searcy, Denney, Scarola, Barnhart & Shipley, Etc., et al. v. State of Florida*, 209 So. 3d 1181 (Fla. 2017), 1192

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Public utilities will incur unknown costs to develop and implement the transmission and distribution storm protection plans, which will be passed on to their customers.

Customers will get the benefits of the energy grid improvements, but these benefits cannot be quantified with any certainty because they depend on many variables, such as what improvements are made and the details of future storms and outages.

C. Government Sector Impact:

The PSC will incur costs to adopt the required rules and to hold hearings to develop the disaster preparation and energy grid improvement plans. There will be additional costs to continue to monitor and periodically modify the plans. These costs have not yet been estimated.

These proceedings will also involve the Office of Public Counsel,¹⁷ which will also incur costs.

VI. Technical Deficiencies:

Lines 58-62 and 66-71 define “transmission and distribution storm protection plan” to include the costs of “vegetation management” in a broadly inclusive manner. Existing storm hardening plans include vegetation management¹⁸ and the resulting costs are included in existing base rate charges,¹⁹ so it is unclear how future vegetation management costs would be recovered.

VII. Related Issues:

In their analysis on the bill, the Public Service Commission staff raised several concerns.²⁰

Approval of a Storm Protection Plan versus a Storm Hardening Plan

The bill does not appear to require changes to the commission’s current review of storm hardening plans or the method of cost recovery for their implementation. The activities and costs incurred for storm hardening remain a consideration during rate cases.

¹⁷ The Office of Public Counsel represents utility customers in PSC proceedings (s. 350.0611, F.S.).

¹⁸ Florida Public Service Commission, *Review of Florida’s Electric Utility Hurricane Preparedness and Restoration Actions 2018*, 5 (July 2018).

¹⁹ *Id.*, 12.

²⁰ 2019 Agency Legislative Bill Analysis issued by the PSC for SB 796, dated March 4, 2019 (on file with Senate Committee on Innovation, Industry, and Technology).

However, the commission must address storm protection plans differently because implementation of the storm protection plan activities and associated costs will become subject to an annual clause. Commission orders on storm protection plans may need to address in detail each activity, level of activity, management oversight, and other similar aspects in addition to the specific factors set forth in the bill.

Separating Storm Protection Plan Cost Recovery from Base Rate Revenues

According to the commission, revenues from base rates are currently addressing the utility's costs for targeted undergrounding and all storm hardening activities. Utility activities and costs fluctuate year-to-year based in part on the utility's management decisions and external factors such as extreme weather events. Year-to-year fluctuation of costs that are addressed by base rate revenues is normal.

The commission indicated that the intent of the bill appears to promote an incremental increase of the same types of activities and costs that are already described by the existing storm hardening plans. However, there is no direct mechanism to measure or establish exactly what level of activities and associated costs are included in current base rates because fluctuations are normal. Consequently, there could be tension in assessing the level of activity and ultimately the costs that may qualify for recovery through the clause.

Administrative Timeline

The commission indicated that allowing only six months for the commission to complete its review of a public utility's transmission and distribution storm protection plans, hold hearings, and make a determination of approval or modification is aggressive. The bill language is unclear whether the six month period includes the additional time after commission vote that may be necessary for issuance of a final order. It is unlikely that six months is reasonably sufficient for an intervening party to perform a rigorous review assessing the factors required by the bill and validating that the costs identified by the utility are not included in base rates. In March 2016, all five public utilities filed storm hardening plans and the PSC voted on the plans in December, reflecting an administrative timeline of nine months.

VIII. Statutes Affected:

This bill creates section 366.96 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Infrastructure and Security on March 20, 2019:

The committee substitute:

- Defines “public utility” or “utility” to have the same meaning as in 2. 366.02(1), except that the new section of law created by the bill does not apply to a gas utility.
- Removes the word “increased” before “vegetation management” in the definition of “transmission and distribution storm protection plan” or “plan.”

- Removes the requirement that each public utility transmission and distribution storm protection plan be filed for commission review as part of its storm hardening plan required by the commission under s. 366.04(2)(c), F.S.
- Requires each public utility to file for commission review a transmission and distribution storm protection plan that covers the utility's immediate 10-year planning period, instead of a plan that covers 30 years.
- Revises the due consideration the commission must give in approving or modifying a plan to include:
 - Whether the plan prioritizes areas of lower reliability performance, and
 - The estimated rate impact that will result from the implementation of the public utility's proposed transmission and distribution storm protection plan during the first three years addressed in the plan.
- Provides that after a storm protection plan has been approved, costs to implement the plan are not subject to challenge unless the commission finds that certain costs were imprudently incurred, and proceeding with actions to implement the plan does not constitute and is not evidence of imprudence.
- Provides that costs that are recoverable through the storm protection cost recovery clause do not include costs recoverable through the public utility's base rates.
- Revises a reference to an authorized return on a "depreciated balance" to reference an authorized return on an "undepreciated balance."

CS by Innovation, Industry, and Technology on March 6, 2019:

The committee substitute:

- Requires each transmission and distribution storm protection plan to cover 30 years of planned improvements;
- Provides each plan should prioritize areas in order to generate the highest impact on system resiliency and efficiency and should focus on areas with large numbers of customers, high frequency outages, and lengthy outages;
- Deletes from the bill all provisions relating to federal corporate income tax benefits;
- Deletes from the bill the restriction on undergrounding (burying) of lines to no more than four percent of a utility's lateral distribution lines per year;
- Deletes from the bill the reference to ch. 120, F.S., in the provisions on Public Service Commission approval of a plan;
- Revises the provisions on updates plans to require that they address at least a 30-year period, require that the Public Service Commission approve or modify each updated plan, and require that it do so using the criteria used for approving or modifying the original plan; and
- Deletes the definitions of the terms commission and public utility, as those terms are already defined within ch. 366, F.S.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2019	.	
	.	
	.	
	.	

The Committee on Infrastructure and Security (Gruters)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 366.96, Florida Statutes, is created to
read:

366.96 Storm protection plan cost recovery.-

(1) The Legislature finds that:

(a) During extreme weather conditions, high winds can cause
vegetation and debris to blow into and damage electrical



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transmission and distribution facilities, resulting in power outages.

(b) A majority of the power outages that occurred during the recent extreme weather conditions in the state were caused by vegetation blown by the wind.

(c) It is in the public interest to promote overhead hardening of electrical transmission and distribution facilities, the undergrounding of certain electrical distribution lines, and vegetation management in this state.

(d) Protecting and strengthening transmission and distribution electric utility infrastructure from extreme weather conditions will reduce restoration costs and outage times to customers and improve overall service reliability for customers.

(e) When considering costs, reliability, storm protection and restoration, and the public convenience, it is in the state's best interest that utilities focus primarily on distribution laterals when undergrounding electric distribution lines.

(f) It is in the public interest for each utility to mitigate additional costs to utility customers when developing transmission and distribution storm hardening plans.

(g) All customers benefit from the reduced costs of storm restoration.

(2) As used in this section, the term:

(a) "Public utility" or "utility" has the same meaning as in s. 366.02(1), except that this section does not apply to a gas utility.

(b) "Transmission and distribution storm protection plan"



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or "plan" means a plan for the overhead hardening of electric transmission and distribution facilities, undergrounding of electric distribution facilities, and vegetation management.

(c) "Transmission and distribution storm protection plan costs" means the reasonable and prudent costs to implement an approved transmission and distribution storm protection plan.

(d) "Vegetation management" means the actions a public utility takes to prevent or curtail vegetation from interfering with public utility infrastructure. The term includes the mowing of vegetation, application of herbicides, trimming of trees, and removal of trees or brush near and around electric transmission and distribution facilities.

(3) Each public utility shall file for commission review, a transmission and distribution storm protection plan that covers the utility's immediate 10-year planning period. The commission must approve or modify the plan within 6 months after the public utility files the plan with the commission. The commission must give due consideration to all of the following:

(a) Whether the plan enhances reliability, strengthens infrastructure, and reduces restoration costs and outage times in a prudent, practical, and cost-efficient manner, including whether the plan prioritizes areas of lower reliability performance.

(b) Whether storm protection of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the utility's service territory, including in flood zones and rural areas.

(c) The estimated rate impact that will result from the implementation of the public utility's proposed transmission and



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69 distribution storm protection plan during the first 3 years
70 addressed in the plan.

71 (4) Each public utility must submit an updated transmission
72 and distribution storm protection plan at least every 3 years
73 after commission approval of its most recent plan. The
74 commission shall approve or modify each updated plan pursuant to
75 the criteria set forth in subsection (3).

76 (5) After a storm protection plan has been approved, costs
77 to implement the plan are not subject to challenge unless the
78 commission finds that certain costs were imprudently incurred.
79 Proceeding with actions to implement the plan does not
80 constitute and is not evidence of imprudence. The commission
81 shall conduct an annual proceeding to allow a public utility to
82 recover prudently incurred transmission and distribution storm
83 protection plan costs through a storm protection cost recovery
84 clause. Once the commission determines that the costs were
85 prudently incurred, the costs are not subject to disallowance or
86 further prudence review, except for situations involving fraud,
87 perjury, or the intentional withholding of key information by
88 the public utility.

89 (6) The annual transmission and distribution storm
90 protection plan costs recoverable through the storm protection
91 cost recovery clause do not include costs recovered through the
92 public utility's base rates and must be allocated to customer
93 classes pursuant to the rate design most recently approved by
94 the commission.

95 (7) If a capital expenditure cost is recoverable through a
96 storm protection cost recovery clause, the public utility may
97 recover the annual depreciation on such cost, calculated at the



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public utility's current approved depreciation rates, and a
return on the undepreciated balance of the costs calculated at
the public utility's weighted average cost of capital using the
return on equity last approved by the commission in a rate case
or settlement order.

(8) The commission shall adopt rules to implement and
administer this section.

Section 2. This act shall take effect July 1, 2019.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to public utility storm protection
plans; creating s. 366.96, F.S.; providing legislative
findings; defining terms; requiring public utilities
to individually submit to the Public Service
Commission, for review and approval, a transmission
and distribution storm protection plan; requiring
utilities to update their respective plans on a
specified basis; requiring the commission to approve
or modify submitted plans within a specified
timeframe, taking into consideration specified
factors; requiring the commission to conduct an annual
proceeding to allow utilities to justify and recover
certain costs through a storm protection cost recovery
clause; providing that a party may challenge the
prudence of certain costs; providing that utilities



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127 may not include certain costs in their base rates;
128 providing for the allocation of such costs;
129 authorizing utilities to recover depreciation on
130 certain capital costs through the recovery clause;
131 requiring the commission to adopt rules; providing an
132 effective date.

By the Committee on Innovation, Industry, and Technology; and
Senators Gruters and Bracy

580-02754-19

2019796c1

A bill to be entitled

An act relating to public utility storm protection plans; creating s. 366.96, F.S.; providing legislative findings; defining terms; requiring public utilities to individually submit to the Public Service Commission, for review and approval, a transmission and distribution storm protection plan as part of the storm hardening plan required by the commission; requiring utilities to update their respective plans on a specified basis; requiring the commission to approve or modify submitted plans within a specified timeframe, taking into consideration specified factors; requiring the commission to conduct an annual proceeding to allow utilities to justify and recover certain costs through a storm protection cost recovery clause; providing that a party may challenge the prudence of certain costs; providing that utilities may not include certain costs in their base rates; providing for the allocation of such costs; authorizing utilities to recover depreciation on certain capital costs through the recovery clause; requiring the commission to adopt rules; providing an effective date.

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

Section 1. Section 366.96, Florida Statutes, is created to read:
366.96 Storm protection plan cost recovery.-

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

580-02754-19

2019796c1

(1) The Legislature finds that:

(a) During extreme weather conditions, high winds can cause vegetation and debris to blow into and damage electrical transmission and distribution facilities, resulting in power outages.

(b) A majority of the power outages that occurred during the recent extreme weather conditions in the state were caused by vegetation blown by the wind.

(c) It is in the public interest to promote overhead hardening of electrical transmission and distribution facilities, the undergrounding of certain electrical distribution lines, and vegetation management in this state.

(d) Protecting and strengthening transmission and distribution electric utility infrastructure from extreme weather conditions will reduce restoration costs and outage times to customers and improve overall service reliability for customers.

(e) When considering costs, reliability, storm protection and restoration, and the public convenience, it is in the state's best interest that utilities focus primarily on distribution laterals when undergrounding electric distribution lines.

(f) It is in the public interest for each utility to mitigate additional costs to utility customers when developing transmission and distribution storm hardening plans.

(g) All customers benefit the reduced costs of storm restoration.

(2) As used in this section, the term:

(a) "Transmission and distribution storm protection plan"

Page 2 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

580-02754-19

2019796c1

or "plan" means a plan for the overhead hardening of electric transmission and distribution facilities, undergrounding of electric distribution facilities, and increased vegetation management.

(b) "Transmission and distribution storm protection plan costs" means the reasonable and prudent costs to implement an approved transmission and distribution storm protection plan.

(c) "Vegetation management" means the actions a public utility takes to prevent or curtail vegetation from interfering with public utility infrastructure. The term includes the mowing of vegetation, application of herbicides, trimming of trees, and removal of trees or brush near and around electric transmission and distribution facilities.

(3) Each public utility shall file for commission review, as part of its storm hardening plan required by the commission under s. 366.04(2)(c), a transmission and distribution storm protection plan that covers 30 years. The commission must approve or modify the plan within 6 months after the public utility files the plan with the commission. The commission must give due consideration to whether:

(a) The plan enhances reliability, strengthens infrastructure, and reduces restoration costs and outage times in a prudent, practical and cost-efficient manner. The plan should prioritize areas in order to generate the highest impact on system resiliency and efficiency and should focus on areas with large numbers of customers, high frequency outages, and lengthy outages.

(b) Storm protection of transmission and distribution infrastructure is feasible, reasonable, or practical in certain

580-02754-19

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areas of the utility's service territory, including in flood zones and rural areas.

(4) Each public utility must submit an updated transmission and distribution storm protection plan that covers, at a minimum, the 30-year period addressed in its initial transmission and distribution storm protection plan at least every 3 years after commission approval of its most recent plan. The commission shall approve or modify each updated plan pursuant to the criteria set forth in subsection (3).

(5)(a) The commission shall conduct an annual proceeding to allow a public utility to justify and recover transmission distribution storm protection plan costs through a storm protection cost recovery clause.

(b) Action taken by a public utility for storm protection of transmission and distribution facilities pursuant to a commission-approved plan is deemed prudent, but a party may challenge the commission's determination of prudence.

(6) The annual transmission and distribution storm protection plan costs recoverable through the storm protection cost recovery clause must be stated separately from the public utility's base rates and must be allocated to customer classes pursuant to the rate design most recently approved by the commission.

(7) If a capital expenditure cost is recoverable through a storm protection cost recovery clause, the public utility may recover the annual depreciation on such cost, calculated at the public utility's current approved depreciation rates, and a return on the depreciated balance of the costs calculated at the public utility's weighted average cost of capital using the

580-02754-19

2019796c1

117 return on equity last approved by the commission in a rate case
118 or settlement order.

119 (8) The commission shall adopt rules to implement and
120 administer this section.

121 Section 2. This act shall take effect July 1, 2019.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name

Job Title

Address

Street

Phone

City

State

Zip

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against

(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/20/19

Meeting Date

513 796

Bill Number (if applicable)

Topic Hardening & Resiliency

Amendment Barcode (if applicable)

Name Paul Griffin

Job Title Executive Director

Address
Street

Phone

City

State

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Energy Fairness

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/20/19

Meeting Date

SB796

Bill Number (if applicable)

Topic Public Utility Storm Protection Plans

Amendment Barcode (if applicable)

Name Cory Guzzo

Job Title Governmental Affairs Consultant

Address 108 S Monroe Street

Phone 850-212-2117

Street

Tallahassee

Email Cory@flapartners.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/20/19

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 796

Bill Number (if applicable)

Topic Storm Hardening

Amendment Barcode (if applicable)

Name Paul Griffin

Job Title Executive Director

Address 2844 Whitetail Circle

Phone 202-577-5445

Street

Lafayette CO 80026

City

State

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Energy Farnon

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/20/2019

Meeting Date

SB 796

Bill Number (if applicable)

Topic Public Utility Storm Protection Plans

Amendment Barcode (if applicable)

Name Zayne Smith

Job Title Associate State Director

Address 200 W. College Ave

Phone 850-228-4243

Street

Tallahassee

FL

32301

Email zsmith@aarp.org

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing AARP Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____

796
Bill Number (if applicable) _____

Topic Public Utility Storm Protection

Amendment Barcode (if applicable) _____

Name Christopher Emmanuel

Job Title Policy Director

Address 136 S Bronough St

Phone _____

Street

Tallah

Email _____

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Infrastructure and Security

BILL: CS/SB 932

INTRODUCER: Infrastructure and Security Committee and Senator Brandes

SUBJECT: Autonomous Vehicles

DATE: March 22, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	IS	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 932 revises various provisions of law relating to autonomous vehicles. The bill repeals certain existing definitions and revises and adds others. The bill provides that a licensed human operator is not required to operate a fully autonomous vehicle and authorizes operation of a fully autonomous vehicle on Florida roads regardless of whether a human operator is physically present in the vehicle. The bill deems an automated driving system to be the operator of an autonomous vehicle while operating in autonomous mode, regardless of whether a person is physically present in the vehicle.

The bill expresses legislative intent to provide for uniformity of laws governing autonomous vehicles throughout the state and prohibits a local government from imposing any tax, fee, for-hire vehicle requirement, or other requirement on automated driving systems, autonomous vehicles, or on a person who operates an autonomous vehicle.

The bill revises certain requirements relating to compliance with federal regulations and revises provisions relating to system alerts for vehicles that are not fully autonomous.

In addition, the bill provides that certain duties under ch. 316, F.S., such as the duty to give information and render aid, do not apply to a fully autonomous vehicle operating with the automated driving system engaged in the event of a crash involving the vehicle under certain conditions. Provisions relating to unattended motor vehicles or property are also deemed inapplicable to a fully autonomous vehicle while operating with the automated driving system engaged.

Further, the bill authorizes certain television and pre-recorded video displays that are visible from the driver's seat of any autonomous vehicle while the vehicle is in motion and being operated with the automated driving system engaged. Use of a wireless communications device for texting, emailing, or instant messaging is authorized, if the vehicle is any autonomous vehicle operating with the automated driving system engaged. Various other statutory provisions are amended to incorporate the new definitions.

Additionally, the bill applies provisions relating to the operation of transportation network companies (TNCs) and TNC vehicles to on-demand autonomous vehicle networks. The bill authorizes an autonomous vehicle or a fully autonomous vehicle equipped with a teleoperation system to operate without a human operator physically present in the vehicle when the teleoperation system is engaged. The bill requires that teleoperated vehicles meet requirements relating to federal certification and labeling, when required, and be capable of operating in compliance with applicable traffic and motor vehicle laws. The bill also deems teleoperated vehicles to meet the revised definition of "autonomous vehicle" for purposes of certain duties under ch. 316, F.S.

The bill also authorizes the Florida Department of Transportation (FDOT), in consultation with the Department of Highway Safety and Motor Vehicles, to explore the efficient implementation of innovative transportation technologies, including, but not limited to, vehicle electrification, shared vehicle use, automated vehicles, and other mobility technologies that provide transportation options intended to increase personal mobility, facilitate shorter urban trips, or provide connections to other modes of transportation. The FDOT must prepare an annual report outlining undertaken programs.

In the Florida Turnpike Enterprise Law, the bill authorizes the Florida Turnpike Enterprise (Turnpike Enterprise) within the FDOT to enter into one or more agreements to fund, construct, and operate facilities for the advancement of autonomous and connected innovative transportation technology solutions for specified purposes. The bill provides similar but not identical authorization within provisions relating to autonomous vehicles and their operation, with additional authority to fund, construct, and operate test facilities and undertake research and development projects for the same purposes.

The bill has an indeterminate fiscal impact on Turnpike resources within the FDOT. Otherwise, the bill does not appear to present an impact to state or local revenues or expenditures. See the Fiscal Impact Statement heading for details.

A portion of the bill prohibits a local government from imposing any tax or fee on automated driving systems, autonomous vehicles, or on a person who operates an autonomous vehicle. This provision may limit the ability of municipalities and counties to raise revenue, thus requiring approval of the bill by each house of the Legislature by two-thirds vote of its membership. However, whether such approval is required is indeterminate. See the Municipality/County Mandates Restrictions heading under IV. Constitutional Issues for details.

The bill takes effect July 1, 2019.

II. Present Situation:

For ease of organization and readability, the present situation for each issue in the bill is discussed below in conjunction with the effect of proposed changes.

III. Effect of Proposed Changes:

Federal Policy and Guidance

According to the United States Department of Transportation (USDOT), an estimated 37,133 lives were lost on U.S. roads in 2017. Ninety-four percent of all serious motor vehicle crashes involved human error and other driver-related factors, such as impaired driving, distracted driving, and speeding or illegal maneuvers.¹ The USDOT views automated vehicles as an important innovation in transportation: “Automated vehicles that accurately detect, recognize, anticipate, and respond to the movements of all transportation system users could lead to breakthrough gains in transportation safety... Their potential to reduce deaths and injuries on the Nation’s roadways cannot be overstated.”²

While multiple definitions for levels of vehicle automation exist, as part of previously-issued voluntary federal guidance and, “For overall awareness and to ensure consistency in taxonomy usage, NHTSA³ adopted SAE International’s⁴ Levels of Automation and other applicable terminology.”⁵ The SAE International Standard J3016⁶ focuses on automated driving systems that function at Levels 3, 4, and 5 of driving automation and, along with related terminology, specifies the following six levels of driving automation:

- Level 0: The human driver performs all driving tasks, even when enhanced by warning or intervention systems. (No automation.)
- Level 1: The automated driving system assists the human driver by a driver-assistance system of either steering or acceleration/deceleration using information about the driving environment, with the expectation that the human driver performs all remaining aspects of the driving task. (Driver assistance.)
- Level 2: The automated driving system executes one or more driver assistance systems of both steering and acceleration/deceleration using information about the driving environment, with the expectation that the human driver performs all remaining aspects of the driving task. (Partial automation.)

¹ See USDOT, *Automated Vehicles 3.0, Preparing for the Future of Transportation*, at p.1, available at <https://www.transportation.gov/av/3> (last viewed March 20, 2019).

² *Id.*

³ NHTSA, the National Highway Traffic Safety Administration, is a part of the U.S.D.O.T. See the USDOT’s website available at: <https://www.transportation.gov/administrations> (last viewed March 20, 2019).

⁴ The SAE’s website describes itself as follows: “SAE International is a global association of more than 128,000 engineers and related technical experts in the aerospace, automotive and commercial-vehicle industries. SAE International’s core competencies are life-long learning and voluntary consensus standards development.” See the SAE’s website available at: <http://www.sae.org/about/> (last viewed March 20, 2019).

⁵ See U.S. Department of Transportation, *Automated Driving Systems 2.0, A Vision for Safety*, at p. 1., available at https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/13069a-ads2.0_090617_v9a_tag.pdf (last viewed March 20, 2019).

⁶ See the SAE International Standard J3016, *Taxonomy and Definitions for Terms Related to Driving Automation Systems of On-Road Motor Vehicles*, (Revised June 2018) at p. 19. (Copy on file in the Senate Transportation Committee.)

- Level 3: The automated driving system performs all aspects of the driving task, with the expectation that a human driver will respond appropriately to a request to intervene. (Conditional automation.)
- Level 4: The automated driving system performs all aspects of the driving task, even if a human driver does not respond appropriately to a request to intervene. (High automation.)
- Level 5: The automated driving system performs all aspects of the driving task at all times under all roadway and environmental conditions that can be managed by a human driver. (Full automation.)

In October of 2018, the USDOT release new federal guidance for automated driving systems, building on previous policy and expanding the scope to all surface on-road transportation systems. The new guidance is structured around three key areas: advancing multi-modal safety, reducing policy uncertainty, and outlining a process for working with the USDOT.⁷

Additionally, to prevent confusion and support consistent terminology, the USDOT encourages state legislators to use terminology already being developed through voluntary, consensus-based, technical standards, such as SAE terminology.⁸ The USDOT recommends that state legislatures follow best practices, such as providing a technology-neutral environment, licensing and registration procedures, and reporting and communications methods for public safety officials. States should consider reviewing and potentially modifying traffic laws and regulations that may be barriers to automated vehicles.⁹

Definitions (Section 3)

Present Situation

Section 316.003, F.S., provides definitions relating to uniform traffic control. Specifically, with respect to autonomous vehicles, that section defines in subsection (2):

- “Autonomous vehicle” to mean “any vehicle equipped with autonomous technology.”
- “Autonomous technology” to mean “technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator.”^{10, 11}

Effect of Proposed Changes

Section 3 of the bill defines the following terms:

- Automated driving system: “The hardware and software that are collectively capable of performing the entire dynamic driving task of an autonomous vehicle on a sustained basis,

⁷ *Supra* note 1 at pp. viii – x.

⁸ *Id.* at p. 20.

⁹ *Id.* at p. 19.

¹⁰ Further, autonomous technology “excludes a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without active control or monitoring by a human operator.”

¹¹ “Operator” is currently defined as “any person who is in actual physical control of a motor vehicle upon the highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.” Section 316.003(46), F.S.

regardless of whether it is limited to a specific operational design domain.” This definition is identical to the SAE definition, except that the SAE definition expressly provides that the term is used specifically to describe a level 3, 4, or 5 driving automation system.¹²

- Autonomous vehicle: “Any vehicle equipped with an automated driving system.” The existing definitions of “autonomous vehicle” and “autonomous technology” are removed from current law.
- Dynamic driving task: “All of the real-time operational and tactical functions required to operate a vehicle in on-road traffic within its specific operational design domain, if any, excluding strategic functions such as trip scheduling and selection of destination and waypoints.” This definition is similar, but not identical to the SAE definition of the term.¹³
- Fully autonomous vehicle: “A vehicle equipped with an automated driving system designed to function without a human operator.” The SAE standard does not define this term. However, the standard assumes that the automated driving system performs the entire dynamic driving task, while engaged, for levels 3, 4, and 5 of driving automation.¹⁴
- Operational design domain: “A description of the specific operating domain in which an automated driving system is designed to properly operate, including, but not limited to, roadway types, speed ranges, environmental conditions such as weather and time of day, and other domain constraints.” This definition is not identical to that contained in the SAE standard but the SAE definition appears to use different words to define the same term: “Operating conditions under which a given driving automation system or feature thereof is specifically designed to function, including, but not limited to, environmental, geographical, and time-of-day restrictions, and/or the requisite presence or absence of certain traffic or roadway characteristics.”¹⁵

This section of the bill also creates a definition for the term “on-demand autonomous vehicle network,” which is defined to mean “a passenger transportation network that uses a software application or other digital means to connect passengers to fully autonomous vehicles, exclusively or in addition to other vehicles, for transportation, including for-hire transportation and transportation for compensation.”

Further, this section creates a definition for the term “teleoperation system,” meaning “the hardware and software installed in a motor vehicle which allow a remote human operator to supervise or perform aspects of, or the entirety of, the dynamic driving task. The term ‘remote human operator’ means a natural person who is not physically present in a vehicle equipped with an automated driving system who engages or monitors the vehicle from a remote location. A remote human operator may have the ability to perform aspects of, or the entirety of, the dynamic driving task for the vehicle or cause the vehicle to achieve a minimal risk condition.”

Additionally, this section of the bill corrects a cross-reference necessitated by revisions in the bill.

¹² “Driving automation system” refers to any level 1-5 system or feature that performs part of all of the dynamic driving task on a sustained basis. This term should be distinguished from the term “automated driving system.” *Supra* note 6 at p. 3.

¹³ *Supra* note 6 at p. 6.

¹⁴ *Supra* note 6 at p. 19.

¹⁵ *Supra* note 6 at p. 14.

Uniform Traffic Control Duties (Sections 4 – 7)

Present Situation

Various provisions of current law contain certain duties relating to vehicle operation by a driver¹⁶ in ch. 316, F.S. Among those duties, in general:

- Section 316.062, F.S., requires the driver of any vehicle involved in a crash resulting in any person's injury or death, or property damage to any vehicle or other property which is driven or attended by any person, to provide personal and vehicle identification information and to render reasonable assistance to any injured person.
- Section 316.063, F.S., requires the driver of any vehicle involved in a crash with any *unattended* vehicle or other property, resulting in damage to the vehicle or property, to stop, locate, and notify the operator or owner of the vehicle or property to provide similar personal and vehicle identification information; and to notify the nearest police authority.
- Section 316.065(1), F.S., requires the driver of a vehicle involved in a crash resulting in any person's injury or death, or damage to any vehicle or other property apparently exceeding \$500, to give notice of the crash to the appropriate law enforcement office.
- Section 316.1975, F.S., prohibits a person driving or in charge of any motor vehicle from letting the vehicle stand unattended without first stopping the engine, locking the ignition, and removing the key; and from standing unattended on any perceptible grade without stopping the engine, setting the brake, and turning the front wheels to the curb or side of the street.

Effect of Proposed Changes

Sections 4, 5, and 6 amend ss. 316.062, 316.063, and 316.065, F.S., to provide in each that the duties described above do not apply to a fully autonomous vehicle operating with the automated driving system engaged in the event of a crash involving the vehicle if the vehicle owner, or a person on behalf of the owner, promptly contacts a law enforcement agency to report the crash or if the fully autonomous vehicle has the capability of alerting a law enforcement agency to the crash.

Section 7 amends s. 316.1975, F.S., to provide that section does not apply to a fully autonomous vehicle operating with the automated driving system engaged.

The bill excludes application of these duties to a fully autonomous vehicle while the automated driving system is engaged; that is, an autonomous vehicle equipped with an automated driving system designed to function without a human operator.

Electronic Displays in Vehicles/Wireless Communication Devices (Sections 8 and 9)

Present Situation:

Section 316.303, F.S., prohibits operation of a motor vehicle on the highways if the vehicle is actively displaying moving television broadcast or pre-recorded video entertainment content that is visible from the driver's seat while the vehicle is in motion, unless the vehicle is equipped with

¹⁶ "Driver" is currently defined as "any person who drives or is in actual physical control of a vehicle on a highway or who is exercising control of a vehicle or steering a vehicle being towed by a motor vehicle." Section 316.003(20), F.S.

autonomous technology, as currently defined in s. 316.003(3), F.S., and is being operated in autonomous mode.

However, the use of an electronic display used in conjunction with a vehicle navigation system; an electronic display used by an operator of a vehicle equipped with autonomous technology as currently defined in s. 316.003(3), F.S.; or an electronic display used by an operator of a vehicle equipped and operating with driver-assistive truck platooning technology, as currently defined in s. 316.003, is not prohibited.

Section 316.305(3)(a), F.S., generally contains provisions prohibiting a person from operating a motor vehicle while using a wireless communications device for texting, emailing, or instant messaging. Paragraph (b) of that section provides that the prohibition in paragraph (a) does not apply to a motor vehicle operator who is, among other items, operating an autonomous vehicle, as currently defined in s. 316.003(3), F.S., in autonomous mode.

Effect of Proposed Changes

Section 8 amends s. 316.303, F.S., to replace the phrases, “vehicle equipped with autonomous technology,” with “an autonomous vehicle” which is being operated “with the automated driving system engaged” to incorporate the new definition. This revision allows the identified displays in autonomous vehicles equipped with any automated driving system, as defined in the bill, not necessarily one designed to function without a human operator.

Section 9 amends s. 316.305, F.S., to revise a statutory reference to the new definition of “autonomous vehicle,” and revise the exclusion from the prohibitions against using a wireless communications device for texting, emailing, or instant messaging to an autonomous vehicle operating with the automated driving system engaged. This revision excludes autonomous vehicles; *i.e.*, those equipped with any “automated driving system,” from the prohibitions against use of a wireless communications device.

Autonomous Vehicle “Operator” and Driver Licensing (Sections 10 and 12)

Present Situation

Section 316.85, F.S., requires a person to possess a valid driver license to operate an autonomous vehicle on Florida roads. Under the statute, unless the context otherwise requires, a person is deemed to be the operator of an autonomous vehicle operating in autonomous mode when the person causes the vehicle’s autonomous technology to engage, regardless of whether the person is physically present in the vehicle while the vehicle is operating in autonomous mode.

Effect of Proposed Changes

Section 10 amends s. 316.85, F.S., revising the title to read, “Autonomous vehicles; operation; compliance with traffic and motor vehicle laws; preemption.” This section is revised notwithstanding any other law, to provide that a licensed human operator is not required to operate a “fully autonomous vehicle,” as defined in the bill. Additionally, this section of the bill authorizes a fully autonomous vehicle to operate in this state regardless of whether a human operator is physically present in the vehicle. This section of the bill also provides that, unless

otherwise provided by law, applicable traffic or motor vehicle laws of this state may not be construed to:

- Prohibit the automated driving system from being deemed the operator of an autonomous vehicle operating with the automated driving system engaged
- Require a licensed human operator to operate a fully autonomous vehicle.

These revisions allows autonomous vehicles equipped with automated driving systems designed to function without a human operator to self-operate, with or without a licensed human occupant, or any occupant.

Unless the context otherwise requires, the bill deems the automated driving system, when engaged, to be the operator of an autonomous vehicle, regardless of whether a person is physically present in the vehicle while the vehicle is operating with the automated driving system engaged. While liability for actionable events relating to a “traditional” motor vehicle rests with that vehicle’s owner or operator, the bill places responsibility for actionable events related to an autonomous vehicle with an engaged automated driving system on the automated driving system, potentially including the owner, manufacturer, or seller of the system.¹⁷

Section 12 amends s. 322.015, F.S., to exempt a fully autonomous vehicle operated with the automated driving system engaged without a human operator from Chapter 322, F.S., relating to driver licenses, to conform to the revisions in the bill.

Autonomous Vehicle Compliance with Motor Vehicle and Traffic Laws and Vehicle Alerts

Present Situation

Section 319.145, F.S., addresses requirements with respect to registration of an autonomous vehicle. That section currently requires an autonomous vehicle registered in this state to continue to meet applicable federal standards and regulations for such vehicle. Additionally, the vehicle must:

- Have a system to safely alert the operator if an autonomous technology failure is detected while the technology is engaged. When an alert is given, the system must:
 - Require the operator to take control of the autonomous vehicle; or
 - If the operator does not or is not able to take control, be capable of bringing the vehicle to a complete stop.
- Have a means inside the vehicle to visually indicate when the vehicle is operating in autonomous mode.
- Be capable of being operated in compliance with applicable Florida traffic and motor vehicle laws.

¹⁷ Section 316.86, F.S., currently provides that “the original manufacturer of a vehicle converted by a third party into an autonomous vehicle is not liable in, and shall have a defense to and be dismissed from, any legal action brought against the original manufacturer by any person injured due to an alleged vehicle defect caused by the conversion of the vehicle, or by equipment installed by the converter, unless the alleged defect was present in the vehicle as originally manufactured.” The bill does not amend this provision.

In recognition of the potential for federal preemption of state laws relating to autonomous vehicles, current law¹⁸ provides that NHTSA regulations supersede this section of Florida law when found to be in conflict with those regulations.

Federal regulations in 49 C.F.R. part 567 require each manufacturer of motor vehicles, with one exception, to affix to each vehicle a label, of the type and in the manner described, to each vehicle containing specified information.¹⁹ To the extent that such regulations can be applied to autonomous vehicles, the regulations would apply, and the required label would have to be affixed to an autonomous vehicle. However, no regulations specific to autonomous vehicles currently exist; rather, the existing regulations apply to “traditional” motor vehicles. In its most recent federal guidance, the USDOT announced its intention, through NHTSA, “to reconsider the necessity and appropriateness of its current safety standards as applied to ADS-equipped²⁰ vehicles:

In an upcoming rulemaking, NHTSA plans to seek comment on proposed changes to particular safety standards to accommodate automated vehicle technologies and the possibility of setting exceptions to certain standards—that are relevant only when human drivers are present—for ADS-equipped vehicles.²¹

Effect of Proposed Changes

Section 11 of the bill amends s. 319.145, F.S., to require an autonomous vehicle registered in this state to meet all of the following requires:

- When required by federal law, the vehicle must:
 - Have been certified in accordance with federal regulations in 49 C.F.R. part 567 as being in compliance with applicable federal safety standards.
 - Bear the required certification label or labels, including reference to any exemption granted under applicable federal law.
 - Be capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state, regardless of whether the vehicle is operating with the automated driving system engaged.

Under current federal regulations, it appears a manufacturer may not be able to receive an exemption from one or more safety standards currently applicable to “traditional” motor vehicles. However, should such regulations be adopted, as announced by the USDOT, to accommodate automated vehicle technologies through exceptions to certain standards, the federal regulations would apply and supersede Florida law to the extent of any conflict.

In addition, if the autonomous vehicle is not fully autonomous, the bill requires the vehicle to have a system to safely alert a licensed human operator physically present in the vehicle if an automated driving system failure is detected while the automated driving system is engaged.

¹⁸ Section 319.145(2), F.S.

¹⁹ 49 C.F.R. s. 567.4.

²⁰ *I.e.*, vehicles equipped with automated driving systems.

²¹ *Supra* note 1 at p. 7.

When an alert is given, the system must require the licensed human operator to take control of the autonomous vehicle or achieve a “minimal risk condition,” as defined in the bill.

If the vehicle is fully autonomous, the vehicle must be able to achieve a minimal risk condition if a failure of the system occurs which renders it unable to perform the entire dynamic driving task relevant to its intended operational design domain. The bill defines “minimal risk condition” to mean a reasonably safe state, such as bringing the vehicle to a complete stop and activating the vehicle’s hazard lamps.²²

On-Demand Autonomous Vehicle Networks (Sections 1 and 10)

Present Situation

Current law does not contain any provisions addressing on-demand autonomous vehicle networks.

Effect of Proposed Changes

Section 1 of the bill amending s. 316.003, F.S., also creates a definition for the term “on-demand autonomous vehicle network,” which is defined to mean “a passenger transportation network that uses a software application or other digital means to connect passengers to fully autonomous vehicles, exclusively or in addition to other vehicles, for transportation, including for-hire transportation and transportation for compensation.”

This section of the bill also creates a definition for the term “teleoperation system,” meaning “the hardware and software installed in a motor vehicle which allow a remote human operator to supervise or perform aspects of, or the entirety of, the dynamic driving task. The term ‘remote human operator’ means a natural person who is not physically present in a vehicle equipped with an automated driving system who engages or monitors the vehicle from a remote location. A remote human operator may have the ability to perform aspects of, or the entirety of, the dynamic driving task for the vehicle or cause the vehicle to achieve a minimal risk condition.”

Section 10 of the bill amending s. 316.85, F.S., also authorizes these networks to operate pursuant to state laws governing the operation of TNCs and TNC vehicles as defined in s. 627.748, F.S. The bill provides that any provision of s. 627.748, F.S., that reasonably applies only to a human driver does not apply to the operation of a fully autonomous vehicle; *i.e.*, one equipped with an automated driving system designed to function without a human operator, with the automated driving system engaged in an on-demand autonomous vehicle network.

On-demand autonomous vehicle networks will be subject to the same regulations and requirements (other than those that would reasonably only apply to a human driver) as transportation network companies under s. 627.748, F.S. Some of those requirements include:

- Designating and maintaining an agent for service of process in Florida,

²² The SAE standard defines this term as “A condition to which a user or an ADS may bring a vehicle after performing the DDT fallback in order to reduce the risk of a crash when a given trip cannot or should not be completed.” The SAE standard defines the term “DDT fallback” (dynamic driving task fallback) as “The response by the user to either perform the DDT or achieve a minimal risk condition after occurrence of a DDT performance-relevant system failure(s) or upon operational design domain (ODD) exit, or the response by an ADS to achieve minimal risk condition, given the same circumstances.”

- Providing identification of the vehicle's license plate number and certain disclosures to passengers related to the collection of fares,
- Maintaining varying levels of automobile insurance and ride records, and
- Submitting specified examination reports to the Department of Financial Services.

This section of the bill also expresses Legislative intent to provide for uniformity of laws governing autonomous vehicles throughout the state. The bill prohibits a local government from imposing a tax, fee, for-hire vehicle requirement, or other requirement on automated driving systems or autonomous vehicles or on a person who operates an autonomous vehicle, including, but not limited to, a person who operates an autonomous vehicle for purposes of providing passenger transportation services. To the extent that any local government currently imposes such a tax, fee, or other requirement on such systems, vehicles, or persons, the tax, fee, or other requirement would be prohibited.

Innovative Transportation Technologies (Sections 1, 2, and 10)

Present Situation

The FDOT is currently broadly charged in s. 334.044, F.S.,²³ with the responsibility and duty to conduct research studies and to collect data necessary for the improvement of the state transportation system, to cooperate with and assist local governments in the development of a statewide transportation system and in the development of the individual components of the system, and to conduct research and demonstration projects relative to innovative transportation technologies. As an example, the FDOT's Assistant Secretary's Division for Strategic Development is comprised of offices and personnel that, among other functions:

- Provide the foundation for programming and project delivery through innovative planning and effective outreach to strategically advance the best transportation solutions at the right time;
- Oversee the alignment of information and operational technologies for the FDOT, with responsibility for the strategy and operations of the FDOT's technology environment;
- Oversee the FDOT's research program and contracts with state universities and other research service providers to conduct research in all areas of transportation.²⁴

The FDOT also produces innovative technology publications designed to be resources for transportation entities in researching both traditional and emerging technologies. For example, the FDOT in 2018 published its *Transit Technology Primer*,²⁵ noting "the challenges of deciding which emerging technology to pursue, whether to be an early adopter, or [] how the new technology will affect service delivery." The report is described as "a synthesis of the policy and regulatory framework surrounding transit technology; past and ongoing research, prototype, and pilot efforts; commercially available products; and the experiences of transit agencies."

²³ Section 334.044(20), (21), and (22), F.S.

²⁴ Florida Department of Transportation, *Strategic Development*, available at <https://www.fdot.gov/strategicdevelopment/default.shtm> (last visited March 21, 2019).

²⁵ Florida Department of Transportation, *Transit Technology Primer*, available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/transit/documents/transittechnologyprimer.pdf?sfvrsn=cf0c955a_2 (last visited March 21, 2019).

Additionally, s. 338.2215, F.S., expresses the Legislative intent that the Turnpike Enterprise maximize the advantages obtainable through fully leveraging the turnpike system asset, and that the additional powers and authority granted to the Turnpike Enterprise will provide it with the autonomy and flexibility to enable it to more easily pursue innovations and best practices found in the private sector in, among other items, operations. Section 338.2216(1)(d), F.S., directs the Turnpike Enterprise in part to “pursue and implement new technologies and processes in its operations.”

As an example of such efforts, the Turnpike Enterprise and other entities are participating in a project called SunTrax. According to the project website, “located off I-4 between Orlando and Tampa, SunTrax is a large-scale facility dedicated to the research, development, and testing of emerging transportation technologies in safe and controlled environments.”²⁶ Site construction began in June 2017. The site covers 400 acres containing a multi-lane 2.25-mile long oval track and a 200-acre infield designed specifically for development and testing of automated driving systems.²⁷ The first phase is expected to open in April of 2019, with a design that accommodates an urban area with shipping containers used to replicate buildings, a suburban area, and an airport pickup/drop off area, “all designed to challenge autonomous vehicles.”²⁸

Effect of Proposed Changes

Section 1 of the bill creates s. 316.0899, F.S., entitled “Innovative transportation technology pilot or demonstration programs,” more specifically authorizing the FDOT, in consultation with the DHSMV, to conduct pilot or demonstration programs to explore the efficient implementation of innovative transportation technologies, including, but not limited to, vehicle electrification, shared vehicle use, automated vehicles, and other mobility technologies that provide transportation options intended to increase personal mobility, facilitate shorter urban trips, or provide connections to other modes of transportation. Such pilot or demonstration projects may include innovative transportation technologies that improve delivery of transportation disadvantaged services.²⁹ The bill directs the FDOT to prepare an annual report for submission to the Governor, Senate President, and House Speaker outlining any undertaken programs, and also authorizes inclusion of any findings or recommendations the FDOT deems necessary for future implementation.

Section 2 amends the Florida Turnpike Enterprise Law by amending s. 338.2216, F.S. The bill authorizes the Turnpike Enterprise to enter into one or more agreements to fund construct and operate facilities for the advancement of autonomous and connected innovative transportation technologies for the purpose of improving safety and decreasing congestion for the traveling

²⁶ For more information, see the SunTrax website at <http://www.suntraxfl.com/#about-us> (last viewed March 20, 2019).

²⁷ See the SunTrax Brochure, <http://www.suntraxfl.com/wp-content/uploads/2017/11/SunTrax-Brochure-.pdf>, (last viewed March 20, 2019).

²⁸ SunTrax, *First phase of SunTrax to open in less than a year*, available at <http://www.suntraxfl.com/first-phase-of-suntrax-to-open-in-less-than-a-year/> (last viewed March 20, 2019).

²⁹ The Transportation Disadvantaged Program coordinates a network of local and state programs providing transportation services for elderly, disabled, and low-income citizens. The program assists the transportation disadvantaged; that is, persons who, because of physical or mental disability, income status, or age is unable to transport himself or herself or to purchase transportation and is dependent on others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities. The program also assists children who are handicapped or high-risk or at-risk as defined in s. 411.202, F.S. Section 427.011(1), F.S.

public. The agreements may include terms that authorize a private entity to sell or provide products or business opportunities at the facilities which benefit the traveling public, provide additional revenue, or otherwise advance the Turnpike Enterprise's objectives provided in the Florida Transportation Code.³⁰

Section 10 of the bill also amends s. 316.85, F.S., to authorize the Turnpike Enterprise to fund, construct, and operate test facilities and undertake research and development projects for the advancement of autonomous, connected, and innovative transportation technology solutions for the purposes of improving safety and decreasing congestion for the traveling public and to otherwise advance the Turnpike Enterprise's objectives as set forth in the Florida Transportation Code.

Technical Revisions (Sections 13-17)

Present Situation

Section 339.175(7), F.S., currently requires each metropolitan planning organization to develop a long-range transportation plan which, in part, must make the most efficient use of existing transportation facilities to relieve vehicular congestion, improve safety, and maximize the mobility of people and goods. Such efforts currently include, but are not limited to, consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as "autonomous technology" and other developments.

Section 339.64(3), F.S., with respect to updates of the Strategic Intermodal System (SIS) Plan, requires the Florida Department of Transportation (FDOT) to coordinate with federal, regional, and local partners, and industry representatives, to consider infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as "autonomous technology" and other developments, in SIS facilities. Subsection (4) of that section requires the SIS Plan, among other items, to include a needs assessment that must include, but is not limited to, consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as "autonomous technology" and other developments.

Section 339.83, F.S., authorizes the FDOT secretary to enroll the State in any federal pilot program or project for the collection and study of data for the review of federal or state roadway safety, infrastructure sustainability, congestion mitigation, transportation system efficiency, "autonomous technology," or capacity challenges.

Section 627.0653(6), F.S., authorizes the Office of Insurance Regulation to approve a premium discount to any rates, rating schedules, or rating manuals for the liability, PIP, and collision coverages of a motor vehicle insurance policy filed with the office if the insured vehicle is equipped with "autonomous driving technology" or electronic vehicle collision avoidance technology that is factory installed or a retrofitted system that complies with NHTSA standards.

³⁰ Chapters 334-339, 341, 348, and 349 and ss. 332.003-332.007, 351.35, 351.36, 351.37, and 861.011 may be cited as the "Florida Transportation Code." Section 334.01, F.S.

Effect of Proposed Changes

Sections 13, 14, and 15 amend ss. 339.175, 339.64, 339.83, F.S., respectively, to replace each occurrence of the phrase “autonomous technology,” “autonomous vehicle technology,” and “autonomous driving technology” with the phrase “automated driving system,” to incorporate the new definition of the latter term.

Section 16 amends s. 627.0653, F.S., to replace the phrase “autonomous driving technology” with the phrase “automated driving system,” to incorporate the new definition.

Section 17 amends s. 655.690, F.S., to amend a cross reference to an unrelated definition in ch. 316, F.S., necessitated by bill’s revisions to the definitions in s. 316.003, F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenue.

Subsection (b) of Article VII, s. 18 of the Florida Constitution provides that, except upon approval by each house of the Legislature by two-thirds vote of its membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate. However, these requirements do not apply to laws that have an insignificant fiscal impact on local governments, which for Fiscal Year 2018-2019 is forecast at slightly over \$2 million.^{31, 32, 33}

The bill prohibits a local government from imposing a tax, fee, for-hire vehicle requirement, or other requirement on automated driving systems or autonomous vehicles or on a person who operates an autonomous vehicle, including, but not limited to, a person who operates an autonomous vehicle for purposes of providing passenger transportation services. It is unknown at this time the extent to which any local government currently imposes the prohibited taxes, fees, or other requirements, or the amounts imposed; thus, whether the bill would reduce the authority of municipalities or counties to raise in the aggregate revenue exceeding the “insignificant impact” ceiling is unknown. Approval of the bill by each house of the Legislature by two-thirds vote of its membership may be required.

³¹ FLA. CONST. art. VII, s. 18(d).

³² An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf>

³³ Based on the Florida Demographic Estimating Conference’s November 5, 2018 population forecast for 2019 of 21,170,399. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf>

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

Section 10 of the bill prohibits a local government from imposing a tax, fee, for-hire vehicle requirement, or other requirement on automated driving systems or autonomous vehicles or on a person who operates an autonomous vehicle, including, but not limited to, a person who operates an autonomous vehicle for purposes of providing passenger transportation services. To the extent that any local government currently imposes such a tax, fee, or other requirement on such systems, vehicles, or persons, the tax, fee, or other requirement would be prohibited.

B. Private Sector Impact:

The traveling public may benefit from reduced congestion and commute times, increased mobility, and potential reductions in fatalities and injuries to the extent that the bill facilitates growth in the number and safe operation of autonomous vehicles on the road.

Insurance companies may benefit from increased sales resulting from application of insurance requirements to on-demand autonomous vehicle networks as provided in section 10 of the bill.

Manufacturers and distributors of autonomous vehicles and automated driving systems may benefit from the provisions in sections one, two, and ten of the bill authorizing the FDOT and the Turnpike Enterprise to conduct pilot or demonstration programs; to enter into one or more agreements to fund, construct, and operate test facilities, which may include private entity sales to the public; and to undertake research and development projects. The same entities may benefit to the extent that the bill facilitates growth of the number of autonomous vehicles on the road.

C. Government Sector Impact:

Section 1 of the bill authorizes the FDOT, in consultation with the DHSMV, to conduct pilot or demonstration programs to explore the efficient implementation of innovative transportation technologies. The number and the terms of any such agreements are unknown; therefore, the fiscal impact of the authorization on the FDOT's resources is indeterminate.

Section 2 of the bill also authorizes the Turnpike Enterprise to enter into one or more agreements to fund, construct, and operate facilities for the advancement of autonomous and connected transportation technologies, which agreements may include authorizing a private entity to sell or provide products or business opportunities at the facilities. This revision may produce additional revenue to the Turnpike Enterprise. However, because the number and terms of any such agreements is unknown, the fiscal impact of the authorization on the Turnpike Enterprise's resources within FDOT is indeterminate.

Section 10 of the bill authorizes the Turnpike Enterprise to fund, construct, and operate *test facilities and undertake research and development projects*, for the advancement of autonomous and connected transportation technologies. Again, because the number and details of any test facility to be constructed are unknown, and because the nature, complexity, and number of any research and development projects are unknown, the fiscal impact of the authorization is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill s amends the following sections of the Florida Statutes: 316.003, 316.062, 316.063, 316.065, 316.1975, 316.303, 316.305, 316.85, 319.145, 322.015, 338.2216, 339.175, 339.64, 339.83, 627.0653, and 655.960.

This bill creates the following section of the Florida Statutes: 316.0899.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Infrastructure and Security on March 20, 2019):

The committee substitute:

- Creates a definition for each of the terms “teleoperation system” and “remote human operator,” in relation to on-demand autonomous vehicle networks.

- Authorizes the FDOT, in consultation with the Department of Highway Safety and Motor Vehicles, to explore the efficient implementation of innovative transportation technologies, and requires the FDOT to submit an annual report outlining undertaken programs.
- Authorizes the Turnpike Enterprise to enter into one or more agreements to fund, construct, and operate facilities for the advancement of autonomous and connected technologies, which agreements may include terms that authorize a private entity to sell or provide products or business opportunities at the facilities.
- Authorizes the Turnpike Enterprise to fund, construct, and operate test facilities and undertake research and development projects for the advancement of autonomous, connected, and innovative transportation technology solutions.

B. Amendments:

None.



624656

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2019	.	
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The Committee on Infrastructure and Security (Brandes)
recommended the following:

Senate Amendment (with title amendment)

Between lines 40 and 41
insert:

Section 1. Section 316.0899, Florida Statutes, is created
to read:

316.0899 Innovative transportation technology pilot or
demonstration programs.—The Department of Transportation, in
consultation with the department, may conduct pilot or
demonstration programs to explore the efficient implementation



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11 of innovative transportation technologies, including, but not
12 limited to, vehicle electrification, shared vehicle use,
13 automated vehicles, and other mobility technologies that provide
14 transportation options intended to increase personal mobility,
15 to facilitate shorter urban trips, or to provide connections to
16 other modes of transportation. Such pilot or demonstration
17 programs may also include innovative transportation technologies
18 that improve the delivery of transportation disadvantaged
19 services. The Department of Transportation shall prepare an
20 annual report outlining the programs undertaken pursuant to this
21 section. The report may include any findings or recommendations
22 the department deems necessary for future implementation. The
23 report must be submitted to the Governor, the President of the
24 Senate, and the Speaker of the House of Representatives.

25 Section 2. Paragraph (f) is added to subsection (1) of
26 section 338.2216, Florida Statutes, to read:

27 338.2216 Florida Turnpike Enterprise; powers and
28 authority.—

29 (1)

30 (f) The Florida Turnpike Enterprise may enter into one or
31 more agreements to fund, construct, and operate facilities for
32 the advancement of autonomous and connected innovative
33 transportation technologies for the purposes of improving safety
34 and decreasing congestion for the traveling public. Such
35 agreements may include terms that authorize a private entity to
36 sell or provide products or business opportunities at the
37 facilities which benefit the traveling public, provide
38 additional revenue, or otherwise advance the enterprise's
39 objectives as provided in the Florida Transportation Code.



624656

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 2

and insert:

An act relating to autonomous vehicles; creating s.
316.0899, F.S.; authorizing the Department of
Transportation, in consultation with the Department of
Highway Safety and Motor Vehicles, to conduct pilot or
demonstration programs to explore the efficient
implementation of innovative transportation
technologies; requiring the Department of
Transportation to submit a certain annual report to
the Governor and the Legislature; amending s.
338.2216, F.S.; authorizing the Florida Turnpike
Enterprise to enter into one or more agreements to
fund, construct, and operate facilities for the
advancement of autonomous and connected innovative
transportation technologies for certain purposes;
amending s.



491470

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/22/2019	.	
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	.	

The Committee on Infrastructure and Security (Brandes)
recommended the following:

Senate Amendment (with title amendment)

Delete lines 41 - 228
and insert:

Section 1. Present subsections (48) through (86) of section 316.003, Florida Statutes, are redesignated as subsections (49) through (87), respectively, present subsections (87) through (101) of section 316.003, Florida Statutes, are redesignated as subsections (89) through (103), respectively, new subsections (48) and (88) are added to that section, and subsection (3) and



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present subsection (59) of that section are amended, to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(3) AUTOMATED DRIVING SYSTEM ~~AUTONOMOUS VEHICLE~~.—The hardware and software that are collectively capable of performing the entire dynamic driving task of an autonomous vehicle on a sustained basis, regardless of whether it is limited to a specific operational design domain. The term:

(a) "Autonomous vehicle" means any vehicle equipped with an automated driving system.

(b) "Dynamic driving task" means all of the real-time operational and tactical functions required to operate a vehicle in on-road traffic within its specific operational design domain, if any, excluding strategic functions such as trip scheduling and selection of destinations and waypoints.

(c) "Fully autonomous vehicle" means a vehicle equipped with an automated driving system designed to function without ~~autonomous technology. The term "autonomous technology" means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator. The term excludes a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless~~



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~~any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without active control or monitoring by a human operator.~~

(d) "Operational design domain" means a description of the specific operating domain in which an automated driving system is designed to properly operate, including, but not limited to, roadway types, speed ranges, environmental conditions such as weather and time of day, and other domain constraints.

(48) ON-DEMAND AUTONOMOUS VEHICLE NETWORK.—A passenger transportation network that uses a software application or other digital means to connect passengers to fully autonomous vehicles, exclusively or in addition to other vehicles, for transportation, including for-hire transportation and transportation for compensation.

(60) ~~(59)~~ PRIVATE ROAD OR DRIVEWAY.—Except as otherwise provided in paragraph (82) (b) ~~(81) (b)~~, any privately owned way or place used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(88) TELEOPERATION SYSTEM.—The hardware and software installed in a motor vehicle which allow a remote human operator to supervise or perform aspects of, or the entirety of, the dynamic driving task. The term "remote human operator" means a natural person who is not physically present in a vehicle equipped with an automated driving system who engages or monitors the vehicle from a remote location. A remote human operator may have the ability to perform aspects of, or the entirety of, the dynamic driving task for the vehicle or cause the vehicle to achieve a minimal risk condition.



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69 Section 2. Subsection (5) is added to section 316.062,
70 Florida Statutes, to read:

71 316.062 Duty to give information and render aid.—

72 (5) This section does not apply to a fully autonomous
73 vehicle, operating with the automated driving system engaged, in
74 the event of a crash involving the vehicle if the vehicle owner,
75 or a person on behalf of the vehicle owner, promptly contacts a
76 law enforcement agency to report the crash or if the fully
77 autonomous vehicle has the capability of alerting a law
78 enforcement agency to the crash.

79 Section 3. Subsection (4) is added to section 316.063,
80 Florida Statutes, to read:

81 316.063 Duty upon damaging unattended vehicle or other
82 property.—

83 (4) This section does not apply to a fully autonomous
84 vehicle, operating with the automated driving system engaged, in
85 the event of a crash involving the vehicle if the vehicle owner,
86 or a person on behalf of the vehicle owner, promptly contacts a
87 law enforcement agency to report the crash or if the fully
88 autonomous vehicle has the capability of alerting a law
89 enforcement agency to the crash.

90 Section 4. Subsection (5) is added to section 316.065,
91 Florida Statutes, to read:

92 316.065 Crashes; reports; penalties.—

93 (5) Subsection (1) does not apply to a fully autonomous
94 vehicle, operating with the automated driving system engaged, in
95 the event of a crash involving the vehicle if the vehicle owner,
96 or a person on behalf of the vehicle owner, promptly contacts a
97 law enforcement agency to report the crash or if the fully



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98 autonomous vehicle has the capability of alerting a law
99 enforcement agency to the crash.

100 Section 5. Subsection (3) is added to section 316.1975,
101 Florida Statutes, to read:

102 316.1975 Unattended motor vehicle.—

103 (3) This section does not apply to a fully autonomous
104 vehicle operating with the automated driving system engaged.

105 Section 6. Section 316.303, Florida Statutes, is amended to
106 read:

107 316.303 Television receivers.—

108 (1) A ~~No~~ motor vehicle may not be operated on the highways
109 of this state if the vehicle is actively displaying moving
110 television broadcast or pre-recorded video entertainment content
111 that is visible from the driver's seat while the vehicle is in
112 motion, unless the vehicle is a fully equipped with autonomous
113 vehicle technology, as defined in s. 316.003(3), and is being
114 operated with the automated driving system engaged ~~in autonomous~~
115 ~~mode, as provided in s. 316.85(2).~~

116 (2) This section does not prohibit the use of television-
117 type receiving equipment used exclusively for safety or law
118 enforcement purposes, provided such use is approved by the
119 department.

120 (3) This section does not prohibit the use of an electronic
121 display used in conjunction with a vehicle navigation system; an
122 electronic display used by an operator of an autonomous a
123 ~~vehicle equipped with autonomous technology~~, as defined in s.
124 316.003(3); or an electronic display used by an operator of a
125 vehicle equipped and operating with driver-assistive truck
126 platooning technology, as defined in s. 316.003.



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(4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 7. Paragraph (b) of subsection (3) of section 316.305, Florida Statutes, is amended to read:

316.305 Wireless communications devices; prohibition.—

(3)

(b) Paragraph (a) does not apply to a motor vehicle operator who is:

1. Performing official duties as an operator of an authorized emergency vehicle as defined in s. 322.01, a law enforcement or fire service professional, or an emergency medical services professional.

2. Reporting an emergency or criminal or suspicious activity to law enforcement authorities.

3. Receiving messages that are:

a. Related to the operation or navigation of the motor vehicle;

b. Safety-related information, including emergency, traffic, or weather alerts;

c. Data used primarily by the motor vehicle; or

d. Radio broadcasts.

4. Using a device or system for navigation purposes.

5. Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function.

6. Conducting wireless interpersonal communication that does not require reading text messages, except to activate,



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deactivate, or initiate a feature or function.

7. Operating an autonomous vehicle, as defined in s. 316.003(3) ~~s. 316.003~~, with the automated driving system engaged ~~in autonomous mode~~.

Section 8. Section 316.85, Florida Statutes, is amended to read:

316.85 Autonomous vehicles; operation; compliance with traffic and motor vehicle laws; testing; preemption.—

(1) Notwithstanding any other law, a licensed human operator is not required to operate a fully autonomous vehicle ~~A person who possesses a valid driver license may operate an autonomous vehicle in autonomous mode on roads in this state if the vehicle is equipped with autonomous technology,~~ as defined in s. 316.003(3) ~~s. 316.003~~.

(2) A fully autonomous vehicle may operate in this state regardless of whether a human operator is physically present in the vehicle.

(3) (a) ~~(2)~~ For purposes of this chapter, unless the context otherwise requires, the automated driving system, when engaged, ~~a person~~ shall be deemed to be the operator of an autonomous vehicle ~~operating in autonomous mode when the person causes the vehicle's autonomous technology to engage,~~ regardless of whether a ~~the~~ person is physically present in the vehicle while the vehicle is operating with the automated driving system engaged ~~in autonomous mode~~.

(b) Unless otherwise provided by law, applicable traffic or motor vehicle laws of this state may not be construed to:

1. Prohibit the automated driving system from being deemed the operator of an autonomous vehicle operating with the



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185 automated driving system engaged.

186 2. Require a licensed human operator to operate a fully
187 autonomous vehicle.

188 (4) The Florida Turnpike Enterprise may fund, construct,
189 and operate test facilities and undertake research and
190 development projects for the advancement of autonomous and
191 connected innovative transportation technology solutions for the
192 purposes of improving safety and decreasing congestion for the
193 traveling public and to otherwise advance the objectives of the
194 Florida Turnpike Enterprise as set forth in the Florida
195 Transportation Code.

196 (5) An on-demand autonomous vehicle network may operate
197 pursuant to state laws governing the operation of transportation
198 network companies and transportation network company vehicles as
199 defined in s. 627.748, except that any provision of s. 627.748
200 which reasonably applies only to a human driver does not apply
201 to the operation of a fully autonomous vehicle with the
202 automated driving system engaged in an on-demand autonomous
203 vehicle network.

204 (6) Notwithstanding any other provision of this chapter, an
205 autonomous vehicle or a fully autonomous vehicle equipped with a
206 teleoperation system may operate without a human operator
207 physically present in the vehicle when the teleoperation system
208 is engaged. A vehicle that is subject to this subsection must
209 meet the requirements of s. 319.145 and is considered a vehicle
210 that meets the definition of s. 316.003(3)(c) for purposes of
211 ss. 316.062(5), 316.063(4), 316.065(5), 316.1975(3), and
212 316.303(1).

213 (7) It is the intent of the Legislature to provide for



491470

214
215 ===== T I T L E A M E N D M E N T =====

216 And the title is amended as follows:

217 Between lines 25 and 26

218 insert:

219 authorizing an autonomous vehicle or fully autonomous
220 vehicle equipped with a teleoperation system to
221 operate without a human operator physically present in
222 the vehicle when the teleoperation system is engaged;
223 providing requirements for such vehicle; providing
224 construction;



571094

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2019	.	
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The Committee on Infrastructure and Security (Brandes)
recommended the following:

**Senate Substitute for Amendment (491470) (with title
amendment)**

Delete lines 41 - 261
and insert:

Section 1. Present subsections (48) through (86) of section
316.003, Florida Statutes, are redesignated as subsections (49)
through (87), respectively, present subsections (87) through
(101) of section 316.003, Florida Statutes, are redesignated as
subsections (89) through (103), respectively, new subsections



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(48) and (88) are added to that section, and subsection (3) and present subsection (59) of that section are amended, to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(3) AUTOMATED DRIVING SYSTEM ~~AUTONOMOUS VEHICLE~~.—The hardware and software that are collectively capable of performing the entire dynamic driving task of an autonomous vehicle on a sustained basis, regardless of whether it is limited to a specific operational design domain. The term:

(a) "Autonomous vehicle" means any vehicle equipped with an automated driving system.

(b) "Dynamic driving task" means all of the real-time operational and tactical functions required to operate a vehicle in on-road traffic within its specific operational design domain, if any, excluding strategic functions such as trip scheduling and selection of destinations and waypoints.

(c) "Fully autonomous vehicle" means a vehicle equipped with an automated driving system designed to function without autonomous technology. The term "autonomous technology" means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator. The term excludes a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane



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~~departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without active control or monitoring by a human operator.~~

(d) "Operational design domain" means a description of the specific operating domain in which an automated driving system is designed to properly operate, including, but not limited to, roadway types, speed ranges, environmental conditions such as weather and time of day, and other domain constraints.

(48) ON-DEMAND AUTONOMOUS VEHICLE NETWORK.—A passenger transportation network that uses a software application or other digital means to connect passengers to fully autonomous vehicles, exclusively or in addition to other vehicles, for transportation, including for-hire transportation and transportation for compensation.

(60) (59) PRIVATE ROAD OR DRIVEWAY.—Except as otherwise provided in paragraph (82) (b) (81) (b), any privately owned way or place used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(88) TELEOPERATION SYSTEM.—The hardware and software installed in a motor vehicle which allow a remote human operator to supervise or perform aspects of, or the entirety of, the dynamic driving task. The term "remote human operator" means a natural person who is not physically present in a vehicle equipped with an automated driving system who engages or monitors the vehicle from a remote location. A remote human operator may have the ability to perform aspects of, or the entirety of, the dynamic driving task for the vehicle or cause



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the vehicle to achieve a minimal risk condition.

Section 2. Subsection (5) is added to section 316.062, Florida Statutes, to read:

316.062 Duty to give information and render aid.—

(5) This section does not apply to a fully autonomous vehicle, operating with the automated driving system engaged, in the event of a crash involving the vehicle if the vehicle owner, or a person on behalf of the vehicle owner, promptly contacts a law enforcement agency to report the crash or if the fully autonomous vehicle has the capability of alerting a law enforcement agency to the crash.

Section 3. Subsection (4) is added to section 316.063, Florida Statutes, to read:

316.063 Duty upon damaging unattended vehicle or other property.—

(4) This section does not apply to a fully autonomous vehicle, operating with the automated driving system engaged, in the event of a crash involving the vehicle if the vehicle owner, or a person on behalf of the vehicle owner, promptly contacts a law enforcement agency to report the crash or if the fully autonomous vehicle has the capability of alerting a law enforcement agency to the crash.

Section 4. Subsection (5) is added to section 316.065, Florida Statutes, to read:

316.065 Crashes; reports; penalties.—

(5) Subsection (1) does not apply to a fully autonomous vehicle, operating with the automated driving system engaged, in the event of a crash involving the vehicle if the vehicle owner, or a person on behalf of the vehicle owner, promptly contacts a



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law enforcement agency to report the crash or if the fully autonomous vehicle has the capability of alerting a law enforcement agency to the crash.

Section 5. Subsection (3) is added to section 316.1975, Florida Statutes, to read:

316.1975 Unattended motor vehicle.—

(3) This section does not apply to a fully autonomous vehicle operating with the automated driving system engaged.

Section 6. Section 316.303, Florida Statutes, is amended to read:

316.303 Television receivers.—

(1) ~~A No motor vehicle may not be operated on the highways of this state if the vehicle is actively displaying moving television broadcast or pre-recorded video entertainment content that is visible from the driver's seat while the vehicle is in motion, unless the vehicle is equipped with autonomous technology, as defined in s. 316.003(3), and is being operated with the automated driving system engaged in autonomous mode, as provided in s. 316.85(2).~~

(2) This section does not prohibit the use of television-type receiving equipment used exclusively for safety or law enforcement purposes, provided such use is approved by the department.

(3) This section does not prohibit the use of an electronic display used in conjunction with a vehicle navigation system; an electronic display used by an operator of an autonomous a vehicle ~~equipped with autonomous technology~~, as defined in s. 316.003(3); or an electronic display used by an operator of a vehicle equipped and operating with driver-assistive truck



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platooning technology, as defined in s. 316.003.

(4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 7. Paragraph (b) of subsection (3) of section 316.305, Florida Statutes, is amended to read:

316.305 Wireless communications devices; prohibition.—

(3)

(b) Paragraph (a) does not apply to a motor vehicle operator who is:

1. Performing official duties as an operator of an authorized emergency vehicle as defined in s. 322.01, a law enforcement or fire service professional, or an emergency medical services professional.

2. Reporting an emergency or criminal or suspicious activity to law enforcement authorities.

3. Receiving messages that are:

a. Related to the operation or navigation of the motor vehicle;

b. Safety-related information, including emergency, traffic, or weather alerts;

c. Data used primarily by the motor vehicle; or

d. Radio broadcasts.

4. Using a device or system for navigation purposes.

5. Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function.

6. Conducting wireless interpersonal communication that



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does not require reading text messages, except to activate, deactivate, or initiate a feature or function.

7. Operating an autonomous vehicle, as defined in s. 316.003(3) ~~s. 316.003~~, with the automated driving system engaged in autonomous mode.

Section 8. Section 316.85, Florida Statutes, is amended to read:

316.85 Autonomous vehicles; operation; compliance with traffic and motor vehicle laws; testing; preemption.—

(1) Notwithstanding any other law, a licensed human operator is not required to operate a fully autonomous vehicle ~~A person who possesses a valid driver license may operate an autonomous vehicle in autonomous mode on roads in this state if the vehicle is equipped with autonomous technology,~~ as defined in s. 316.003(3) ~~s. 316.003~~.

(2) A fully autonomous vehicle may operate in this state regardless of whether a human operator is physically present in the vehicle.

(3) (a) ~~(2)~~ For purposes of this chapter, unless the context otherwise requires, the automated driving system, when engaged, ~~a person~~ shall be deemed to be the operator of an autonomous vehicle ~~operating in autonomous mode when the person causes the vehicle's autonomous technology to engage,~~ regardless of whether a ~~the~~ person is physically present in the vehicle while the vehicle is operating with the automated driving system engaged ~~in autonomous mode.~~

(b) Unless otherwise provided by law, applicable traffic or motor vehicle laws of this state may not be construed to:

1. Prohibit the automated driving system from being deemed



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the operator of an autonomous vehicle operating with the
automated driving system engaged.

2. Require a licensed human operator to operate a fully
autonomous vehicle.

(4) The Florida Turnpike Enterprise may fund, construct,
and operate test facilities and undertake research and
development projects for the advancement of autonomous and
connected innovative transportation technology solutions for the
purposes of improving safety and decreasing congestion for the
traveling public and to otherwise advance the objectives of the
Florida Turnpike Enterprise as set forth in the Florida
Transportation Code.

(5) An on-demand autonomous vehicle network may operate
pursuant to state laws governing the operation of transportation
network companies and transportation network company vehicles as
defined in s. 627.748, except that any provision of s. 627.748
which reasonably applies only to a human driver does not apply
to the operation of a fully autonomous vehicle with the
automated driving system engaged in an on-demand autonomous
vehicle network.

(6) Notwithstanding any other provision of this chapter, an
autonomous vehicle or a fully autonomous vehicle equipped with a
teleoperation system may operate without a human operator
physically present in the vehicle when the teleoperation system
is engaged. A vehicle that is subject to this subsection must
meet the requirements of s. 319.145 and is considered a vehicle
that meets the definition of s. 316.003(3)(c) for the purposes
of ss. 316.062(5), 316.063(4), 316.065(5), 316.1975(3), and
316.303(1).



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(7) It is the intent of the Legislature to provide for uniformity of laws governing autonomous vehicles throughout the state. A local government may not impose any tax, fee, for-hire vehicle requirement, or other requirement on automated driving systems or autonomous vehicles or on a person who operates an autonomous vehicle, including, but not limited to, a person who operates an autonomous vehicle for purposes of providing passenger transportation services.

Section 9. Section 319.145, Florida Statutes, is amended to read:

319.145 Autonomous vehicles.—

(1) An autonomous vehicle registered in this state must ~~continue to~~ meet all of the following requirements:

(a) When required by federal law:

1. Has been certified in accordance with federal regulations in 49 C.F.R. part 567 as being in compliance with applicable federal motor vehicle safety standards.

2. Bear the required certification label or labels, including reference to any exemption granted under applicable federal law.

(b) Be capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state, regardless of whether the vehicle is operating with the automated driving system engaged.

(2) If the autonomous vehicle is not fully autonomous, ~~applicable federal standards and regulations for such motor vehicle.~~ the vehicle must:

~~(a)~~ have a system to safely alert a licensed human the operator physically present in the vehicle if an automated



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driving system ~~autonomous technology~~ failure is detected while
the automated driving system ~~autonomous technology~~ is engaged.
When an alert is given, the system must:

~~1.~~ require the licensed human operator to take control of
the autonomous vehicle or must achieve a minimal risk condition;
~~or~~

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 6 - 25

and insert:

F.S.; exempting a vehicle being operated with the
automated driving system engaged from a prohibition on
the active display of television or video; amending s.
316.305, F.S.; exempting a motor vehicle operator who
is operating an autonomous vehicle from a prohibition
on the use of wireless communications devices;
amending s. 316.85, F.S.; providing that a licensed
human operator is not required to operate a fully
autonomous vehicle; authorizing a fully autonomous
vehicle to operate in this state regardless of whether
a human operator is physically present in the vehicle;
requiring the automated driving system to be deemed to
be the operator of an autonomous vehicle operating
with the automated driving system engaged; providing
construction; authorizing the Florida Turnpike
Enterprise to fund, construct, and operate certain
test facilities and undertake certain research and
development projects; providing requirements for



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272 operation of on-demand autonomous vehicle networks;
273 authorizing an autonomous vehicle or fully autonomous
274 vehicle equipped with a teleoperation system to
275 operate without a human operator physically present in
276 the vehicle when the teleoperation system is engaged;
277 providing requirements for such vehicles; providing
278 construction;



177774

LEGISLATIVE ACTION

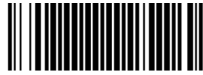
Senate	.	House
Comm: UNFAV	.	
03/22/2019	.	
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The Committee on Infrastructure and Security (Cruz) recommended the following:

Senate Amendment to Amendment (571094) (with title amendment)

Delete lines 174 - 248
and insert:

(3) (a) (2) For purposes of this chapter, unless the context otherwise requires, the owner of the vehicle ~~a person~~ shall be deemed to be the operator of an autonomous vehicle operating in autonomous mode ~~when the person causes the vehicle's autonomous technology to engage,~~ regardless of whether a ~~the~~ person is



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physically present in the vehicle while the vehicle is operating with the automated driving system engaged in autonomous mode.

(b) Unless otherwise provided by law, applicable traffic or motor vehicle laws of this state may not be construed to:

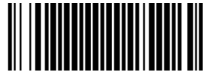
1. Prohibit the owner or remote operator from being deemed the operator of an autonomous vehicle operating with the automated driving system engaged.

2. Require a licensed human operator to operate a fully autonomous vehicle.

(4) The Florida Turnpike Enterprise may fund, construct, and operate test facilities for the advancement of autonomous and connected innovative transportation technology solutions for the purposes of improving safety and decreasing congestion for the traveling public and to otherwise advance the objectives of the Florida Turnpike Enterprise as set forth in the Florida Transportation Code.

(5) An on-demand autonomous vehicle network may operate pursuant to state laws governing the operation of transportation network companies and transportation network company vehicles as defined in s. 627.748, except that any provision of s. 627.748 which reasonably applies only to a human driver applies to the owner of a fully autonomous vehicle with the automated driving system engaged in an on-demand autonomous vehicle network.

(6) (a) The owner, manufacturer, and remote operator of the autonomous vehicle are liable for damages caused by any bodily injury, death, or property damage resulting from an accident involving the autonomous vehicle if, at the time of the accident, the autonomous vehicle was operating in autonomous mode and the automated driving system failed to perform like a

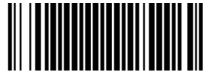


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reasonably prudent human operator would under similar
circumstances.

(b) The remedies provided in this section are in addition
to any other remedies provided by law.

(7) The data captured and stored by an autonomous vehicle,
including by its sensors, cameras, and similar recording
devices, in the 5 minutes preceding a crash must be preserved
for a period of 4 years following a collision with another
vehicle, a person, or an object while the vehicle is operating
in autonomous mode. The vehicle manufacturer or owner shall,
within 30 days of a request, provide the preserved data relating
to the vehicle's performance, speed, braking, steering,
maneuvers, and outside surroundings, including all data
regarding the detection of other vehicles, pedestrians,
wildlife, or other objects, to any law enforcement agency and
any person, or the authorized representative of that person, who
is alleged to have suffered bodily injury, death, or property
damage as a result of such a collision. The manufacturer and
owner may withhold the production of data collected from the
vehicle's occupant cabin from internal cameras or microphones
which they, in good faith, believe to be protected by applicable
privacy rights, but shall notify the requester in writing that
information is being withheld on this basis when responding to
the request. The manufacturer and owner must continue to
preserve the withheld data for the required timeframe. This
section does not abrogate or displace common law or federal law
regarding the duty to preserve data or evidence relating to a
motor vehicle crash or respond to properly served discovery
requests or court orders.



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(8) Each manufacturer of an autonomous vehicle is required to generate incident reports for any accident that may have caused bodily injury, death, or property damage, and which involved an autonomous vehicle operating in autonomous mode at the time of an accident. The manufacturer must provide the department with the incident report within 10 days after the accident. The report shall be in the form and format and contain any information required by the department.

Section 9. Section 319.145, Florida Statutes, is amended to read:

319.145 Autonomous vehicles.—

(1) An autonomous vehicle registered in this state must ~~continue to~~ meet all of the following requirements:

(a) When required by federal law:

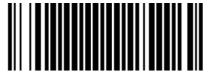
1. Have been certified in accordance with federal regulations in 49 C.F.R. part 567 as being in compliance with applicable federal motor vehicle safety standards.

2. Bear the required certification label or labels including reference to any exemption granted under applicable federal law.

(b) Be capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state, regardless of whether the vehicle is operating with the automated driving system engaged.

(c) Have a means to clearly indicate, both to persons inside and outside of the vehicle, when the vehicle is operating in autonomous mode.

(2) If the autonomous vehicle is not fully autonomous,
~~applicable federal standards and regulations for such motor~~



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~~vehicle.~~ the vehicle must:

~~(a)~~ have a system to safely alert a licensed human ~~the~~
operator physically present in the vehicle if an automated
driving system ~~autonomous technology~~ failure is detected while
the automated driving system ~~autonomous technology~~ is engaged.
When an alert is given, the system must:

~~1.~~ require the licensed human operator to take control of
the autonomous vehicle; ~~or~~

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

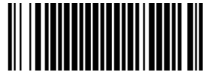
Delete lines 252 - 278

and insert:

Delete lines 6 - 26

and insert:

F.S.; exempting a vehicle being operated with the
automated driving system engaged from a prohibition on
the active display of television or video; amending s.
316.305, F.S.; exempting a motor vehicle operator who
is operating an autonomous vehicle from a prohibition
on the use of wireless communications devices;
amending s. 316.85, F.S.; providing that a licensed
human operator is not required to operate a fully
autonomous vehicle; authorizing a fully autonomous
vehicle to operate in this state regardless of whether
a human operator is physically present in the vehicle;
requiring the owner of the vehicle to be deemed to be
the operator of an autonomous vehicle operating with
the automated driving system engaged; providing



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127 construction; authorizing the Florida Turnpike
128 Enterprise to fund, construct, and operate certain
129 test facilities and undertake certain research and
130 development projects; providing requirements for
131 operation of on-demand autonomous vehicle networks;
132 providing that the owner, manufacturer, and remote
133 operator of the autonomous vehicle are liable for
134 certain damages; providing for remedies; providing
135 requirements for certain data captured and stored by
136 an autonomous vehicle preceding a crash; requiring
137 each manufacturer of an autonomous vehicle to generate
138 incident reports for certain accidents and provide
139 such reports to the Department of Highway Safety and
140 Motor Vehicles within a specified timeframe;
141 prohibiting a local



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/20/2019	.	
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The Committee on Infrastructure and Security (Brandes)
recommended the following:

Senate Amendment (with title amendment)

Delete lines 136 - 261
and insert:
motion, unless the vehicle is ~~equipped with autonomous~~
~~technology, as defined in s. 316.003(3), and is~~ being operated
with the automated driving system engaged in autonomous mode, as
~~provided in s. 316.85(2).~~

(2) This section does not prohibit the use of television-
type receiving equipment used exclusively for safety or law



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enforcement purposes, provided such use is approved by the department.

(3) This section does not prohibit the use of an electronic display used in conjunction with a vehicle navigation system; an electronic display used by an operator of an autonomous a vehicle ~~equipped with autonomous technology~~, as defined in s. 316.003(3); or an electronic display used by an operator of a vehicle equipped and operating with driver-assistive truck platooning technology, as defined in s. 316.003.

(4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 7. Paragraph (b) of subsection (3) of section 316.305, Florida Statutes, is amended to read:

316.305 Wireless communications devices; prohibition.—

(3)

(b) Paragraph (a) does not apply to a motor vehicle operator who is:

1. Performing official duties as an operator of an authorized emergency vehicle as defined in s. 322.01, a law enforcement or fire service professional, or an emergency medical services professional.

2. Reporting an emergency or criminal or suspicious activity to law enforcement authorities.

3. Receiving messages that are:

a. Related to the operation or navigation of the motor vehicle;

b. Safety-related information, including emergency, traffic, or weather alerts;



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c. Data used primarily by the motor vehicle; or

d. Radio broadcasts.

4. Using a device or system for navigation purposes.

5. Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function.

6. Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function.

7. Operating an autonomous vehicle, as defined in s. 316.003(3) ~~s. 316.003~~, with the automated driving system engaged in autonomous mode.

Section 8. Section 316.85, Florida Statutes, is amended to read:

316.85 Autonomous vehicles; operation; compliance with traffic and motor vehicle laws; testing; preemption.—

(1) Notwithstanding any other law, a licensed human operator is not required to operate a fully autonomous vehicle ~~A person who possesses a valid driver license may operate an autonomous vehicle in autonomous mode on roads in this state if the vehicle is equipped with autonomous technology, as defined in s. 316.003(3) s. 316.003.~~

(2) A fully autonomous vehicle may operate in this state regardless of whether a human operator is physically present in the vehicle.

(3) (a) ~~(2)~~ For purposes of this chapter, unless the context otherwise requires, the automated driving system, when engaged, ~~a person~~ shall be deemed to be the operator of an autonomous



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vehicle ~~operating in autonomous mode when the person causes the~~
~~vehicle's autonomous technology to engage~~, regardless of whether
a the person is physically present in the vehicle while the
vehicle is operating with the automated driving system engaged
~~in autonomous mode.~~

(b) Unless otherwise provided by law, applicable traffic or
motor vehicle laws of this state may not be construed to:

1. Prohibit the automated driving system from being deemed
the operator of an autonomous vehicle operating with the
automated driving system engaged.

2. Require a licensed human operator to operate a fully
autonomous vehicle.

(4) The Florida Turnpike Enterprise may fund, construct,
and operate test facilities and undertake research and
development projects for the advancement of autonomous and
connected innovative transportation technology solutions for the
purposes of improving safety and decreasing congestion for the
traveling public and to otherwise advance the objectives of the
Florida Turnpike Enterprise as set forth in the Florida
Transportation Code.

(5) An on-demand autonomous vehicle network may operate
pursuant to state laws governing the operation of transportation
network companies and transportation network company vehicles as
defined in s. 627.748, except that any provision of s. 627.748
which reasonably applies only to a human driver does not apply
to the operation of a fully autonomous vehicle with the
automated driving system engaged in an on-demand autonomous
vehicle network.

(6) It is the intent of the Legislature to provide for



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uniformity of laws governing autonomous vehicles throughout the
state. A local government may not impose any tax, fee, for-hire
vehicle requirement, or other requirement on automated driving
systems or autonomous vehicles or on a person who operates an
autonomous vehicle, including, but not limited to, a person who
operates an autonomous vehicle for purposes of providing
passenger transportation services.

Section 9. Section 319.145, Florida Statutes, is amended to
read:

319.145 Autonomous vehicles.—

(1) An autonomous vehicle registered in this state must
~~continue to~~ meet all of the following requirements:

(a) When required by federal law:

1. Has been certified in accordance with federal
regulations in 49 C.F.R. part 567 as being in compliance with
applicable federal motor vehicle safety standards or has been
granted an exemption.

2. Bear the required certification label or labels,
including reference to any exemption granted under applicable
federal law.

(b) Be capable of being operated in compliance with the
applicable traffic and motor vehicle laws of this state,
regardless of whether the vehicle is operating with the
automated driving system engaged.

(2) If the autonomous vehicle is not fully autonomous,
~~applicable federal standards and regulations for such motor~~
~~vehicle.~~ the vehicle must:

~~(a) have a system to safely alert a licensed human the~~
operator physically present in the vehicle if an automated



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driving system ~~autonomous technology~~ failure is detected while
the automated driving system ~~autonomous technology~~ is engaged.

When an alert is given, the system must:

~~1.~~ require the licensed human operator to take control of
the autonomous vehicle or must achieve a minimal risk condition
~~or~~

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 6 - 7

and insert:

F.S.; exempting a vehicle being operated with the
automated driving system engaged



837754

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/22/2019	.	
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	.	

The Committee on Infrastructure and Security (Cruz) recommended the following:

Senate Amendment (with title amendment)

Between lines 284 and 285
insert:

Section 11. Section 324.033, Florida Statutes, is created
to read:

324.033 Manner of proving financial responsibility;
autonomous vehicles.—

(1) Notwithstanding s. 324.021 or any other provision of
law, the owner of a fully autonomous vehicle is deemed the



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operator of the vehicle while operating in autonomous mode and
is fully liable for any damage caused by the autonomous vehicle.
All fully autonomous vehicles must be insured by a motor vehicle
liability policy which provides uninsured and underinsured
vehicle coverage as required by s. 627.727, personal injury
protection coverage as provided by s. 627.736, and liability
coverage that insures the owner in the amount of at least
\$500,000 for combined bodily injury liability and property
damage liability or at least:

(a) One hundred thousand dollars for bodily injury to, or
the death of, one person in any one accident;

(b) Subject to such limits for one person, \$300,000 for
bodily injury to, or the death of, two or more persons in any
one accident; and

(c) Fifty thousand dollars for damage to, or destruction
of, the property of others in any one accident.

(2) Notwithstanding subsection (1), the owner or operator
of an autonomous vehicle, as defined in s. 316.003(3), which is
used commercially for the pickup or delivery of passengers or
goods or for providing other services for compensation, except
in the circumstance of a digital network connecting a user to a
driver or an autonomous vehicle, must be insured by a motor
vehicle liability policy which provides all of the following:

(a) Primary automobile liability coverage which insures the
owner in the amount of at least \$2 million for death, bodily
injury, and property damage.

(b) Personal injury protection benefits that meet the
minimum coverage required under ss. 627.730 - 627.7405.

(c) Uninsured and underinsured vehicle coverage as required



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by s. 627.727.

(3) Nothing in this act is construed to limit or diminish
any right to recover damages caused by autonomous vehicles under
Florida statutory or common law.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 33

and insert:

322.015, F.S.; providing applicability; creating s.
324.033, F.S.; requiring the owner of a fully
autonomous vehicle to be deemed the operator of the
vehicle while operating in autonomous mode and to be
fully liable for certain damages; providing insurance
requirements for fully autonomous vehicles; providing
insurance requirements for certain owners or operators
of autonomous vehicles used commercially for the
pickup or delivery of passengers or goods or for
providing other services for compensation; providing
an exception; providing construction; amending ss.

By Senator Brandes

24-00811A-19

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1 A bill to be entitled
 2 An act relating to autonomous vehicles; amending s.
 3 316.003, F.S.; revising and providing definitions;
 4 amending ss. 316.062, 316.063, 316.065, and 316.1975,
 5 F.S.; providing applicability; amending s. 316.303,
 6 F.S.; exempting a fully autonomous vehicle being
 7 operated with the automated driving system engaged
 8 from a prohibition on the active display of television
 9 or video; amending s. 316.305, F.S.; exempting a motor
 10 vehicle operator who is operating an autonomous
 11 vehicle from a prohibition on the use of wireless
 12 communications devices; amending s. 316.85, F.S.;
 13 providing that a licensed human operator is not
 14 required to operate a fully autonomous vehicle;
 15 authorizing a fully autonomous vehicle to operate in
 16 this state regardless of whether a human operator is
 17 physically present in the vehicle; requiring the
 18 automated driving system to be deemed to be the
 19 operator of an autonomous vehicle operating with the
 20 automated driving system engaged; providing
 21 construction; authorizing the Florida Turnpike
 22 Enterprise to fund, construct, and operate certain
 23 test facilities and undertake certain research and
 24 development projects; providing requirements for
 25 operation of on-demand autonomous vehicle networks;
 26 providing legislative intent; prohibiting a local
 27 government from imposing any tax, fee, for-hire
 28 vehicle requirement, or other requirement on automated
 29 driving systems or autonomous vehicles or on a person

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 who operates an autonomous vehicle; amending s.
 31 319.145, F.S.; revising requirements for autonomous
 32 vehicles registered in this state; creating s.
 33 322.015, F.S.; providing applicability; amending ss.
 34 339.175, 339.64, 339.83, and 627.0653, F.S.;
 35 conforming provisions to changes made by the act;
 36 amending s. 655.960, F.S.; conforming a cross-
 37 reference; providing an effective date.

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

41 Section 1. Present subsections (48) through (101) of
 42 section 316.003, Florida Statutes, are renumbered as subsections
 43 (49) through (102), respectively, subsection (3) and present
 44 subsection (59) are amended, and a new subsection (48) is added
 45 to that section, to read:

46 316.003 Definitions.—The following words and phrases, when
 47 used in this chapter, shall have the meanings respectively
 48 ascribed to them in this section, except where the context
 49 otherwise requires:

50 (3) AUTOMATED DRIVING SYSTEM ~~AUTONOMOUS VEHICLE~~.—The
 51 hardware and software that are collectively capable of
 52 performing the entire dynamic driving task of an autonomous
 53 vehicle on a sustained basis, regardless of whether it is
 54 limited to a specific operational design domain. The term:

55 (a) "Autonomous vehicle" means any vehicle equipped with an
 56 automated driving system.

57 (b) "Dynamic driving task" means all of the real-time
 58 operational and tactical functions required to operate a vehicle

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in on-road traffic within its specific operational design domain, if any, excluding strategic functions such as trip scheduling and selection of destinations and waypoints.

(c) "Fully autonomous vehicle" means a vehicle equipped with an automated driving system designed to function without autonomous technology. The term "autonomous technology" means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator. The term excludes a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without active control or monitoring by a human operator.

(d) "Operational design domain" means a description of the specific operating domain in which an automated driving system is designed to properly operate, including, but not limited to, roadway types, speed ranges, environmental conditions such as weather and time of day, and other domain constraints.

(48) ON-DEMAND AUTONOMOUS VEHICLE NETWORK.—A passenger transportation network that uses a software application or other digital means to connect passengers to fully autonomous vehicles, exclusively or in addition to other vehicles, for transportation, including for-hire transportation and transportation for compensation.

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(60)(59) PRIVATE ROAD OR DRIVEWAY.—Except as otherwise provided in paragraph (82)(b) ~~(81)(b)~~, any privately owned way or place used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

Section 2. Subsection (5) is added to section 316.062, Florida Statutes, to read:

316.062 Duty to give information and render aid.—

(5) This section does not apply to a fully autonomous vehicle, operating with the automated driving system engaged, in the event of a crash involving the vehicle if the vehicle owner, or a person on behalf of the vehicle owner, promptly contacts a law enforcement agency to report the crash or if the fully autonomous vehicle has the capability of alerting a law enforcement agency to the crash.

Section 3. Subsection (4) is added to section 316.063, Florida Statutes, to read:

316.063 Duty upon damaging unattended vehicle or other property.—

(4) This section does not apply to a fully autonomous vehicle, operating with the automated driving system engaged, in the event of a crash involving the vehicle if the vehicle owner, or a person on behalf of the vehicle owner, promptly contacts a law enforcement agency to report the crash or if the fully autonomous vehicle has the capability of alerting a law enforcement agency to the crash.

Section 4. Subsection (5) is added to section 316.065, Florida Statutes, to read:

316.065 Crashes; reports; penalties.—

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(5) Subsection (1) does not apply to a fully autonomous vehicle, operating with the automated driving system engaged, in the event of a crash involving the vehicle if the vehicle owner, or a person on behalf of the vehicle owner, promptly contacts a law enforcement agency to report the crash or if the fully autonomous vehicle has the capability of alerting a law enforcement agency to the crash.

Section 5. Subsection (3) is added to section 316.1975, Florida Statutes, to read:

316.1975 Unattended motor vehicle.—

(3) This section does not apply to a fully autonomous vehicle operating with the automated driving system engaged.

Section 6. Section 316.303, Florida Statutes, is amended to read:

316.303 Television receivers.—

(1) A ~~no~~ motor vehicle may not be operated on the highways of this state if the vehicle is actively displaying moving television broadcast or pre-recorded video entertainment content that is visible from the driver's seat while the vehicle is in motion, unless the vehicle is a fully equipped with autonomous vehicle technology, as defined in s. 316.003(3), and is being operated with the automated driving system engaged in autonomous mode, as provided in s. 316.85(2).

(2) This section does not prohibit the use of television-type receiving equipment used exclusively for safety or law enforcement purposes, provided such use is approved by the department.

(3) This section does not prohibit the use of an electronic display used in conjunction with a vehicle navigation system; an

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electronic display used by an operator of an autonomous ~~a~~ vehicle ~~equipped with autonomous technology~~, as defined in s. 316.003(3); or an electronic display used by an operator of a vehicle equipped and operating with driver-assistive truck platooning technology, as defined in s. 316.003.

(4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 7. Paragraph (b) of subsection (3) of section 316.305, Florida Statutes, is amended to read:

316.305 Wireless communications devices; prohibition.—

(3)

(b) Paragraph (a) does not apply to a motor vehicle operator who is:

1. Performing official duties as an operator of an authorized emergency vehicle as defined in s. 322.01, a law enforcement or fire service professional, or an emergency medical services professional.

2. Reporting an emergency or criminal or suspicious activity to law enforcement authorities.

3. Receiving messages that are:

a. Related to the operation or navigation of the motor vehicle;

b. Safety-related information, including emergency, traffic, or weather alerts;

c. Data used primarily by the motor vehicle; or

d. Radio broadcasts.

4. Using a device or system for navigation purposes.

5. Conducting wireless interpersonal communication that

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does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function.

6. Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function.

7. Operating an autonomous vehicle, as defined in s. 316.003(3) ~~s. 316.003~~, with the automated driving system engaged in autonomous mode.

Section 8. Section 316.85, Florida Statutes, is amended to read:

316.85 Autonomous vehicles; operation; compliance with traffic and motor vehicle laws; testing; preemption.-

(1) Notwithstanding any other law, a licensed human operator is not required to operate a fully autonomous vehicle ~~A person who possesses a valid driver license may operate an autonomous vehicle in autonomous mode on roads in this state if the vehicle is equipped with autonomous technology,~~ as defined in s. 316.003(3) ~~s. 316.003~~.

(2) A fully autonomous vehicle may operate in this state regardless of whether a human operator is physically present in the vehicle.

(3) ~~(a)(2)~~ For purposes of this chapter, unless the context otherwise requires, the automated driving system, when engaged, ~~a person~~ shall be deemed to be the operator of an autonomous vehicle ~~operating in autonomous mode when the person causes the vehicle's autonomous technology to engage,~~ regardless of whether a ~~the~~ person is physically present in the vehicle while the vehicle is operating with the automated driving system engaged

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~~in autonomous mode.~~

(b) Unless otherwise provided by law, applicable traffic or motor vehicle laws of this state may not be construed to:

1. Prohibit the automated driving system from being deemed the operator of an autonomous vehicle operating with the automated driving system engaged.

2. Require a licensed human operator to operate a fully autonomous vehicle.

(4) The Florida Turnpike Enterprise may fund, construct, and operate test facilities and undertake research and development projects for the advancement of autonomous and connected innovative transportation technology solutions for the purposes of improving safety and decreasing congestion for the traveling public and to otherwise advance the objectives of the Florida Turnpike Enterprise as set forth in the Florida Transportation Code.

(5) An on-demand autonomous vehicle network may operate pursuant to state laws governing the operation of transportation network companies and transportation network company vehicles as defined in s. 627.748, except that any provision of s. 627.748 which reasonably applies only to a human driver does not apply to the operation of a fully autonomous vehicle with the automated driving system engaged in an on-demand autonomous vehicle network.

(6) It is the intent of the Legislature to provide for uniformity of laws governing autonomous vehicles throughout the state. A local government may not impose any tax, fee, for-hire vehicle requirement, or other requirement on automated driving systems or autonomous vehicles or on a person who operates an

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233 autonomous vehicle, including, but not limited to, a person who
 234 operates an autonomous vehicle for purposes of providing
 235 passenger transportation services.
 236 Section 9. Section 319.145, Florida Statutes, is amended to
 237 read:
 238 319.145 Autonomous vehicles.—
 239 (1) An autonomous vehicle registered in this state must
 240 continue to meet all of the following requirements:
 241 (a) When required by federal law:
 242 1. Has been certified in accordance with federal
 243 regulations in 49 C.F.R. part 567 as being in compliance with
 244 applicable federal motor vehicle safety standards.
 245 2. Bear the required certification label or labels,
 246 including reference to any exemption granted under applicable
 247 federal law.
 248 (b) Be capable of being operated in compliance with the
 249 applicable traffic and motor vehicle laws of this state,
 250 regardless of whether the vehicle is operating with the
 251 automated driving system engaged.
 252 (2) If the autonomous vehicle is not fully autonomous,
 253 applicable federal standards and regulations for such motor
 254 vehicle, the vehicle must:
 255 (a) have a system to safely alert a licensed human the
 256 operator physically present in the vehicle if an automated
 257 driving system autonomous technology failure is detected while
 258 the automated driving system autonomous technology is engaged.
 259 When an alert is given, the system must:
 260 1. require the licensed human operator to take control of
 261 the autonomous vehicle; or

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262 ~~2. If the operator does not, or is not able to, take~~
 263 ~~control of the autonomous vehicle, be capable of bringing the~~
 264 ~~vehicle to a complete stop.~~
 265 ~~(b) Have a means, inside the vehicle, to visually indicate~~
 266 ~~when the vehicle is operating in autonomous mode.~~
 267 ~~(c) Be capable of being operated in compliance with the~~
 268 ~~applicable traffic and motor vehicle laws of this state.~~
 269 (3) If the autonomous vehicle is fully autonomous, it must
 270 be able to achieve a minimal risk condition if a failure of the
 271 automated driving system occurs which renders that system unable
 272 to perform the entire dynamic driving task relevant to its
 273 intended operational design domain. The term "minimal risk
 274 condition" means a reasonably safe state, such as bringing the
 275 vehicle to a complete stop and activating the vehicle's hazard
 276 lamps.
 277 (4) Federal regulations promulgated by the National
 278 Highway Traffic Safety Administration shall supersede this
 279 section when found to be in conflict with this section.
 280 Section 10. Section 322.015, Florida Statutes, is created
 281 to read:
 282 322.015 Exemption.—This chapter does not apply when a fully
 283 autonomous vehicle is operated with the automated driving system
 284 engaged and without a human operator.
 285 Section 11. Paragraph (c) of subsection (7) of section
 286 339.175, Florida Statutes, is amended to read:
 287 339.175 Metropolitan planning organization.—
 288 (7) LONG-RANGE TRANSPORTATION PLAN.—Each M.P.O. must
 289 develop a long-range transportation plan that addresses at least
 290 a 20-year planning horizon. The plan must include both long-

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range and short-range strategies and must comply with all other state and federal requirements. The prevailing principles to be considered in the long-range transportation plan are: preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility. The long-range transportation plan must be consistent, to the maximum extent feasible, with future land use elements and the goals, objectives, and policies of the approved local government comprehensive plans of the units of local government located within the jurisdiction of the M.P.O. Each M.P.O. is encouraged to consider strategies that integrate transportation and land use planning to provide for sustainable development and reduce greenhouse gas emissions. The approved long-range transportation plan must be considered by local governments in the development of the transportation elements in local government comprehensive plans and any amendments thereto. The long-range transportation plan must, at a minimum:

(c) Assess capital investment and other measures necessary to:

1. Ensure the preservation of the existing metropolitan transportation system including requirements for the operation, resurfacing, restoration, and rehabilitation of major roadways and requirements for the operation, maintenance, modernization, and rehabilitation of public transportation facilities; and

2. Make the most efficient use of existing transportation facilities to relieve vehicular congestion, improve safety, and maximize the mobility of people and goods. Such efforts must include, but are not limited to, consideration of infrastructure and technological improvements necessary to accommodate advances

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in vehicle technology, such as automated driving systems ~~autonomous technology~~ and other developments.

In the development of its long-range transportation plan, each M.P.O. must provide the public, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan. The long-range transportation plan must be approved by the M.P.O.

Section 12. Paragraph (c) of subsection (3) and paragraph (a) of subsection (4) of section 339.64, Florida Statutes, are amended to read:

339.64 Strategic Intermodal System Plan.—

(3)

(c) The department shall coordinate with federal, regional, and local partners, as well as industry representatives, to consider infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as automated driving systems ~~autonomous technology~~ and other developments, in Strategic Intermodal System facilities.

(4) The Strategic Intermodal System Plan shall include the following:

(a) A needs assessment that must include, but is not limited to, consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as automated driving systems ~~autonomous~~

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349 ~~technology~~ and other developments.

350 Section 13. Section 339.83, Florida Statutes, is amended to
351 read:

352 339.83 Enrollment in federal pilot programs.—The Secretary
353 of Transportation may enroll the State of Florida in any federal
354 pilot program or project for the collection and study of data
355 for the review of federal or state roadway safety,
356 infrastructure sustainability, congestion mitigation,
357 transportation system efficiency, automated driving systems
358 ~~autonomous vehicle technology~~, or capacity challenges.

359 Section 14. Subsection (6) of section 627.0653, Florida
360 Statutes, is amended to read:

361 627.0653 Insurance discounts for specified motor vehicle
362 equipment.—

363 (6) The Office of Insurance Regulation may approve a
364 premium discount to any rates, rating schedules, or rating
365 manuals for the liability, personal injury protection, and
366 collision coverages of a motor vehicle insurance policy filed
367 with the office if the insured vehicle is equipped with an
368 automated driving system ~~autonomous driving technology~~ or
369 electronic vehicle collision avoidance technology that is
370 factory installed or a retrofitted system and that complies with
371 National Highway Traffic Safety Administration standards.

372 Section 15. Subsection (1) of section 655.960, Florida
373 Statutes, is amended to read:

374 655.960 Definitions; ss. 655.960-655.965.—As used in this
375 section and ss. 655.961-655.965, unless the context otherwise
376 requires:

377 (1) "Access area" means any paved walkway or sidewalk which

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378 is within 50 feet of any automated teller machine. The term does
379 not include any street or highway open to the use of the public,
380 as defined in s. 316.003(82)(a) ~~s. 316.003(81)(a)~~ or (b),
381 including any adjacent sidewalk, as defined in s. 316.003.

382 Section 16. This act shall take effect July 1, 2019.

Page 14 of 14

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/20/19.

Meeting Date

SB 932

Bill Number (if applicable)

Topic Autonomous Vehicles

Amendment to Substitute

Amendment Barcode (if applicable)

Amendment

Name Dale Swope

Job Title Attorney

Address 1234 5th Avenue

Street

Phone (813) 273-0017

Tampa, FL 33605

City

State

Zip

Email DaleS@SwopeLaw.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Justice Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/20/19

Meeting Date

932

Bill Number (if applicable)

692530

Amendment Barcode (if applicable)

571 094

Topic AUTONOMOUS VEHICLES

Name JEFFA SHARKEY

Job Title CEO, CAG

Address 106 E College Ave

Street

2H OR 32301

City

State

Zip

Phone 224 1660

Email jeffasharkey@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing TESLA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/20/19
Meeting Date

932
Bill Number (if applicable)
571094
Amendment Barcode (if applicable)

Topic Autonomous Vehicles

Name Sonya Deen

Job Title VP of Governmental Relations

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Street

Phone 954-429-2182

Deerfield Bch, FL 33442
City State Zip

Email sonya.deen@jmfamly.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Jm Family Enterprises

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03/20/19

Meeting Date

W/D
SB 932

Bill Number (if applicable)

Amendment by Sen. Cruz to SB 932

Amendment Barcode (if applicable)

Topic Autonomous Vehicles

Name Dale Swope

Job Title Attorney

Address 1234 5th Ave.

Street

Tampa

City

FL

State

33605

Zip

Phone (813) 273-0017

Email dale.s@swope.law.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Justice Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

20 March 2019
Meeting Date

SB 932
Bill Number (if applicable)

Topic Autonomous Vehicles

Amendment Barcode (if applicable)

Name DIEGO ECHEVERRI

Job Title Director of Coalitions

Address 200 W College Ave
Street

Phone 813-767-2084

Tallahassee FL
City State Zip

Email decheverri@afphq.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Americans For Prosperity

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/20/19

Meeting Date

0932

Bill Number (if applicable)

Topic Autonomous Vehicles

Amendment Barcode (if applicable)

Name Sabrina Sandifer-White

Job Title IT Specialist

Address 54226 VIKKI Rd

Street

Callahan

City

FL

State

32011

Zip

Phone (904) 333-6058

Email Hiyama20@AOL.com

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/20/19

Meeting Date

SB932

Bill Number (if applicable)

Topic Autonomous Vehicles

Amendment Barcode (if applicable)

Name Cory Guzzo

Job Title Governmental Affairs Consultant

Address 108 S Monroe Street

Phone 850-212-2117

Street

Tallahassee

FL

32308

Email Cory@flapartners.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/20/19
Meeting Date

913932
Bill Number (if applicable)

Topic Autonomous Vehicles

Amendment Barcode (if applicable)

Name Tony Reinhardt

Job Title Director, Gov & Community Relations

Address 3025 Highland Parkway Suite 500
Street

Phone _____

Downer Groves #L 65015
City State Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Ford Motor Company

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/20/19

Meeting Date

932

Bill Number (if applicable)

Topic AVs

Amendment Barcode (if applicable)

Name Cesar Fernandez

Job Title _____

Address 480 NE 30th ST APT 802

Street

Phone 786 262 6092

Miami FL 33137

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Starsky Robotics

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3.20.19

Meeting Date

932

Bill Number (if applicable)

Topic AUTONOMOUS VEHICLES

Amendment Barcode (if applicable)

Name SAR NUZZO

Job Title VP POLICY

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TAII FL 32301

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State

Zip

Email SNUZZO@JAMESMADISON.ORG

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing THE JAMES MADISON INSTITUTE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03/20/19
Meeting Date

SB 932
Bill Number (if applicable)

Topic Autonomous Vehicles

Amendment Barcode (if applicable)

Name Dale Swope

Job Title Attorney

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Street

Phone (813) 273-0017

Tampa FL 33605
City State Zip

Email dales@swope.law.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Justice Association

Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3/20/2019

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 932

Bill Number (if applicable)

Topic Autonomous Vehicles

Amendment Barcode (if applicable)

Name Zayne Smith

Job Title Associate State Director

Address 200 W. College Ave

Phone 850-228-4243

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Tallahassee

FL

32301

Email zsmith@aarp.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing AARP Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

932

Meeting Date _____

Bill Number (if applicable) _____

Topic Autonomous Vehicles

Amendment Barcode (if applicable) _____

Name Christopher Emmanuel

Job Title Policy Director

Address 136 S Broward St

Phone _____

Street

City TLH

State FL

Zip 3230

Email _____

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/20/19

Meeting Date

SB 932

Bill Number (if applicable)

Topic Autonomous Vehicles

Amendment Barcode (if applicable)

Name Diane Carr

Job Title Johnson & Blanton

Address 537 E. Park

Phone 850.210.4024

Tall FL 32301
City State Zip

Email Diane@teamj&b.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Alliance of Automobile Manufacturers

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

932
SB 311

Meeting Date _____

Bill Number (if applicable) _____

Topic AV

Amendment Barcode (if applicable) _____

Name Marlene Williams

Job Title General Motors

Address _____
Street

Phone _____

City

State

Zip

Email marlene.williams@gm.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing General Motors

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Infrastructure and Security

BILL: CS/SB 1044

INTRODUCER: Infrastructure and Security Committee and Senator Albritton

SUBJECT: Department of Transportation

DATE: March 21, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	IS	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1044 addresses various issues relating to the Florida Department of Transportation (FDOT). Specifically, the bill:

- Removes the Florida Transportation Commission's responsibility to nominate three persons for appointment by the Governor as secretary of the FDOT.
- Requires the FDOT secretary to be a licensed professional engineer or, instead, to hold an advanced degree in an appropriate related discipline and have five years of relevant transportation experience; or have ten years of relevant transportation experience.
- Revises the FDOT's authorization for innovative highway projects to include innovative transportation projects demonstrating innovative techniques of bridge design.
- Prohibits a local government from adopting standards and specifications for aggregates and materials that are contrary to the FDOT's standards or specifications.
- Prohibits a contractor who has not satisfactorily completed two projects, each in excess of \$25 million, from bidding on FDOT contracts in excess of \$50 million.
- Revises the dollar value of claim amounts for additional compensation arising out of a construction or maintenance contract that may be submitted to the State Arbitration Board to up to \$1 million per contract at the claimant's option or up to \$2 million per contract if the parties agree.

The bill has an indeterminate, but likely insignificant, negative fiscal impact to the FDOT, which can be absorbed within existing resources. See the Fiscal Impact Statement heading for more details.

The bill takes effect July 1, 2019.

II. Present Situation:

This bill revises various provisions relating to the FDOT. For ease of organization and readability, the Present Situation for the provisions in each section of the bill is discussed in conjunction with the Effect of Proposed Changes.

III. Effect of Proposed Changes:

FDOT Organization, Secretary Appointment, and Secretary Qualifications

Present Situation

Section 20.23, F.S., requires the Governor to appoint the FDOT secretary from among three persons nominated by the Florida Transportation Commission, subject to confirmation by the Senate. The appointed secretary must be a proven, effective administrator who by education and experience clearly possesses broad knowledge of the administrative, financial and technical aspects of the development, operation, and regulation of transportation systems and facilities.¹ Current law does not otherwise specify any educational or licensing requirements with respect to qualification of the FDOT secretary. The district secretaries and the executive directors must be registered professional engineers or, in lieu of professional engineer registration, may hold an advanced degree in an appropriate related discipline, such as a Master of Business Administration.²

Effect of Proposed Changes

Section 1 of the bill amends s. 20.23(1), F.S., to remove the requirement that the FDOT secretary be appointed by the Governor from among three persons nominated by the Florida Transportation Commission. Under the bill, the FDOT secretary would be appointed by the Governor at the Governor's discretion, subject to confirmation by the Senate.

This bill section also requires the FDOT secretary to be a registered professional engineer licensed under ch. 471, F.S.,³ or the laws of another state or, instead of such licensure, to hold an advanced degree in an appropriate related discipline, such as a Master of Business Administration, and have five years of relevant transportation experience; or to have 10 years of relevant transportation experience.

¹ Section 20.23(1)(b), F.S.

² Section 20.23(4)(a), F.S.

³ Chapter 471, F.S., prohibits any person, other than a duly licensed engineer, from practicing engineering in this state. See s. 471.003, F.S., for a description of qualifications to practice engineering, as well as exemptions from licensing requirements.

FDOT Regulation of Construction Aggregate Materials

Present Situation

Construction aggregate materials are a critical need with respect to construction of the state's transportation system.⁴ The FDOT has a standardized method for producers⁵ of construction aggregate materials to apply for, receive, and maintain the FDOT's approval of construction aggregate sources for use on FDOT projects. According to the FDOT:

Source and product approval, and maintenance of an on-going effective Quality Control Program, as monitored by the Department, comprise the Department's primary methods of determining acceptability of aggregate on Department projects. The Quality Control Program requires producers of construction materials to be responsible for their products; to establish, maintain, and implement their own individualized process control system; and to certify to the Department compliance of their product with applicable standards and contract specifications.

In this context, "certify" means that the producer affixes the statement "CERTIFIED FOR FDOT" or "CERT. FOR FDOT" to a shipping ticket to attest that this specific aggregate shipment was produced and shipped under a Department approved Quality Control Program and for which Quality control tests indicate that the specific aggregate meets Department specifications and Department quality and uniformity requirements set out in Section 2.2 of the Construction Aggregates Manual.⁶

Currently, no provision in state law requires local governments to accept aggregates certified pursuant to the FDOT rules.⁷ The extent to which local governments have not allowed transportation contractors to use FDOT-approved aggregates in construction of local government transportation facilities is unknown.

Effect of Proposed Changes

Section 2 of the bill creates s. 334.179, F.S. The bill prohibits a local government from adopting standards or specifications that are contrary to the FDOT standards or specifications for permissible use of aggregates and materials that have been certified for use. For purposes of the newly created section of law, the bill provides that "certified for use" means that the aggregates and materials have been approved for use by the FDOT through its certification process. To the extent that a local government currently does not allow transportation contractors to use FDOT-

⁴ Section 337.0261, F.S. That section defines these materials are "crushed stone, limestone, dolomite, limerock, shell rock, cemented coquina, sand for use as a component of mortars, concrete, bituminous mixtures, or underdrain filters, and other mined resources providing the basic material for concrete, asphalt, and road base."

⁵ A "producer" is any business or individual seeking to supply aggregate to the FDOT or to FDOT contractors. *See* the FDOT's 2019 Agency Legislative Bill Analysis of SB 1044 at p. 3. (On file in the Senate Infrastructure and Security Committee.)

⁶ *Id.* The Manual is available at <https://www.fdot.gov/materials/administration/resources/library/publications/aggregates/index.shtm> (last viewed March 15, 2019).

⁷ Fla. Admin. Code R. 14-103.

approved aggregates in construction of local government transportation facilities, that practice would be prohibited by the bill.

Innovative Transportation Projects and Techniques

Present Situation

Section 337.025, F.S., entitled *innovative highway projects*, authorizes the FDOT to establish a program for highway projects demonstrating innovative techniques of highway construction, maintenance, and finance which have the intended effect of controlling time and cost increases on construction projects. Such techniques may include, but are not limited to, state-of-the-art technology for pavement, safety, and other aspects of highway construction and maintenance; innovative bidding and financing techniques; accelerated construction procedures; and those techniques that have the potential to reduce project life cycle costs. DOT may annually enter into up to \$120 million in contracts for innovative transportation projects. However, the annual cap does not apply to turnpike enterprise projects and to certain transportation projects funded in the past by the federal government.⁸

Effect of Proposed Changes

Section 3 of the bill amends s. 337.025, F.S., revising its title to innovative *transportation* projects and authorizing the FDOT to establish a program for such projects, including those demonstrating innovative techniques of bridge design (along with those of highway, construction, maintenance, and finance), which in addition to controlling time and cost increases have the intended effect of measuring resiliency and structural integrity.

Qualification to Bid on FDOT Contracts

Present Situation

Section 337.14(1), F.S., requires any person⁹ desiring to bid on any construction contract in excess of \$250,000 which the FDOT proposes to let to first be certified by the FDOT pursuant to s. 337.14, F.S., and applicable rules.¹⁰ The rules must address the qualification of persons to bid on construction contracts in excess of \$250,000 and must include requirements with respect to the equipment, past record, experience, financial resources, and organizational personnel of the applicant necessary to perform the specific class of work for which the person seeks certification. The FDOT may limit the dollar amount of any contract upon which a person is qualified to bid, or limit the aggregate total dollar volume of contracts such person is allowed to have under contract at any one time.

For purposes of Ch. 337, F.S., relating to contracting by the FDOT, the term “contractor” is only defined in s. 337.165(1)(d), F.S., relating to contract crime. In that provision, the term “contractor” is defined as any person who bids or applies to bid on work let by the FDOT or any

⁸ See the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5.

⁹ Section 334.03(19), F.S., defines “person” to mean any person described in s. 1.01, F.S., or any unit of government in or outside the state. Section 1.01(3), F.S., provides that “person” includes individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

¹⁰ The FDOT’s rules regarding qualification to bid on highway projects are in Fla. Admin. Code R. 14-22.

counterpart agency of any other state or of the Federal Government or who provides professional services to the FDOT or other such agency.

Effect of Proposed Changes

Section 4 of the bill amends s. 337.14(1), F.S., revising references to “person” to references to “contractor.” The bill requires any contractor desiring to bid on contracts in excess of \$50 million to have satisfactorily completed two projects, each in excess of \$25 million, for the FDOT or for any other state department of transportation. The FDOT would be required to amend its rule with respect to contractors desiring to bid on contracts in excess of \$50 million to incorporate the bill’s revisions. Contractors who currently qualify to bid on such FDOT contracts but who have not satisfactorily completed two projects, each in excess of \$25 million for the FDOT or any other state department of transportation, will no longer be qualified to bid on FDOT construction contracts in excess of \$50 million.

State Arbitration Board

Present Situation

Section 337.185, F.S., establishes a State Arbitration Board to facilitate the prompt settlement of claims¹¹ for additional compensation arising out of construction and maintenance contracts between the FDOT and the various contractors with whom it contracts. The section requires every contractual claim in an amount up to \$250,000 per contract or, at the claimant’s option, up to \$500,000 per contract or, upon agreement of the parties, up to \$1 million per contract that cannot be resolved by negotiation between the FDOT and the contractor be arbitrated by the board, with the exception that either party may request the claim be submitted to binding private arbitration. The process benefits both the FDOT and its contractors by facilitating prompt claim settlement and reducing or eliminating litigation costs. These claim amounts were last revised in 1999.¹²

Effect of Proposed Changes

Section 5 of the bill amends s. 337.185(1), increasing the dollar value of claims per contract that may be arbitrated using the State Arbitration Board at the claimant’s option to up to \$1 million per contract, or upon agreement of the parties to up to \$2 million per contract. The requirement that all claims of up to \$250,000 be arbitrated by the State Arbitration Board remains. These changes may increase the number of claims submitted to the Board for arbitration.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹¹ For the purpose of s. 337.185, F.S., the term “claim” means the aggregate of all outstanding claims by a party arising out of a construction or maintenance contract.

¹² Section 22, Ch. 99-385, L.O.F.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 6: To the extent that increasing the dollar value of claims per contract that may be arbitrated using the State Arbitration Board results in more claims being submitted to the Board, which claims are promptly settled, contractors may experience reduced or eliminated litigation costs.

C. Government Sector Impact:

Section 1: Removing responsibility of the Florida Transportation Commission to nominate three persons for potential appointment by the Governor as secretary of the FDOT may reduce the Commission's expenses.

Section 5: Requiring contractors to have completed two projects, each in excess of \$50 million, to be eligible to bid on FDOT contracts in excess of \$250,000 may limit the pool of eligible contractors according to FDOT, thereby decreasing competition and potentially leading to inflated bids.

Section 7: The FDOT advises that increasing the dollar value of claims per contract that may be arbitrated using the State Arbitration Board "may better align arbitration thresholds with current contract costs, but it does qualify more claims as able to go before the board."¹³ To the extent that a higher number of claims submitted to the Board are promptly settled, the FDOT may experience reduced or eliminated litigation costs.

¹³ See the FDOT's 2019 Agency Legislative Bill Analysis of SB 1044 at p. 6. (On file in the Senate Infrastructure and Security Committee.) The Board's expenses are covered by administrative fees received by the Board through payment of

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.23, 112.061, 334.046, 337.14, 337.18, 337.185, 338.166, 339.135, and 339.65.

This bill creates the following section of the Florida Statutes: 334.179.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Infrastructure and Security on March 20, 2019:

The CS revises the bill's requirements relating to qualification for appointment by the Governor of the FDOT secretary and incorporates in the bill provisions revising the FDOT's current authorization for innovative highway projects to innovative transportation projects demonstrating innovative techniques of bridge design.

The CS also removes the following provisions of the bill:

- Requiring the FDOT to consist of a central office that establishes policies and procedures and districts that carry out projects as authorized under those policies and procedures.
- Requiring mileage for official state travel to be calculated using the most commonly used maps, instead of the FDOT's current highway map
- Requiring that 80 percent of the pavement in each of the FDOT's districts (instead of statewide) meets the FDOT's standards by the end of fiscal year 2023.
- Requiring the liquidated damages schedule incorporated into FDOT construction and maintenance contracts to include a reduction of the daily liquidated damage charges to construction engineering and inspection costs when traffic is in its final configuration and the project is functional for its intended use.
- Prohibiting the FDOT from using toll revenue from a high-occupancy toll (HOT) lane or express lane to offset funding that the facility would receive if the facility were not a HOT lane or express lane.
- Requiring 75 percent of transportation capacity funds, with certain exceptions, to be spent on the Strategic Intermodal System.
- Requiring certain projects on Strategic Intermodal System Highway Corridors to be given priority based on high accident rates.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



517500

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2019	.	
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The Committee on Infrastructure and Security (Albritton)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) of section 20.23, Florida
Statutes, is amended to read:

20.23 Department of Transportation.—There is created a
Department of Transportation which shall be a decentralized
agency.

(1)(a) The head of the Department of Transportation is the



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Secretary of Transportation. The secretary is ~~shall be~~ appointed by the Governor, ~~from among three persons nominated by the Florida Transportation Commission and shall be~~ subject to confirmation by the Senate. The secretary shall serve at the pleasure of the Governor.

(b) The secretary must ~~shall~~ be a proven, effective administrator who, by a combination of education and experience, clearly possesses ~~shall clearly possess~~ a broad knowledge of the administrative, financial, and technical aspects of the development, operation, and regulation of transportation systems and facilities or comparable systems and facilities. The secretary must be a registered professional engineer in accordance with chapter 471 or the laws of another state, or, in lieu of professional engineer registration, must hold an advanced degree in an appropriate related discipline, such as a Master of Business Administration, and have 5 years of relevant transportation experience or must have 10 years of relevant transportation experience.

(c) The secretary shall provide to the Florida Transportation Commission or its staff, such assistance, information, and documents as are requested by the commission or its staff to enable the commission to fulfill its duties and responsibilities.

(d) The secretary may appoint up to three assistant secretaries ~~who shall be~~ directly responsible to the secretary ~~and who shall perform such duties as are~~ assigned by the secretary. The secretary shall designate to an assistant secretary the duties related to enhancing economic prosperity, including, but not limited to, the responsibility of liaising



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40 ~~liaison~~ with the head of economic development in the Executive
41 Office of the Governor. This ~~Such~~ assistant secretary is ~~shall~~
42 ~~be~~ directly responsible for providing the Executive Office of
43 the Governor with investment opportunities and transportation
44 projects that expand the state's role as a global hub for trade
45 and investment and enhance the supply chain system in the state
46 to process, assemble, and ship goods to markets throughout the
47 eastern United States, Canada, the Caribbean, and Latin America.
48 The secretary may delegate to any assistant secretary the
49 authority to act in the absence of the secretary.

50 (e) Any secretary appointed after July 5, 1989, and the
51 assistant secretaries are ~~shall be~~ exempt from ~~the provisions of~~
52 part III of chapter 110 and must ~~shall~~ receive compensation that
53 is commensurate with their qualifications and competitive with
54 compensation for comparable responsibility in the private
55 sector.

56 Section 2. Paragraph (d) of subsection (7) of section
57 112.061, Florida Statutes, is amended to read:

58 112.061 Per diem and travel expenses of public officers,
59 employees, and authorized persons.—

60 (7) TRANSPORTATION.—

61 (d)1. The use of privately owned vehicles for official
62 travel in lieu of publicly owned vehicles or common carriers may
63 be authorized by the agency head or his or her designee.

64 Whenever travel is by privately owned vehicle:

65 a. A traveler shall be entitled to a mileage allowance at a
66 rate of 44.5 cents per mile; or

67 b. A traveler shall be entitled to the common carrier fare
68 for such travel if determined by the agency head to be more



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economical.

2. Reimbursement for expenditures related to the operation, maintenance, and ownership of a vehicle shall not be allowed when privately owned vehicles are used on public business and reimbursement is made pursuant to this paragraph, except as provided in subsection (8).

3. All mileage shall be shown from point of origin to point of destination and, when possible, shall be computed on the basis of the most commonly used maps ~~current map of the Department of Transportation~~. Vicinity mileage necessary for the conduct of official business is allowable but must be shown as a separate item on the expense voucher.

Section 3. Section 334.179, Florida Statutes, is created to read:

334.179 Departmental standards or specifications for permissible use of aggregates.—Notwithstanding any law, rule, or ordinance to the contrary, a local government may not adopt standards or specifications that are contrary to the departmental standards or specifications for permissible use of aggregates that have been certified for use. For purposes of this section, the term “certified for use” means that the aggregates have been certified by the producer in accordance with departmental rule.

Section 4. Subsection (1) of section 337.025, Florida Statutes, is amended to read:

337.025 Innovative transportation ~~highway~~ projects; department to establish program.—

(1) The department may ~~is authorized to~~ establish a program for transportation ~~highway~~ projects demonstrating innovative



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techniques of highway and bridge design, construction,
maintenance, and finance which have the intended effect of
measuring resiliency and structural integrity and controlling
time and cost increases on construction projects. Such
techniques may include, but are not limited to, state-of-the-art
technology for pavement, safety, and other aspects of highway
and bridge design, construction, and maintenance; innovative
bidding and financing techniques; accelerated construction
procedures; and those techniques that have the potential to
reduce project life cycle costs. To the maximum extent
practical, the department must use the existing process to award
and administer construction and maintenance contracts. When
specific innovative techniques are to be used, the department is
not required to adhere to those provisions of law that would
prevent, preclude, or in any way prohibit the department from
using the innovative technique. However, before ~~prior to~~ using
an innovative technique that is inconsistent with another
provision of law, the department must document in writing the
need for the exception and identify what benefits the traveling
public and the affected community are anticipated to receive.
The department may enter into no more than \$120 million in
contracts annually for the purposes authorized by this section.

Section 5. Subsection (1) of section 337.14, Florida
Statutes, is amended to read:

337.14 Application for qualification; certificate of
qualification; restrictions; request for hearing.—

(1) Any contractor ~~person~~ desiring to bid for the
performance of any construction contract in excess of \$250,000
which the department proposes to let must first be certified by



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the department as qualified pursuant to this section and rules of the department. The rules of the department must ~~shall~~ address the qualification of contractors ~~persons~~ to bid on construction contracts in excess of \$250,000 and must ~~shall~~ include requirements with respect to the equipment, past record, experience, financial resources, and organizational personnel of the applying contractor which are ~~applicant~~ necessary to perform the specific class of work for which the contractor ~~person~~ seeks certification. Any contractor desiring to bid on contracts in excess of \$50 million must have satisfactorily completed two projects, each in excess of \$25 million, for the department or for any other state department of transportation. The department may limit the dollar amount of any contract upon which a contractor ~~person~~ is qualified to bid or the aggregate total dollar volume of contracts such contractor ~~person~~ is allowed to have under contract at any one time. Each applying contractor ~~applicant~~ seeking qualification to bid on construction contracts in excess of \$250,000 shall furnish the department a statement under oath, on such forms as the department may prescribe, setting forth detailed information as required on the application. Each application for certification must ~~shall~~ be accompanied by the latest annual financial statement of the applying contractor ~~applicant~~ completed within the last 12 months. If the application or the annual financial statement shows the financial condition of the applying contractor ~~applicant~~ more than 4 months prior to the date on which the application is received by the department, ~~then~~ an interim financial statement and an updated application must be submitted ~~and be accompanied by an updated application.~~ The interim



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financial statement must cover the period from the end date of the annual statement and must show the financial condition of the applying contractor ~~applicant~~ no more than 4 months prior to the date that the interim financial statement is received by the department. However, upon the request of ~~by~~ the applying contractor ~~applicant~~, an application and accompanying annual or interim financial statement received by the department within 15 days after either 4-month period under this subsection shall be considered timely. Each required annual or interim financial statement must be audited and accompanied by the opinion of a certified public accountant. An applying contractor ~~applicant~~ desiring to bid exclusively for the performance of construction contracts with proposed budget estimates of less than \$1 million may submit reviewed annual or reviewed interim financial statements prepared by a certified public accountant. The information required by this subsection is confidential and exempt from ~~the provisions of~~ s. 119.07(1). The department shall act upon the application for qualification within 30 days after the department determines that the application is complete. The department may waive the requirements of this subsection for projects having a contract price of \$500,000 or less if the department determines that the project is of a noncritical nature and the waiver will not endanger public health, safety, or property.

Section 6. Subsection (1) of section 337.185, Florida Statutes, is amended to read:

337.185 State Arbitration Board.—

(1) To facilitate the prompt settlement of claims for additional compensation arising out of construction and



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185 maintenance contracts between the department and the various
186 contractors with whom it transacts business, the Legislature
187 does hereby establish the State Arbitration Board, referred to
188 in this section as the "board." For the purpose of this section,
189 the term "claim" means the aggregate of all outstanding claims
190 by a party arising out of a construction or maintenance
191 contract. Every contractual claim in an amount up to \$250,000
192 per contract or, at the claimant's option, up to \$1 million
193 ~~\$500,000~~ per contract or, upon agreement of the parties, up to
194 \$2 million ~~\$1 million~~ per contract which ~~that~~ cannot be resolved
195 by negotiation between the department and the contractor must
196 ~~shall~~ be arbitrated by the board after acceptance of the project
197 by the department. As an exception, either party to the dispute
198 may request that the claim be submitted to binding private
199 arbitration. A court of law may not consider the settlement of
200 such a claim until the process established by this section has
201 been exhausted.

202 Section 7. This act shall take effect July 1, 2019.

204 ===== T I T L E A M E N D M E N T =====

205 And the title is amended as follows:

206 Delete everything before the enacting clause
207 and insert:

208 A bill to be entitled
209 An act relating to the Department of Transportation;
210 amending s. 20.23, F.S.; deleting the requirement that
211 the Governor appoint the Secretary of Transportation
212 from among three persons nominated by the Florida
213 Transportation Commission; providing additional



517500

qualifications for the secretary; amending s. 112.061, F.S.; requiring that certain mileage be computed on the basis of the most commonly used maps; creating s. 334.179, F.S.; prohibiting local governments from adopting standards or specifications that are contrary to the department standards or specifications for permissible use of aggregates that have been certified for use; defining the term "certified for use"; amending s. 337.025, F.S.; authorizing the department to establish a program for transportation projects that demonstrate certain innovative techniques for measuring resiliency and structural integrity and controlling time and cost increases; amending s. 337.14, F.S.; requiring that any contractor, instead of any person, desiring to bid for the performance of certain construction contracts first be certified by the department as qualified; conforming provisions to changes made by the act; requiring a contractor desiring to bid on certain contracts to have satisfactorily completed certain projects; amending s. 337.185, F.S.; increasing the maximum amounts per contract of certain contractual claims that must be arbitrated by the State Arbitration Board under certain circumstances; providing an effective date.



883562

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2019	.	
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The Committee on Infrastructure and Security (Albritton)
recommended the following:

**Senate Amendment to Amendment (517500) (with title
amendment)**

Delete lines 56 - 80.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 214 - 216

and insert:

qualifications for the secretary; creating s.

By Senator Albritton

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1 A bill to be entitled
 2 An act relating to the Department of Transportation;
 3 amending s. 20.23, F.S.; providing that the Department
 4 of Transportation consists of a central office that
 5 establishes policies and procedures and districts that
 6 carry out certain projects; deleting the requirement
 7 that the Governor appoint the Secretary of
 8 Transportation from among three persons nominated by
 9 the Florida Transportation Commission; providing
 10 additional qualification requirements for the
 11 secretary; amending s. 112.061, F.S.; requiring that
 12 certain mileage be computed on the basis of the most
 13 commonly used maps; amending s. 334.046, F.S.;
 14 requiring certain preservation goals to include
 15 ensuring that a specified percentage of the pavement
 16 in each of the department's districts meet department
 17 standards by a specified year; creating s. 334.179,
 18 F.S.; prohibiting local governments from adopting
 19 standards or specifications that are contrary to the
 20 department standards or specifications for permissible
 21 use of aggregates and materials that have been
 22 certified for use; defining the term "certified for
 23 use"; amending s. 337.14, F.S.; requiring any
 24 contractor, instead of any person, desiring to bid for
 25 the performance of certain construction contracts to
 26 first be certified by the department as qualified;
 27 conforming provisions to changes made by the act;
 28 requiring a contractor desiring to bid on certain
 29 contracts to have satisfactorily completed certain

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 projects; amending s. 337.18, F.S.; requiring that a
 31 certain schedule include a reduction of the daily
 32 liquidated damage charges to certain costs when
 33 traffic is in its final configuration and the project
 34 is functional for its intended purpose; amending s.
 35 337.185, F.S.; revising the maximum amounts per
 36 contract of certain contractual claims that must be
 37 arbitrated by the State Arbitration Board under
 38 certain circumstances; amending s. 338.166, F.S.;
 39 prohibiting the department from using toll revenue
 40 from high-occupancy toll lanes or express lanes to
 41 offset funding that the facilities would use if the
 42 facilities were not high-occupancy toll lanes or
 43 express lanes; amending s. 339.135, F.S.; requiring
 44 the department to allocate a minimum specified
 45 percentage of all transportation capacity funds, with
 46 the exception of funds allocated for the transit
 47 program and the surface transportation program
 48 attributable to areas with certain populations, to the
 49 Florida Strategic Intermodal System; amending s.
 50 339.65, F.S.; requiring that priority for certain
 51 facility improvements by the department be given to
 52 correcting or improving certain sections of interstate
 53 highway; requiring that project development and
 54 environmental studies for a certain section of
 55 interstate highway begin within a specified period;
 56 providing an effective date.

57
 58 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsection (1) of section 20.23, Florida Statutes, is amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(1) (a) The Department of Transportation shall consist of:

1. A central office that establishes policies and procedures; and

2. Districts that carry out projects as authorized or required under the policies and procedures of the central office pursuant to paragraph (3) (a).

(b) The head of the Department of Transportation is the Secretary of Transportation. The secretary is ~~shall be~~ appointed by the Governor, ~~from among three persons nominated by the Florida Transportation Commission and shall be~~ subject to confirmation by the Senate. The secretary shall serve at the pleasure of the Governor.

(c) ~~(b)~~ The secretary must ~~shall~~ be a proven, effective administrator who, by a combination of education and experience, clearly possesses ~~shall clearly possess~~ a broad knowledge of the administrative, financial, and technical aspects of the development, operation, and regulation of transportation systems and facilities or comparable systems and facilities. The secretary must be a professional engineer licensed under chapter 471 or the laws of another state or, in lieu of such licensure, must hold an advanced degree in a related discipline, such as a Master of Business Administration, or have 10 years of relevant experience.

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(d) ~~(e)~~ The secretary shall provide to the Florida Transportation Commission or its staff, such assistance, information, and documents as are requested by the commission or its staff to enable the commission to fulfill its duties and responsibilities.

(e) ~~(d)~~ The secretary may appoint up to three assistant secretaries ~~who shall be~~ directly responsible to the secretary ~~and who shall perform such duties as are~~ assigned by the secretary. The secretary shall designate to an assistant secretary the duties related to enhancing economic prosperity, including, but not limited to, the responsibility of liaising ~~liaison~~ with the head of economic development in the Executive Office of the Governor. This ~~Such~~ assistant secretary is ~~shall~~ ~~be~~ directly responsible for providing the Executive Office of the Governor with investment opportunities and transportation projects that expand the state's role as a global hub for trade and investment and enhance the supply chain system in the state to process, assemble, and ship goods to markets throughout the eastern United States, Canada, the Caribbean, and Latin America. The secretary may delegate to any assistant secretary the authority to act in the absence of the secretary.

(f) ~~(e)~~ Any secretary appointed after July 5, 1989, and the assistant secretaries are ~~shall be~~ exempt from the provisions of part III of chapter 110 and must ~~shall~~ receive compensation that ~~is~~ commensurate with their qualifications and competitive with compensation for comparable responsibility in the private sector.

Section 2. Paragraph (d) of subsection (7) of section 112.061, Florida Statutes, is amended to read:

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117 112.061 Per diem and travel expenses of public officers,
 118 employees, and authorized persons.—
 119 (7) TRANSPORTATION.—
 120 (d)1. The use of privately owned vehicles for official
 121 travel in lieu of publicly owned vehicles or common carriers may
 122 be authorized by the agency head or his or her designee.
 123 Whenever travel is by privately owned vehicle:
 124 a. A traveler shall be entitled to a mileage allowance at a
 125 rate of 44.5 cents per mile; or
 126 b. A traveler shall be entitled to the common carrier fare
 127 for such travel if determined by the agency head to be more
 128 economical.
 129 2. Reimbursement for expenditures related to the operation,
 130 maintenance, and ownership of a vehicle shall not be allowed
 131 when privately owned vehicles are used on public business and
 132 reimbursement is made pursuant to this paragraph, except as
 133 provided in subsection (8).
 134 3. All mileage shall be shown from point of origin to point
 135 of destination and, when possible, shall be computed on the
 136 basis of the most commonly used maps ~~current map of the~~
 137 ~~Department of Transportation~~. Vicinity mileage necessary for the
 138 conduct of official business is allowable but must be shown as a
 139 separate item on the expense voucher.
 140 Section 3. Paragraph (a) of subsection (4) of section
 141 334.046, Florida Statutes, is amended to read:
 142 334.046 Department mission, goals, and objectives.—
 143 (4) At a minimum, the department's goals shall address the
 144 following prevailing principles.
 145 (a) *Preservation.*—Protecting the state's transportation

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146 infrastructure investment. Preservation includes:
 147 1. Ensuring that 80 percent of the pavement on the State
 148 Highway System meets department standards and, by the end of
 149 fiscal year 2023, ensuring that 80 percent of the pavement in
 150 each of the department's districts meets the department
 151 standards;
 152 2. Ensuring that 90 percent of department-maintained
 153 bridges ~~meets meet~~ department standards; and
 154 3. Ensuring that the department achieves 100 percent of the
 155 acceptable maintenance standard on the state highway system.
 156 Section 4. Section 334.179, Florida Statutes, is created to
 157 read:
 158 334.179 Department standards or specifications for
 159 permissible use of aggregates and materials.—Notwithstanding any
 160 law, rule, or ordinance to the contrary, a local government may
 161 not adopt standards or specifications that are contrary to the
 162 department standards or specifications for permissible use of
 163 aggregates and materials that have been certified for use. For
 164 purposes of this section, "certified for use" means that the
 165 aggregates and materials have been approved for use by the
 166 department through its certification program.
 167 Section 5. Subsection (1) of section 337.14, Florida
 168 Statutes, is amended to read:
 169 337.14 Application for qualification; certificate of
 170 qualification; restrictions; request for hearing.—
 171 (1) Any contractor ~~person~~ desiring to bid for the
 172 performance of any construction contract in excess of \$250,000
 173 which the department proposes to let must first be certified by
 174 the department as qualified pursuant to this section and rules

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175 of the department. The rules of the department must ~~shall~~
 176 address the qualification of contractors ~~persons~~ to bid on
 177 construction contracts in excess of \$250,000 and must ~~shall~~
 178 include requirements with respect to the equipment, past record,
 179 experience, financial resources, and organizational personnel of
 180 the applying contractor which are ~~applicant~~ necessary to perform
 181 the specific class of work for which the contractor ~~person~~ seeks
 182 certification. Any contractor desiring to bid on contracts in
 183 excess of \$50 million must have satisfactorily completed two
 184 projects, each in excess of \$25 million, for the department or
 185 for any other state department of transportation. The department
 186 may limit the dollar amount of any contract upon which a
 187 contractor ~~person~~ is qualified to bid or the aggregate total
 188 dollar volume of contracts such contractor ~~person~~ is allowed to
 189 have under contract at any one time. Each applying contractor
 190 ~~applicant~~ seeking qualification to bid on construction contracts
 191 in excess of \$250,000 shall furnish the department a statement
 192 under oath, on such forms as the department may prescribe,
 193 setting forth detailed information as required on the
 194 application. Each application for certification must ~~shall~~ be
 195 accompanied by the latest annual financial statement of the
 196 applying contractor ~~applicant~~ completed within the last 12
 197 months. If the application or the annual financial statement
 198 shows the financial condition of the applying contractor
 199 ~~applicant~~ more than 4 months prior to the date on which the
 200 application is received by the department, ~~then~~ an interim
 201 financial statement and an updated application must be submitted
 202 ~~and be accompanied by an updated application.~~ The interim
 203 financial statement must cover the period from the end date of

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204 the annual statement and must show the financial condition of
 205 the applying contractor ~~applicant~~ no more than 4 months prior to
 206 the date that the interim financial statement is received by the
 207 department. However, upon the request ~~of by~~ the applying
 208 contractor ~~applicant~~, an application and accompanying annual or
 209 interim financial statement received by the department within 15
 210 days after either 4-month period under this subsection shall be
 211 considered timely. Each required annual or interim financial
 212 statement must be audited and accompanied by the opinion of a
 213 certified public accountant. An applying contractor ~~applicant~~
 214 desiring to bid exclusively for the performance of construction
 215 contracts with proposed budget estimates of less than \$1 million
 216 may submit reviewed annual or reviewed interim financial
 217 statements prepared by a certified public accountant. The
 218 information required by this subsection is confidential and
 219 exempt from ~~the provisions of~~ s. 119.07(1). The department shall
 220 act upon the application for qualification within 30 days after
 221 the department determines that the application is complete. The
 222 department may waive the requirements of this subsection for
 223 projects having a contract price of \$500,000 or less if the
 224 department determines that the project is of a noncritical
 225 nature and the waiver will not endanger public health, safety,
 226 or property.

227 Section 6. Subsection (2) of section 337.18, Florida
 228 Statutes, is amended to read:

229 337.18 Surety bonds for construction or maintenance
 230 contracts; requirement with respect to contract award; bond
 231 requirements; defaults; damage assessments.—

232 (2) The department shall provide in its contracts for the

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233 determination of default on the part of any contractor for cause
 234 attributable to such contractor. The department shall have no
 235 liability for anticipated profits for unfinished work on a
 236 contract which has been determined to be in default. Every
 237 contract let by the department for the performance of work must
 238 ~~shall~~ contain a provision for payment to the department by the
 239 contractor of liquidated damages due to failure of the
 240 contractor to complete the contract work within the time
 241 stipulated in the contract or within such additional time as may
 242 have been granted by the department. The contractual provision
 243 must ~~shall~~ include a reasonable estimate of the damages that
 244 would be incurred by the department as a result of such failure.
 245 The department shall establish a schedule of daily liquidated
 246 damage charges, based on original contract amounts, for
 247 construction contracts entered into by the department, which
 248 schedule must ~~shall~~ be incorporated by reference into the
 249 contract. The schedule shall include a reduction of the daily
 250 liquidated damage charges to construction engineering and
 251 inspection costs when traffic is in its final configuration and
 252 the project is functional for its intended purpose. The
 253 department shall update the schedule of liquidated damages at
 254 least once every 2 years, but no more often than once a year.
 255 The schedule must ~~shall~~, at a minimum, be based on the average
 256 construction, engineering, and inspection costs experienced by
 257 the department on contracts over the 2 preceding fiscal years.
 258 The schedule must ~~shall~~ also include anticipated costs of
 259 project-related delays and inconveniences to the department and
 260 traveling public. Anticipated costs may include, but are not
 261 limited to, road user costs, a portion of the projected revenues

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262 that will be lost due to failure to timely open a project to
 263 revenue-producing traffic, costs resulting from retaining
 264 detours for an extended time, and other similar costs. Any such
 265 liquidated damages paid to the department must ~~shall~~ be
 266 deposited to the credit of the fund from which payment for the
 267 work contracted was authorized.

268 Section 7. Subsection (1) of section 337.185, Florida
 269 Statutes, is amended to read:

270 337.185 State Arbitration Board.—

271 (1) To facilitate the prompt settlement of claims for
 272 additional compensation arising out of construction and
 273 maintenance contracts between the department and the various
 274 contractors with whom it transacts business, the Legislature
 275 does hereby establish the State Arbitration Board, referred to
 276 in this section as the "board." For the purpose of this section,
 277 the term "claim" means the aggregate of all outstanding claims
 278 by a party arising out of a construction or maintenance
 279 contract. Every contractual claim in an amount up to \$250,000
 280 per contract or, at the claimant's option, up to \$1 million
 281 ~~\$500,000~~ per contract or, upon agreement of the parties, up to
 282 \$2 million ~~\$1 million~~ per contract which ~~that~~ cannot be resolved
 283 by negotiation between the department and the contractor must
 284 ~~shall~~ be arbitrated by the board after acceptance of the project
 285 by the department. As an exception, either party to the dispute
 286 may request that the claim be submitted to binding private
 287 arbitration. A court of law may not consider the settlement of
 288 such a claim until the process established by this section has
 289 been exhausted.

290 Section 8. Present subsections (5), (6), and (7) of section

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338.166, Florida Statutes, are renumbered as subsections (6), (7), and (8), respectively, and a new subsection (5) is added to that section, to read:

338.166 High-occupancy toll lanes or express lanes.—

(5) The department may not use toll revenue from the high-occupancy toll lanes or express lanes to offset funding that the facilities would use if the facilities were not high-occupancy toll lanes or express lanes.

Section 9. Paragraph (a) of subsection (4) of section 339.135, Florida Statutes, is amended to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.—

(4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

(a)1. To assure that no district or county is penalized for local efforts to improve the State Highway System, the department shall, for the purpose of developing a tentative work program, allocate funds for new construction to the districts, except for the turnpike enterprise, based on equal parts of population and motor fuel tax collections. Funds for resurfacing, bridge repair and rehabilitation, bridge fender system construction or repair, public transit projects except public transit block grants as provided in s. 341.052, and other programs with quantitative needs assessments shall be allocated based on the results of these assessments. The department may not transfer any funds allocated to a district under this paragraph to any other district except as provided in subsection (7). Funds for public transit block grants shall be allocated to the districts pursuant to s. 341.052. Funds for the intercity bus program provided for under s. 5311(f) of the federal

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nonurbanized area formula program shall be administered and allocated directly to eligible bus carriers as defined in s. 341.031(12) at the state level rather than the district. In order to provide state funding to support the intercity bus program provided for under provisions of the federal 5311(f) program, the department shall allocate an amount equal to the federal share of the 5311(f) program from amounts calculated pursuant to s. 206.46(3).

2. Notwithstanding the provisions of subparagraph 1., the department shall allocate at least 75 ~~50~~ percent of all transportation capacity funds, with the exception of funds allocated for the transit program and the surface transportation program attributable to areas with populations over 200,000, any new discretionary highway capacity funds to the Florida Strategic Intermodal System created pursuant to s. 339.61. Any remaining ~~new discretionary~~ highway capacity funds shall be allocated to the districts for new construction as provided in subparagraph 1. ~~For the purposes of this subparagraph, the term "new discretionary highway capacity funds" means any funds available to the department above the prior year funding level for capacity improvements, which the department has the discretion to allocate to highway projects.~~

Section 10. Paragraph (a) of subsection (3) of section 339.65, Florida Statutes, is amended to read:

339.65 Strategic Intermodal System highway corridors.—

(3) The department shall adhere to the following policy guidelines in the development of Strategic Intermodal System highway corridors. The department shall:

(a) Make capacity improvements to existing facilities where

26-00565A-19 20191044

349 feasible to minimize costs and environmental impacts. Priority
350 must be given to correcting or improving sections of interstate
351 highway that experience unusually high accident rates. For a
352 section of interstate highway that experiences high levels of
353 both recurring and non-recurring congestion and in which non-
354 recurring congestion accounts for more than 75 percent of the
355 total congestion of the section, project development and
356 environmental studies must begin within 3 years after an
357 analysis of the section is complete.

358 Section 11. This act shall take effect July 1, 2019.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03/20/2019

Meeting Date

1044

Bill Number (if applicable)

517500

Amendment Barcode (if applicable)

Topic Department of Transportation

Name Jim Cordero

Job Title Director of Governmental Affairs

Address 1007 E. De Soto Park Drive, Suite 201

Street

Tallahassee

City

Florida

State

32301

Zip

Phone 850-222-7300

Email jcordero@acaf.org

Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Asphalt Contractors Association of Florida

Appearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/20/19

Meeting Date

1044

Bill Number (if applicable)

Topic

Transportation

Amendment Barcode (if applicable)

Name

Scott Jenkins

Job Title

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Address

113 E. College Ave Ste 200

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City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

FL ROAD MATERIALS & CONSTRUCTION ASSOC.

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-20-19

Meeting Date

1044

Bill Number (if applicable)

Topic Transportation

Amendment Barcode (if applicable)

Name Stephen Shiver

Job Title Partner -

Address 204 S Monroe St

Street

Phone 850 222 8950

Tallahassee FL 32301

City

State

Zip

Email ssecardenas@parbus.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Associated Industries of FL

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Infrastructure and Security

BILL: CS/SB 1148

INTRODUCER: Senator Perry

SUBJECT: Vehicles for Rent or Lease

DATE: March 22, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1148 is a bill related to vehicles for rent or lease which:

- Creates a number of definitions and a framework for a peer-to-peer ride sharing program to remit a rental car surcharge and appropriate taxes when a vehicle is rented;
- Allows both a peer-to-peer and a motor vehicle rental company to pay a \$1.00 surcharge per usage if the rental is for less than 24 hours;
- Authorizes an electronic copy of a rental or lease documentation be accepted by law enforcement or other entities as proof of possession of such documentation;
- Repeals the requirement that a person renting a motor vehicle to another verify the latter individual's signature on his or her driver license, and instead requires them to verify that the individual's driver license is unexpired;
- Repeals the requirement that the individual renting the vehicle to another record the date on which the driver license was issued;
- Provides that anyone that rents a motor vehicle to a person through digital, electronic, or other means which allows the renter to obtain possession of the vehicle without direct contact with an agent or employee of the rental car company, or where the renter does not execute a rental contract at the time he or she takes possession of the vehicle, is deemed to have met the license inspection requirements if the renter verifies that he or she is duly licensed and the license is unexpired; and
- Requires a motor vehicle rental company, car-sharing service, or a peer-to-peer car-sharing program to enter into an agreement with a publicly owned airport, open to the public for use, to provide services.

The bill may have an indeterminate negative fiscal impact on certain ride-sharing models and to the state. See fiscal notes in Section V.

The bill takes effect July 1, 2019.

II. Present Situation:

For-Hire Vehicles

With limited exception, offering for lease or rent any motor vehicle in the State of Florida qualifies the vehicle as a “for-hire vehicle” under s. 320.01(15)(a), F.S.:

“For-hire vehicle” means any motor vehicle, when used for transporting persons or goods for compensation; let or rented to another for consideration; offered for rent or hire as a means of transportation for compensation; advertised in a newspaper or generally held out as being for rent or hire; used in connection with a travel bureau; or offered or used to provide transportation for persons solicited through personal contact or advertised on a “share-expense” basis. When goods or passengers are transported for compensation in a motor vehicle outside a municipal corporation of this state, or when goods are transported in a motor vehicle not owned by the person owning the goods, such transportation is “for hire”. The carriage of goods and other personal property in a motor vehicle by a corporation or association for its stockholders, shareholders, and members, cooperative or otherwise, is transportation “for hire”.¹

Rental Car Industry

In recent years there has been a growing industry of rental cars known as “car-sharing” services. Companies, or programs, like “Zipcar”², “car2go”³, and “Turo”⁴ allow members to reserve the use of a car without visiting a rental car location. This model is seen as an alternative to the traditional rental car business model as well as an alternative to owning a car in a major metropolitan area. As a developing industry, car-sharing services face varying regulations and taxes across different local and state governments. The CarSharing Association represents several car-sharing companies and “seeks to improve access to reliable, affordable transportation while providing a viable option for communities to move away from a culture of personal car ownership.”⁵ Car-sharing services are promoted by some organizations as a form of “sharing

¹ See s. 320.01(15)(b), F.S., the following are not included in the term “for-hire vehicle”: a motor vehicle used for transporting school children to and from school under contract with school officials; a hearse or ambulance when operated by a licensed embalmer or mortician or his or her agent or employee in this state; a motor vehicle used in the transportation of agricultural or horticultural products or in transporting agricultural or horticultural supplies direct to growers or the consumers of such supplies or to associations of such growers or consumers; a motor vehicle temporarily used by a farmer for the transportation of agricultural or horticultural products from any farm or grove to a packinghouse or to a point of shipment by a transportation company; or a motor vehicle not exceeding 11/2 tons under contract with the Government of the United States to carry United States mail, provided such vehicle is not used for commercial purposes.

² Zipcar website, <http://www.zipcar.com/> (last visited Mar. 15, 2019).

³ car2go website, <https://www.car2go.com/en/austin/> (last visited Mar. 15, 2019).

⁴ Turo website, <https://turo.com/> (last visited Mar. 15, 2019).

⁵ The CarSharing Association website, <http://carsharing.org/> (last visited Mar. 15, 2019).

economy,” which is described as an “economic activity that involves individuals buying or selling usually temporary access to goods or services especially as arranged through an online company or organization.”⁶

Three major varieties of car-sharing models exist currently:⁷

- Peer to Peer: “A fleet of cars is owned by a community. The marketplace matches owners of cars that are available to other drivers to rent.”
- Business to Consumer: “A company owns a fleet of cars and facilitates the sharing among members.”
- Not-For-Profit or Co-Op: “A local organization or community that facilitates car sharing with the goal of changing driving habits over making a profit.”

Rental Car Surcharge

Section 212.0606(1), F.S., imposes a surcharge of \$2.00 per day or any part of a day upon the lease or rental of a motor vehicle licensed for hire and designed to carry less than nine passengers, regardless of whether such vehicle is licensed in Florida. The surcharge is included in the lease or rental price on which sales tax is computed and must be listed separately on the invoice. Businesses that collect the rental car surcharge are required to report surcharge collections by county, attributing the surcharge to the county where the rental agreement was made.

The surcharge applies to only the first 30 days of the term of any lease or rental, whether or not the vehicle is licensed in Florida.⁸ If the rental or lease of a vehicle is for longer than 30 days, only the first 30 days are subject to the surcharge. If the lease is renewed, the first 30 days of the renewed lease is subject to the surcharge.

The surcharge is not imposed on leases or rentals to tax-exempt entities.⁹ Section 212.0606(5), F.S., exempts from payment of the surcharge a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

After deduction for administrative fees, the rental car surcharge is distributed as follows:

- 80 percent of the surcharge to the State Transportation Trust Fund (STTF);
- 15.75 percent of the surcharge to the Tourism Promotional Trust Fund; and
- 4.25 percent of the surcharge to the Florida International Trade and Promotion Trust Fund.¹⁰

The proceeds of the rental car surcharge deposited into the STTF are allocated to each Florida Department of Transportation district, except the Turnpike District, for transportation projects based on the amount of proceeds collected in the counties within each respective district.¹¹

⁶ Merriam-Webster website, <https://www.merriam-webster.com/dictionary/sharing%20economy> (last visited Mar. 15, 2019).

⁷ Collaborative Fund and Hyperakt, *The Bright Future of CarSharing*, <http://futureofcarsharing.com/> (last visited Mar. 15, 2019).

⁸ Section 212.0606(1), F.S.

⁹ Section 212.08, F.S.; Rule 12A-1.038, F.A.C.

¹⁰ Section 212.0606(3)(a), F.S.

¹¹ Section 212.0606(3)(b), F.S.

Motor Vehicle Registrations and Rental Agreements

Section 320.0605, F.S., requires all drivers to possess (or carry in the vehicle) one of the following documents while using or operating a motor vehicle on state roads:

- the vehicle's registration certificate (or an official copy);
- the temporary receipt of an internet registration renewal;
- a true copy of a rental or lease documentation¹²; or
- a cab card issued for vehicles registered under the International Registration Plan.

One of the documents listed above must be exhibited, upon demand, to any authorized law enforcement officer or Department of Highway Safety and Motor Vehicles (DHSMV) agent. Failing to meet the requirement is a nonmoving violation subject to a \$30 fine, unless the driver can later show proof of valid registration at the time of arrest.¹³ The above requirement has two exceptions: fleet vehicles¹⁴, and replacement vehicles purchased within the last 30 days.

Section 320.0605, F.S., requires that a person who rents or leases a vehicle is required to possess a true copy of rental or lease documentation for the motor vehicle at all times while the vehicle is being operated. The documentation must include certain information including the date of rental and time of exit from the rental facility, and the rental station identification.

Renting a Motor Vehicle to Another

Section 322.38, F.S., sets the requirements for an individual who wishes to rent a motor vehicle to another. These include that the individual inspects the driver license of the person to whom the vehicle is to be rented, and compares and verifies the signature thereon with the signature of such person written in his or her presence before the vehicle can be rented. Further, the individual must keep a record of the registration number of the motor vehicle rented, the name and address of the person renting and the number, date, and place of issue.

III. Effect of Proposed Changes:**Rental Car Surcharge**

The bill provides that a motor vehicle rental company, a car-sharing service, and a peer-to-peer car sharing program must charge \$2.00 per day, plus applicable taxes, on the lease or rental of a motor vehicle for a period of 24 hours or more. It also provides that a peer-to-peer car-sharing program or a motor vehicle rental company which leases or rents a motor vehicle for less than 24 hours will instead pay a surcharge of \$1.00 per usage, plus applicable taxes.

¹² See s. 320.0605(2), F.S., a rental or lease documentation that is sufficient to satisfy the requirement in s. 320.0506, F.S. includes the following: date of rental and time of exit from rental facility; rental station identification; rental agreement number; rental vehicle identification number; rental vehicle license plate number and state of registration; vehicle's make, model, and color; vehicle's mileage; and authorized renter's name.

¹³ Section 318.18(2)(b)1., F.S.

¹⁴ See s. 320.0657(1), F.S., which defines the term "fleet" to mean nonapportioned motor vehicles owned or leased by a company and used for business purposes.

The bill amends s. 212.0606, F.S., to define the term:

- “Rental of a motor vehicle” to mean the renting or leasing of a motor vehicle when the rental or lease is facilitated, in person or through digital means, by a motor vehicle rental company, a car-sharing service, or a peer-to-peer car sharing program for consideration without transfer of the title of the motor vehicle; and
- “Dealer” to mean a motor vehicle rental company, a car-sharing service, or a peer-to-peer car sharing program.

The bill creates:

- s. 320.01(46), F.S., to move the definition for a “car sharing service” from s. 212.0606(2), F.S.;
- s. 320.01(47), F.S., to define the term “Motor vehicle rental company” to mean any person who is in the business of providing motor vehicles to the public under a rental agreement for a period of 30 days or less for consideration; and
- s. 320.01(48), F.S., to define the term “Peer-to-peer car-sharing program” to mean a business platform that connects vehicle owners with drivers to enable the renting of vehicles for financial consideration.

Motor Vehicle Registrations and Rental Agreements

The bill amends s. 320.0605, F.S., to allow a driver to operate a motor vehicle on state roads if they have an electronic copy of a rental or lease documentation in a format authorized by the DHSMV for the vehicle in operation. The bill provides that the act of presenting to a law enforcement officer or agent of the DHSMV an electronic device displaying an electronic copy of a rental or lease documentation does not constitute consent for the officer or agent to access any information on the device other than the displayed rental or lease documentation, and the person who presents the device to the officer or agent assumes liability for any resulting damage to the device.

The bill also amends s. 320.0605, F.S., to repeal the requirement that the rental or lease documentation must include the time of exit from the rental facility, as well as the rental station identification.

Renting a Motor Vehicle to Another

The bill amends s. 322.38, F.S., to repeal the requirement that a person renting a motor vehicle to another verify the latter individual’s signature on his or her driver license, and instead requires them to verify that the individual’s driver license is unexpired. The bill also repeals the requirement that the individual renting the vehicle to another record the date on which the driver license was issued.

The bill creates s. 322.38(4), F.S., to provide that anyone that rents a motor vehicle to a person through digital, electronic, or other means which allows the renter to obtain possession of the vehicle without direct contact with an agent or employee of the entity owning the vehicle, or where the renter does not execute a rental contract at the time he or she takes possession of the vehicle, is deemed to have met the license inspection requirements if the renter verifies that he or she is duly licensed and the license is unexpired. This verification may occur when the renter enrolls in a membership program, master agreement, or other means of establishing use of the

motor vehicle through a motor vehicle rental company or peer-to-peer car-sharing program, or at any time thereafter.

Airport Agreements

The bill creates s. 331.17, F.S., in order to facilitate the provision of service on the property of a publicly owned airport that is open for public use, a motor vehicle rental company, a car-sharing service, or a peer-to-peer car sharing program must enter an agreement with the airport to provide such services.

The bill takes effect July 1, 2019.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Peer-to-peer car-sharing programs and motor vehicle rental companies must pay a surcharge of \$1.00, plus applicable taxes, per usage for a motor vehicle rented for less than 24 hours.

According to the Department of Revenue, the rental car surcharge under s. 212.0606, F.S., and sales and use taxes under s. 212.05, F.S., on rental revenue generated by participating in a peer to peer, or other, ride-share model program, apply under current

law.¹⁵ However, the bill defines a “peer-to-peer car-sharing program” as a dealer, and directs them to collect and remit the rental car surcharge pursuant to s. 212.0606, F.S.

A publicly owned airport that is open for public use, entering into an agreement with a motor vehicle rental company, a car-sharing service, or a peer-to-peer car sharing program to provide services, may see an indeterminate positive fiscal impact from any revenues derived from the agreement.

C. Government Sector Impact:

There may be an indeterminate fiscal impact to the state, as additional revenue from payments made by peer-to-peer car-sharing programs may likely have a positive fiscal impact, and the ability of motor vehicle rental companies to pay \$1.00 per usage instead of \$2.00 for a motor vehicle rented for less than 24 hours may have a negative fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends ss. 212.0606, 320.01, 320.0605, and 322.38 of the Florida Statutes.

This bill creates s, 331.17 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Infrastructure and Security on March 20, 2019:

- The CS creates a number of definitions and a framework to require a peer-to-peer ride sharing program to remit a rental car surcharge and appropriate taxes when a vehicle is rented;
- The CS allows both a peer-to-peer and a motor vehicle rental company to only pay a \$1.00 surcharge per usage if the rental is for less than 24 hours;
- The CS authorizes an electronic copy of a rental or lease documentation be accepted by law enforcement or other entities as proof of possession of such documentation;

¹⁵ Email from Debra Longman, Director of the Office of Legislative and Cabinet Services, Department of Revenue, RE: SB 1148 Questions (March 18, 2019), (On file with the Committee on Infrastructure and Security).

- The CS repeals the requirement that a person renting a motor vehicle to another verify the latter individual's signature on his or her driver license, and instead requires them to verify that the individual's driver license is unexpired;
- The CS repeals the requirement that the individual renting the vehicle to another record the date on which the driver license was issued;
- The CS provides that anyone that rents a motor vehicle to a person through digital, electronic, or other means which allows the renter to obtain possession of the vehicle without direct contact with an agent or employee of the rental car company, or where the renter does not execute a rental contract at the time he or she takes possession of the vehicle, is deemed to have met the license inspection requirements if the renter verifies that he or she is duly licensed and the license is unexpired; and
- The CS requires a motor vehicle rental company, car-sharing service, or a peer-to-peer car-sharing program to enter into an agreement with a publicly owned airport, open to the public for use, to provide services.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2019	.	
	.	
	.	
	.	

The Committee on Infrastructure and Security (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 212.0606, Florida Statutes, is amended
to read:

212.0606 Rental car surcharge.—

(1) Except as provided in subsection (2), a surcharge of \$2
per day or any part of a day is imposed upon the lease or rental
of a motor vehicle licensed for hire and designed to carry fewer



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than nine passengers regardless of whether the motor vehicle is licensed in this state. The surcharge applies to only the first 30 days of the term of a lease or rental. The surcharge is subject to all applicable taxes imposed by this chapter. For purposes of this subsection, the term "rental of a motor vehicle" means the renting or leasing of a motor vehicle when the rental or lease is facilitated, in person or through digital means, by a motor vehicle rental company as defined in s. 320.01(47), a car-sharing service as defined in s. 320.01(46), or a peer-to-peer car sharing program as defined in s. 320.01(48) for consideration without transfer of the title of the motor vehicle.

(2) A member of a car-sharing service as defined in 320.01(46) who uses a motor vehicle as described in subsection (1) for less than 24 hours pursuant to an agreement with the car-sharing service shall pay a surcharge of \$1 per usage. A member of a car-sharing service who uses the same motor vehicle for 24 hours or more shall pay a surcharge of \$2 per day or any part of a day as provided in subsection (1). ~~For purposes of this subsection, the term "car-sharing service" means a membership-based organization or business, or division thereof, which requires the payment of an application or membership fee and provides member access to motor vehicles:~~

~~(a) Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;~~

~~(b) Twenty-four hours per day, 7 days per week;~~

~~(c) Only through automated means, including, but not limited to, smartphone applications or electronic membership~~



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cards;

~~(d) On an hourly basis or for a shorter increment of time;~~

~~(e) Without a separate fee for refueling the motor vehicle;~~

~~(f) Without a separate fee for minimum financial
responsibility liability insurance; and~~

~~(g) Owned or controlled by the car-sharing service or its
affiliates.~~

The surcharge imposed under this subsection does not apply to the lease, rental, or use of a motor vehicle from a location owned, operated, or leased by or for the benefit of an airport or airport authority.

(3) A peer-to-peer car-sharing program as defined in 320.01(48) or a motor vehicle rental company as defined in 320.01(47) which rents a motor vehicle as described in subsection (1) for less than 24 hours must pay a surcharge of \$1 per usage.

(4)~~(3)~~ (a) Notwithstanding s. 212.20, and less the costs of administration, 80 percent of the proceeds of this surcharge shall be deposited in the State Transportation Trust Fund, 15.75 percent of the proceeds of this surcharge shall be deposited in the Tourism Promotional Trust Fund created in s. 288.122, and 4.25 percent of the proceeds of this surcharge shall be deposited in the Florida International Trade and Promotion Trust Fund. For the purposes of this subsection, the term "proceeds of this surcharge" ~~of the surcharge~~ means all funds collected and received by the department under this section, including interest and penalties on delinquent surcharges. The department shall provide the Department of Transportation rental car



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69 surcharge revenue information for the previous state fiscal year
70 by September 1 of each year.

71 (b) Notwithstanding any other provision of law, the
72 proceeds deposited in the State Transportation Trust Fund shall
73 be allocated on an annual basis in the Department of
74 Transportation's work program to each department district,
75 except the Turnpike District. The amount allocated to each
76 district shall be based on the amount of proceeds attributed to
77 the counties within each respective district.

78 (5)~~(4)~~ Except as provided in this section, the department
79 shall administer, collect, and enforce the surcharge as provided
80 in this chapter.

81 (a) For purposes of this subsection, the term "dealer"
82 means a motor vehicle rental company as defined in s.
83 320.01(47), a car-sharing service as defined in s. 320.01(46),
84 or a peer-to-peer car sharing program as defined in s.
85 320.01(48).

86 (b)~~(a)~~ The department shall require dealers to report
87 surcharge collections according to the county to which the
88 surcharge was attributed. For purposes of this section, the
89 surcharge shall be attributed to the county where the rental
90 agreement was entered into.

91 (c)~~(b)~~ Dealers who collect the rental car surcharge shall
92 report to the department all surcharge revenues attributed to
93 the county where the rental agreement was entered into on a
94 timely filed return for each required reporting period. The
95 provisions of this chapter which apply to interest and penalties
96 on delinquent taxes apply to the surcharge. The surcharge shall
97 not be included in the calculation of estimated taxes pursuant



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to s. 212.11. The dealer's credit provided in s. 212.12 does not apply to any amount collected under this section.

(6)~~(5)~~ The surcharge imposed by this section does not apply to a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

Section 2. Subsections (46), (47), and (48) are added to section 320.01, Florida Statutes, to read:

320.01 Definitions, general.—As used in the Florida Statutes, except as otherwise provided, the term:

(46) "Car-sharing service" means a membership-based organization or business, or division thereof, which requires the payment of an application fee or a membership fee and provides member access to motor vehicles:

(a) Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;

(b) Twenty-four hours per day, 7 days per week;

(c) Only through automated means, including, but not limited to, smartphone applications or electronic membership cards;

(d) On an hourly basis or for a shorter increment of time;

(e) Without a separate fee for refueling the motor vehicle;

(f) Without a separate fee for minimum financial responsibility liability insurance; and

(g) Owned or controlled by the car-sharing service or its affiliates.

(47) "Motor vehicle rental company" means any person who is in the business of providing motor vehicles to the public under



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a rental agreement for a period of 30 days or less for
consideration.

(48) "Peer-to-peer car-sharing program" means a business
platform that connects vehicle owners with drivers to enable the
renting of vehicles for financial consideration.

Section 3. Section 320.0605, Florida Statutes, is amended
to read:

320.0605 Certificate of registration; possession required;
exception.—

(1)(a) The registration certificate or an official copy
thereof, a true copy or an electronic copy of rental or lease
documentation issued for a motor vehicle or issued for a
replacement vehicle in the same registration period, a temporary
receipt printed upon self-initiated electronic renewal of a
registration via the Internet, or a cab card issued for a
vehicle registered under the International Registration Plan
shall, at all times while the vehicle is being used or operated
on the roads of this state, be in the possession of the operator
thereof or be carried in the vehicle for which issued and shall
be exhibited upon demand of any authorized law enforcement
officer or any agent of the department, except for a vehicle
registered under s. 320.0657. The provisions of this section do
not apply during the first 30 days after purchase of a
replacement vehicle. A violation of this section is a
noncriminal traffic infraction, punishable as a nonmoving
violation as provided in chapter 318.

(b)1. The act of presenting to a law enforcement officer or
agent of the department an electronic device displaying an
electronic copy of rental or lease documentation does not



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constitute consent for the officer or agent to access any
information on the device other than the displayed rental or
lease documentation.

2. The person who presents the device to the officer or
agent assumes liability for any resulting damage to the device.

(2) Rental or lease documentation that is sufficient to
satisfy the requirement in subsection (1) includes the
following:

(a) ~~Date of rental and time of exit from rental facility;~~

(b) ~~Rental station identification;~~

~~(c)~~ Rental agreement number;

~~(d)~~ Rental vehicle identification number;

~~(e)~~ Rental vehicle license plate number and state of
registration;

~~(f)~~ Vehicle's make, model, and color;

~~(g)~~ Vehicle's mileage; and

~~(h)~~ Authorized renter's name.

Section 4. Section 322.38, Florida Statutes, is amended to
read:

322.38 Renting motor vehicle to another.—

(1) A ~~No~~ person may not ~~shall~~ rent a motor vehicle to any
other person unless the other ~~latter~~ person is ~~then~~ duly
licensed, ~~or, if a nonresident, he or she shall be licensed~~
under the laws of the state or country of his or her residence,
except a nonresident whose home state or country does not
require that an operator be licensed.

(2) A ~~No~~ person may not ~~shall~~ rent a motor vehicle to
another until he or she has inspected the driver license of the
person to whom the vehicle is to be rented, ~~and has compared and~~



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verified that the driver license is unexpired ~~signature thereon~~
~~with the signature of such person written in his or her~~
~~presence.~~

(3) Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is rented, the number of the license of said latter person, and the ~~date and place when and~~ where the ~~said~~ license was issued. Such record shall be open to inspection by any police officer, or officer or employee of the department.

(4) If a motor vehicle is rented to a person through digital, electronic, or other means that allow the renter to obtain possession of the motor vehicle without direct contact with an owner or agent or an employee of an entity owning the vehicle, or if the renter does not execute a rental contract at the time that he or she takes possession of the vehicle, it must be deemed that the requirements of subsections (1) and (2) are met when, at the time the renter enrolls in a membership program, master agreement, or other means of establishing use of the motor vehicle through a motor vehicle rental company as defined in s. 320.01(47) or peer-to-peer car-sharing program as defined in s. 320.01(48), or any time thereafter, the renter is required to verify that he or she is duly licensed and that the license is unexpired.

Section 5. Section 331.17, Florida Statutes, is created to read:

331.17 Transportation services at airports.—In order to facilitate the provision of service on the property of a publicly owned airport that is open for public use, a motor



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vehicle rental company as defined in 320.01(47), a car-sharing service as defined in s. 320.01(46), or a peer-to-peer car-sharing program defined in s 320.01(48) must enter an agreement with the airport to provide such services.

Section 6. This act shall take effect July 1, 2019.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to vehicles for rent or lease;
amending s. 212.0606, F.S.; defining the term "rental of a motor vehicle"; requiring a member of a certain car-sharing service who uses a motor vehicle for less than a specified period of time pursuant to an agreement with the car-sharing service to pay a specified surcharge per usage; deleting a definition; requiring that a certain peer-to-peer car-sharing program or motor vehicle rental company pay a specified surcharge per usage; defining the term "dealer"; amending s. 320.01, F.S.; defining terms; amending s. 320.0605, F.S.; authorizing an electronic copy of certain rental or lease documentation to be in the possession of the vehicle operator or carried in the vehicle and to be exhibited upon demand of any authorized law enforcement officer or any agent of the Department of Highway Safety and Motor Vehicles; providing that the act of presenting a certain



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electronic device to the officer or agent does not constitute consent for the officer or agent to access any information on the device other than the displayed rental or lease documentation; providing for assumption of liability for any resulting damage to the device; revising requirements for rental or lease documentation; amending s. 322.38, F.S.; prohibiting a person from renting a motor vehicle to another person unless he or she has verified that the renter's driver license is unexpired; requiring that a person renting a motor vehicle to another person keep a record of the place where the renter's license was issued; providing that, under certain circumstances, specified requirements are deemed met when a renter is required at certain times to verify that he or she is duly licensed and that the license is unexpired; creating s. 331.17, F.S.; requiring a motor vehicle rental company, car-sharing service, or a peer-to-peer car-sharing program to enter an agreement with certain publicly owned airports for certain purposes; providing an effective date.

By Senator Perry

8-01273A-19

20191148__

A bill to be entitled

An act relating to vehicles for rent or lease; amending s. 320.01, F.S.; revising the definition of the term "for-hire vehicle"; defining the terms "private motor vehicle" and "private motor vehicle rental program"; amending s. 320.0605, F.S.; authorizing an electronic copy of certain rental or lease documentation to be in the possession of the vehicle operator or carried in the vehicle and to be exhibited upon demand of any authorized law enforcement officer or any agent of the Department of Highway Safety and Motor Vehicles; providing that the act of presenting a certain electronic device to the officer or agent does not constitute consent for the officer or agent to access any information on the device other than the displayed rental or lease documentation; providing for assumption of liability for any resulting damage to the device; revising requirements for rental or lease documentation; amending s. 322.38, F.S.; prohibiting a person from renting a motor vehicle to another person unless he or she has verified that the renter's driver license is unexpired; requiring that a person renting a motor vehicle to another person keep a record of the place where the renter's license was issued; providing that, under certain circumstances, specified requirements are met when a renter is required at certain times to verify that he or she is duly licensed and that the license is unexpired; providing an effective date.

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-01273A-19

20191148__

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

Section 1. Paragraph (a) of subsection (15) of section 320.01, Florida Statutes, is amended, and subsections (46) and (47) are added to that section, to read:

320.01 Definitions, general.—As used in the Florida Statutes, except as otherwise provided, the term:

(15)(a) "For-hire vehicle" means any motor vehicle, when used for transporting persons or goods for compensation; let or rented to another for consideration; offered for rent or hire as a means of transportation for compensation; advertised in a newspaper or electronically, or generally held out as being for rent or hire; used in connection with a travel bureau; or offered or used to provide transportation for persons solicited through personal contact or advertised on a "share-expense" basis. The term includes a private motor vehicle that participates in a private motor vehicle rental program and is rented or offered for rent to another for consideration. When goods or passengers are transported for compensation in a motor vehicle outside a municipal corporation of this state, or when goods are transported in a motor vehicle not owned by the person owning the goods, such transportation is "for hire." The carriage of goods and other personal property in a motor vehicle by a corporation or association for its stockholders, shareholders, and members, cooperative or otherwise, is transportation "for hire."

(46) "Private motor vehicle" means a motor vehicle owned by an individual and insured under a personal automobile liability

Page 2 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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insurance policy that lists a single individual, or individuals residing in the same household, as the named insured. This term does not include a motor vehicle with fewer than four wheels.

(47) "Private motor vehicle rental program" is the means, digital or otherwise, by which a private motor vehicle is offered for rent by a person or entity who does not own the private motor vehicle.

Section 2. Section 320.0605, Florida Statutes, is amended to read:

320.0605 Certificate of registration; possession required; exception.—

(1) (a) The registration certificate or an official copy thereof, a true copy or an electronic copy of rental or lease documentation issued for a motor vehicle or issued for a replacement vehicle in the same registration period, a temporary receipt printed upon self-initiated electronic renewal of a registration via the Internet, or a cab card issued for a vehicle registered under the International Registration Plan shall, at all times while the vehicle is being used or operated on the roads of this state, be in the possession of the operator thereof or be carried in the vehicle for which issued and shall be exhibited upon demand of any authorized law enforcement officer or any agent of the department, except for a vehicle registered under s. 320.0657. The provisions of this section do not apply during the first 30 days after purchase of a replacement vehicle. A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

(b) 1. The act of presenting to a law enforcement officer or

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agent of the department an electronic device displaying an electronic copy of rental or lease documentation does not constitute consent for the officer or agent to access any information on the device other than the displayed rental or lease documentation.

2. The person who presents the device to the officer or agent assumes liability for any resulting damage to the device.

(2) Rental or lease documentation that is sufficient to satisfy the requirement in subsection (1) includes the following:

(a) Date ~~of rental~~ and time of ~~exit from~~ rental facility;

(b) ~~Rental station identification;~~

~~(c)~~ Rental agreement number;

(c) ~~(d)~~ Rental vehicle identification number;

(d) ~~(e)~~ Rental vehicle license plate number and state of registration;

(e) ~~(f)~~ Vehicle's make, model, and color;

(f) ~~(g)~~ Vehicle's mileage; and

(g) ~~(h)~~ Authorized renter's name.

Section 3. Section 322.38, Florida Statutes, is amended to read:

322.38 Renting motor vehicle to another.—

(1) A ~~No~~ person may not ~~shall~~ rent a motor vehicle to any other person unless the other ~~latter~~ person is ~~then~~ duly licensed, or, if a nonresident, ~~he or she shall be~~ licensed under the laws of the state or country of his or her residence, except a nonresident whose home state or country does not require that an operator be licensed.

(2) A ~~No~~ person may not ~~shall~~ rent a motor vehicle to

8-01273A-19

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another until he or she has inspected the driver license of the person to whom the vehicle is to be rented, and ~~has compared and verified that the driver license is unexpired signature thereon with the signature of such person written in his or her presence.~~

(3) Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is rented, the number of the license of said latter person, and the date and place when and where the said license was issued. Such record shall be open to inspection by any police officer, or officer or employee of the department.

(4) If a motor vehicle is rented to a person through digital, electronic, or other means that allow the renter to obtain possession of the motor vehicle without direct contact with an owner or agent or employee of an entity owning the vehicle, or if the renter does not execute a rental contract at the time he or she takes possession of the vehicle, it must be deemed that the requirements of subsections (1) and (2) are met when, at the time the renter enrolls in a membership program, master agreement, or other means of establishing use of the rental car company or private motor vehicle program services, or any time thereafter, the renter is required to verify that he or she is duly licensed and that the license is unexpired.

Section 4. This act shall take effect July 1, 2019.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3.20.19

Meeting Date

SB 1148

Bill Number (if applicable)

898880

Amendment Barcode (if applicable)

Topic Peer to Peer car sharing

Name Michelle Peacock

Job Title VP Government Relations

Address 116 New Montgomery St. Ste 700

Street

San Francisco CA 95125

City

State

Zip

Phone

Email michelle.peacock@turo.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Turo

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____

Bill Number (if applicable) 1148

Topic Car Showing

Amendment Barcode (if applicable) 898880

Name Michelle McGinn

Job Title Senior Strategist

Address 28 K St, SE #428

Phone 262-894-6592

Street

Washington, D.C.

State

Zip

Email mmcginn@ornet.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Getaround

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

March 20, 2019

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1148

Bill Number (if applicable)

Topic Vehicles for Rent or Lease

Amendment Barcode (if applicable)

Name Darrick D. McGhee

Job Title Vice President, Johnson & Blanton, LLC.

Address 537 East Park Avenue

Phone (850) 224-1900

Street

Tallahassee

Florida

32301

Email darrick@teamjb.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Airports Council

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/20/19

Meeting Date

1148

Bill Number (if applicable)

Topic

Vehicles for Rent/Lease

Amendment Barcode (if applicable)

Name

Eric Poole

Job Title

Cng.

Address

100 Monroe St

Phone

9784300

Street

City

Tallah. FL 32311

State

Zip

Email

epoole@floridians.com

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Florida Assoc. Counties

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

Infrastructure
110

3/20/19

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 1148

Bill Number (if applicable)

Topic Vehicles for Rent or Lease

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior VP

Address 516 N. Adams St

Street

Phone 224-7173

Tallahassee

FL

32301

City

State

Zip

Email bbevis@aif.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/20/19
Meeting Date

1148
Bill Number (if applicable)

Topic CAR RENTALS

Amendment Barcode (if applicable)

Name FRED DICKINSON

Job Title Pooler McKinley

Address _____
Street

Phone 850 681-1980

City _____ State _____ Zip _____

Email Fred.D.McKinley.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing HERTZ

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/20/19

Meeting Date

1148

Bill Number (if applicable)

Topic Car-sharing Vehicles For Rent or Lease

Amendment Barcode (if applicable)

Name George Feijoo

Job Title Consultant

Address 108 South Monroe Street

Phone 305 720-7099

Tallahassee FL 32303

City

State

Zip

Email gfeijoo@flapartners.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing Drift

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/20/19
Meeting Date

1148
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Leslie Dughi

Job Title _____

Address 101 E. College Avenue
Street
Tallahassee FL 32301
City State Zip

Phone _____

Email _____

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Enterprise Holdings

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

CourtSmart Tag Report

Room: EL 110 **Case No.:**
Caption: Senate Committee on Infrastructure and Security

Type:
Judge:

Started: 3/20/2019 4:05:22 PM
Ends: 3/20/2019 5:58:35 PM **Length:** 01:53:14

4:05:21 PM Meeting called to order by Chair Lee
4:05:29 PM Roll call by Administrative Assistant Marilyn Hudson
4:05:39 PM Quorum present
4:05:51 PM Comments from Chair Lee
4:05:56 PM Chair turned to Senator Perry
4:06:48 PM Introduction of Tab 2, SB 7048 by Chair Perry
4:06:57 PM Explanation of SB 7048, Disclosure of Confidential Records by Senator Book
4:08:07 PM Comments from Chair Perry
4:08:15 PM Question from Senator Cruz
4:08:23 PM Response from Senator Book
4:08:50 PM Follow-up question from Senator Cruz
4:08:58 PM Response from Senator Book
4:09:35 PM Additional question from Senator Cruz
4:09:42 PM Response from Senator Book
4:10:18 PM Speaker Bob Gualtieri, Sheriff in support
4:11:38 PM Question from Senator Cruz
4:11:43 PM Response from Sheriff Gualtieri
4:12:30 PM Follow-up question from Senator Cruz
4:12:37 PM Response from Sheriff Gualtieri
4:13:33 PM Additional question from Senator Cruz
4:13:40 PM Response from Sheriff Gualtieri
4:14:43 PM Closure by Senator Book
4:14:56 PM Roll call on SB 7048 by Administrative Assistant Marilyn Hudson
4:15:21 PM SB 7048 reported favorably
4:15:39 PM Introduction of Tab 3, CS/SB 536
4:15:52 PM Explanation of CS/SB 536, Services by Senator Brandes
4:16:39 PM Comments from Chair Perry
4:16:45 PM Question from Senator Stewart
4:17:02 PM Response from Senator Brandes
4:18:14 PM Question from Senator Cruz
4:18:19 PM Response from Senator Brandes
4:18:46 PM Speaker Chief Gary Hester, Government Affairs, Florida Police Chiefs Association
4:21:56 PM Speaker Sheriff Bob Gualtieri, Pinellas County in support
4:26:33 PM Question from Senator Bean
4:26:38 PM Response from Sheriff Gualtieri
4:28:03 PM Question from Chair Perry
4:28:08 PM Response from Sheriff Gualtieri
4:28:56 PM Follow-up question from Chair Perry
4:29:03 PM Response from Sheriff Gualtieri
4:29:25 PM Senator Cruz in debate
4:29:56 PM Closure waived
4:30:00 PM Roll call by Administrative Assistant Marilyn Hudson
4:30:15 PM CS/CS/536 favorably
4:30:23 PM Introduction of Tab 6, SB 932 by Chair Perry
4:30:34 PM Explanation of SB 932, Autonomous Vehicles by Senator Brandes
4:32:37 PM
4:32:38 PM Introduction of Amendment Barcode No. 624656
4:32:51 PM Explanation of Amendment Barcode No. 624656 by Senator Brandes
4:33:10 PM Closure waived
4:33:13 PM Amendment Barcode No. 624656 adopted
4:33:25 PM Amendment Barcode No. 571094 introduced by Chair Perry
4:33:41 PM Explanation of Amendment Barcode No. 571094 by Senator Brandes

4:34:25 PM Late-filed Amendment to Substitute Amendment Barcode No. 177774 introduced by Chair Perry
 4:34:41 PM Explanation of Late-filed Amendment by Senator Cruz
 4:36:12 PM No objection to Late-filed Amendment
 4:36:29 PM Speaker Dale Swope, Attorney, Florida Justice Association in support of Amendment
 4:38:09 PM Question from Chair Perry
 4:38:13 PM Response from Mr. Swope
 4:39:42 PM Question from Senator Hutson
 4:39:47 PM Response from Mr. Swope
 4:40:06 PM Follow-up question from Senator Hutson
 4:40:12 PM Response from Mr. Swope
 4:41:04 PM Additional question from Senator Hutson
 4:41:13 PM Response from Mr. Swope
 4:42:10 PM Question from Senator Stewart
 4:42:20 PM Response from Senator Brandes
 4:44:13 PM Comments from Chair Perry regarding Amendment
 4:44:35 PM Closure on Amendment by Senator Cruz
 4:45:33 PM Amendment not adopted
 4:46:01 PM Jeff Sharkey, CEO TESLA waives in support
 4:46:33 PM Sonya Deen, Vice President of Governmental Relations, JM Family Enterprises in support
 4:46:52 PM Closure waived
 4:46:55 PM Amendment adopted
 4:47:07 PM Late-filed Amendment Barcode No. 837754 introduced by Chair Perry
 4:47:18 PM Explanation of Late-filed Amendment No. 837754 by Senator Cruz
 4:48:15 PM Amendment Barcode No. 837754 withdrawn without objection
 4:48:35 PM Diego Echeverri, Director of Coalitions, Americans for Prosperity waives in support
 4:48:59 PM Speaker Sabrina White
 4:51:02 PM Cory Guzzo, Governmental Affairs Consultant, Associated Industries of Florida waives in support
 4:51:09 PM Tony Reinhart, Director, Governmental Community Relations, Ford Motor Company waives in support
 4:51:19 PM Cesar Fernandez, Starsky Robotics waives in support
 4:51:24 PM Sal Nuzzo, Vice President, Policy, The James Madison Institute waives in support
 4:51:32 PM Speaker Dale Swope, Florida Justice Association in opposition
 4:52:13 PM Zayne Smith, Associate State Director, AARP Florida waives in support
 4:52:18 PM Christopher Emmanuel, Policy Director, Florida Chamber of Commerce waives in support
 4:52:23 PM Diane Carr, Johnson & Blanton, Alliance of Automobile Manufacturers waives in support
 4:52:27 PM Marlene Williams, General Motors waives in support
 4:52:40 PM Closure by Senator Brandes
 4:52:46 PM Roll call on CS/SB 932 by Administrative Assistant Marilyn Hudson
 4:53:03 PM CS/SB 932 reported favorably
 4:53:13 PM Introduction of Tab 7, SB 1044 by Chair Perry
 4:53:51 PM Introduction of Strike-All Amendment Barcode No. 517500 by Chair Perry
 4:54:14 PM Explanation of Strike-all Amendment Barcode No. 517500 by Senator Albritton
 4:55:02 PM Explanation of Amendment to Amendment Barcode No. 883562 by Senator Albritton
 4:55:32 PM Closure waived
 4:55:43 PM Amendment Barcode No. 517500 adopted
 4:56:14 PM Comments from Senator Albritton
 4:56:31 PM Jim Cordero, Director of Governmental Affairs, Asphalt Contractors Association of Florida waives in support
 4:56:48 PM Closure waived on Amendment
 4:56:59 PM Question from Senator Cruz
 4:57:04 PM Response from Senator Albritton
 4:57:44 PM Scott Jenkins, Florida Road Materials & Construction Association waives in support
 4:57:49 PM Stephen Shiver, Associated Industries of Florida waives in support
 4:58:02 PM Closure waived
 4:58:05 PM Roll call on CS/SB 1044 by Administrative Assistant Marilyn Hudson
 4:58:18 PM CS/SB 1044 reported favorably
 4:58:27 PM Chair returned to Chairman Lee
 4:59:24 PM Introduction of Tab 8, SB 1148 by Chair Lee
 4:59:33 PM Explanation of Strike-All Amendment Barcode No. 898880 by Senator Perry
 5:00:54 PM Speaker Michelle Peacock, Vice President Government Relations, Turo in opposition
 5:06:18 PM Question from Senator Cruz
 5:06:23 PM Response from Ms. Peacock
 5:07:21 PM Follow-up question from Senator Cruz

5:07:31 PM Response from Ms. Peacock
5:08:21 PM Question from Chair Lee
5:08:25 PM Response from Ms. Peacock
5:09:05 PM Speaker Michele McGann, Senior Strategist, Getaround in opposition
5:13:00 PM Senator Stewart in debate
5:13:37 PM Senator Perry in closure on Amendment
5:13:54 PM Amendment adopted
5:14:06 PM Darrick McGhee, Vice President, John & Blanton, LLC waives in support
5:14:22 PM Eric Poole, Florida Association of Counties waives in support
5:14:34 PM Brewster Bevis, Senior Vice President, Associated Industries of Florida waives in support
5:14:41 PM Fred Dickinson, Poole McKinley, Hertz waives in support
5:14:47 PM George Feijeo, Drift waives in opposition
5:15:00 PM Speaker Leslie Dughi, Enterprise Holdings in support
5:18:45 PM Question from Senator Taddeo
5:18:51 PM Response from Ms. Dughi
5:20:53 PM Question from Senator Cruz
5:20:59 PM Response from Ms. Dughi
5:21:56 PM Question from Senator Hooper
5:22:04 PM Response from Ms. Dughi
5:22:45 PM Question from Chair Lee
5:22:48 PM Response from Ms. Dughi
5:23:32 PM Follow-up question from Chair Lee
5:23:38 PM Response from Ms. Dughi
5:25:56 PM Question from Chair Lee
5:26:00 PM Response from Ms. Dughi
5:26:36 PM Speaker Darrick McGhee, Florida Airport Council in support
5:27:11 PM Question from Chair Lee
5:27:17 PM Response from Mr. McGhee
5:27:39 PM Question from Senator Cruz
5:27:45 PM Response from Mr. McGhee
5:28:45 PM Senator Hooper in debate
5:29:41 PM Chair Lee in debate
5:30:27 PM Senator Perry in closure
5:31:36 PM Roll call on CS/SB 1148 by Administrative Assistant Marilyn Hudson
5:32:33 PM CS/SB 1148 reported favorably
5:32:54 PM Comments from Chair Lee
5:33:21 PM Comments from Chair Lee regarding SB 7030 being TP'd
5:34:37 PM Comments from Senator Hutson regarding rescheduling Bill
5:34:56 PM Comments from Chair Lee on putting bill on Agenda for next Tuesday
5:35:14 PM Introduction of Tab 5, CS/SB 796 by Chair Lee
5:35:32 PM Explanation of CS/SB 796, Storm Protection Plans by Senator Gruters
5:37:34 PM Introduction of Strike-All Amendment Barcode No. 692530 by Chair Lee
5:37:49 PM Explanation of Strike-All Amendment by Senator Gruters
5:38:21 PM Question from Senator Hooper
5:38:27 PM Response from Senator Gruters
5:39:05 PM Follow-up question from Senator Hooper
5:39:17 PM Response from Senator Gruters
5:39:57 PM Follow-up question from Senator Hooper
5:40:06 PM Response from Senator Gruters
5:40:25 PM Question from Senator Cruz
5:40:33 PM Response from Senator Gruters
5:41:52 PM Follow-up question from Senator Cruz
5:42:02 PM Response from Senator Gruters
5:43:00 PM Question from Chair Lee
5:43:06 PM Response from Senator Gruters
5:43:49 PM Strike-All Amendment adopted
5:44:27 PM Speaker Jon Moyle, Florida Industrial Power Users in opposition
5:50:18 PM Question from Senator Taddeo
5:50:26 PM Response from Mr. Moyle
5:51:27 PM Follow-up question from Senator Taddeo
5:51:35 PM Response from Mr. Moyle
5:53:09 PM Question from Senator Bean

5:53:13 PM Response from Mr. Moyle
5:54:10 PM Comments from Chair Lee
5:54:16 PM Question from Senator Hutson
5:54:24 PM Response from Mr. Moyle
5:55:01 PM Paul Griffin, Executive Director, waives in support
5:55:09 PM Cory Guzzo, Governmental Affairs Consultant, Associated Industries of Florida waives in support
5:55:18 PM Paul Griffin waives in support
5:55:31 PM Zayne Smith, Associate State Director, AARP in opposition
5:56:27 PM Christopher Emmanuel, Policy Director, Florida Chamber of Commerce waives in support
5:56:48 PM Closure by Senator Gruters
5:57:22 PM Roll call by Administrative Assistant Marilyn Hudson
5:57:35 PM CS/CS/SB 796 reported favorably
5:58:05 PM Comments from Chair Lee regarding SB 676
5:58:17 PM Senator Perry moves to adjourn