

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

26 vessel; specifying that a certificate of title is  
27 prima facie evidence of the accuracy of the  
28 information in the record that constitutes the  
29 certificate; creating s. 328.04, F.S.; providing  
30 requirements for the contents of a certificate of  
31 title; creating s. 328.045, F.S.; providing  
32 responsibilities of an owner and insurer of a hull-  
33 damaged vessel when transferring an ownership interest  
34 in the vessel; requiring the department to create a  
35 new certificate indicating such damage; providing  
36 civil penalties; creating s. 328.055, F.S.; requiring  
37 the department to maintain certain information in its  
38 files and to provide certain information to  
39 governmental entities; specifying that certain  
40 information is a public record; creating s. 328.06,  
41 F.S.; providing responsibilities of the department  
42 when creating a certificate of title; creating s.  
43 328.065, F.S.; specifying effect of possession of a  
44 certificate of title; providing construction; amending  
45 s. 328.09, F.S.; providing duties of the department  
46 relating to creation, issuance, refusal to issue, or  
47 cancellation of a certificate of title; providing for  
48 a hearing; creating s. 328.101, F.S.; specifying that  
49 a certificate of title and certain other records are  
50 effective despite missing or incorrect information;

51 amending s. 328.11, F.S.; providing requirements for  
52 obtaining a duplicate certificate of title; creating  
53 s. 328.12, F.S.; providing requirements for  
54 determination and perfection of a security interest in  
55 a vessel; providing applicability; creating s.  
56 328.125, F.S.; providing requirements for the delivery  
57 of a statement of termination of a security interest;  
58 providing duties of the department; providing  
59 liability for noncompliance; creating s. 328.14, F.S.;  
60 providing for the rights of a purchaser of a vessel  
61 who is not a secured party; creating s. 328.145, F.S.;  
62 providing for the rights of a secured party; amending  
63 s. 328.15, F.S.; deleting certain provisions relating  
64 to notice of a lien; providing for future repeal of  
65 certain provisions; amending ss. 328.16 and 328.165,  
66 F.S.; conforming provisions to changes made by the  
67 act; creating s. 328.215, F.S.; specifying  
68 circumstances under which the department may create a  
69 new certificate of title after receipt of an  
70 application for a transfer of ownership or termination  
71 of a security interest unaccompanied by a certificate  
72 of title; authorizing the department to indicate  
73 certain information on the new certificate;  
74 authorizing the department to require a bond,  
75 indemnity, or other security; providing for the

76 | release of such bond, indemnity, or other security;  
77 | providing that the department is not liable for  
78 | creating a certificate of title based on erroneous or  
79 | fraudulent information; providing penalties; creating  
80 | s. 328.22, F.S.; providing requirements for the  
81 | transfer of ownership in a vessel; providing effect of  
82 | noncompliance; creating s. 328.23, F.S.; providing a  
83 | definition; providing duties of the department upon  
84 | receipt of a secured party's transfer statement;  
85 | providing construction; creating s. 328.24, F.S.;  
86 | providing a definition; providing requirements for a  
87 | transfer of ownership by operation of law; providing  
88 | duties of the department; providing applicability;  
89 | creating s. 328.25, F.S.; providing that the  
90 | principles and law of equity supplement the provisions  
91 | of the act; creating s. 328.41, F.S.; authorizing the  
92 | department to adopt rules to implement vessel  
93 | registration provisions; amending ss. 409.2575,  
94 | 705.103, and 721.08, F.S.; conforming provisions and  
95 | cross-references to changes made by the act; providing  
96 | construction and applicability regarding transactions,  
97 | certificates of title, and records entered into or  
98 | created, actions or proceedings commenced, and  
99 | security interests perfected before the effective date  
100 | of the act; providing applicability; providing an

101 effective date.

102

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

104

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

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

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

111 328.0015 Definitions.—

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

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

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

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

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

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

126 include a builder's certificate.

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

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

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

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

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

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

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

150 (m) "Good faith" means honesty in fact and the observance

151 of reasonable commercial standards of fair dealing.

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

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

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

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

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

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

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

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

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

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

176 instrumentality, or any other legal or commercial entity.

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

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

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

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

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

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

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

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

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



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

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

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

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

224 (bb) "State of principal use" means the state on the  
225 waters of which a vessel is or will be used, operated,

226 navigated, or employed more than on the waters of any other  
227 state during a calendar year.

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

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

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

235 1. A seaplane;

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

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

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

246 5. A stationary floating structure that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

276           (1) "Security agreement" as defined in s.  
 277 679.1021(1) (uuu).

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

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

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

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

283           328.01 Application for certificate of title.—

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

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

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

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

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

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

301        (e) A description of the vessel as required by the  
 302 department, which must include:  
 303        1. The official number for the vessel, if any, assigned by  
 304 the United States Coast Guard;  
 305        2. The name of the manufacturer, builder, or maker;  
 306        3. The model year or the year in which the manufacture or  
 307 build of the vessel was completed;  
 308        4. The overall length of the vessel;  
 309        5. The vessel type;  
 310        6. The hull material;  
 311        7. The propulsion type;  
 312        8. The engine drive type, if any; and  
 313        9. The fuel type, if any;  
 314        (f) An indication of all security interests in the vessel  
 315 known to the applicant and the name and mailing address of each  
 316 secured party;  
 317        (g) A statement that the vessel is not a documented vessel  
 318 or a foreign-documented vessel;  
 319        (h) Any title brand known to the applicant and, if known,  
 320 the jurisdiction under whose law the title brand was created;  
 321        (i) If the applicant knows that the vessel is hull  
 322 damaged, a statement that the vessel is hull damaged;  
 323        (j) If the application is made in connection with a  
 324 transfer of ownership, the transferor's name, street address,  
 325 and, if different, mailing address, the sales price, if any, and

326 | the date of the transfer; and

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

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

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

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

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

343 |       (b) If there is no certificate of title:

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

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

351 as the owner; or

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

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

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

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

376 in the state, or a Florida city or county business license or  
377 number.

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

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

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

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

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

400 ~~(c) In making application for an initial title, the owner~~



401 ~~of a homemade vessel shall establish proof of ownership by~~  
402 ~~submitting with the application:~~

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

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

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

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

426 ~~that the applicant is the owner of the vessel and that the~~  
427 ~~application is in the proper form, the department shall issue a~~  
428 ~~certificate of title.~~

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

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

451 ~~title to the new owner.~~

452 ~~(b) If the application for transfer of title is based upon~~  
453 ~~a contractual default, the recorded lienholder shall establish~~  
454 ~~proof of right to ownership by submitting with the application~~  
455 ~~the original certificate of title and a copy of the applicable~~  
456 ~~contract upon which the claim of ownership is made. If the claim~~  
457 ~~is based upon a court order or judgment, a copy of such document~~  
458 ~~shall accompany the application for transfer of title. If, on~~  
459 ~~the basis of departmental records, there appears to be any other~~  
460 ~~lien on the vessel, the certificate of title must contain a~~  
461 ~~statement of such a lien, unless the application for a~~  
462 ~~certificate of title is either accompanied by proper evidence of~~  
463 ~~the satisfaction or extinction of the lien or contains a~~  
464 ~~statement certifying that any lienholder named on the last-~~  
465 ~~issued certificate of title has been sent notice by certified~~  
466 ~~mail, at least 5 days before the application was filed, of the~~  
467 ~~applicant's intention to seek a repossessed title. If such~~  
468 ~~notice is given and no written protest to the department is~~  
469 ~~presented by a subsequent lienholder within 15 days after the~~  
470 ~~date on which the notice was mailed, the certificate of title~~  
471 ~~shall be issued showing no liens. If the former owner or any~~  
472 ~~subsequent lienholder files a written protest under oath within~~  
473 ~~the 15-day period, the department shall not issue the~~  
474 ~~repossessed certificate for 10 days thereafter. If, within the~~  
475 ~~10-day period, no injunction or other order of a court of~~

476 ~~competent jurisdiction has been served on the department~~  
477 ~~commanding it not to deliver the certificate, the department~~  
478 ~~shall deliver the repossessed certificate to the applicant, or~~  
479 ~~as is otherwise directed in the application, showing no other~~  
480 ~~liens than those shown in the application.~~

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

497 ~~(c)~~ (d) An owner or coowner who has made a bona fide sale  
498 or transfer of a vessel and has delivered possession thereof to  
499 a purchaser shall not, by reason of any of the provisions of  
500 this chapter, be considered the owner or coowner of the vessel

501 so as to be subject to civil liability for the operation of the  
502 vessel thereafter by another if the owner or coowner has  
503 fulfilled either of the following requirements:

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

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

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

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

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

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

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

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

549 (10)~~(6)~~ The department of ~~Highway Safety and Motor~~  
550 ~~Vehicles~~ shall prescribe and provide suitable forms for

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

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

556 328.015 Duties and operation of the department.—

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

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

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

576 authorized by the department.

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

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

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

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

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

590 (b) With respect to the vessel:

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

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

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

599 (c) With respect to the vessel, a copy of any certificate  
600 of origin, secured party transfer statement, transfer-by-law



601 statement under s. 328.24, and other evidence of previous or  
602 current transfers of ownership.

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

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

609 328.02 Law governing vessel covered by certificate of  
610 title.—

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

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

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

625 328.03 Certificate of title required.—

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

- 633           (a) The date of a transfer of ownership; or
- 634           (b) The date this state becomes the state of principal  
 635 use.

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

- 638           (a) A documented vessel;
- 639           (b) A foreign-documented vessel;
- 640           (c) A barge;
- 641           (d) A vessel before delivery if the vessel is under  
 642 construction or completed pursuant to contract;
- 643           (e) A vessel held by a dealer for sale or lease;
- 644           (f) A vessel used solely for demonstration, testing, or  
 645 sales promotional purposes by the manufacturer or dealer;
- 646           (g) ~~(a)~~ A vessel operated, used, or stored exclusively on  
 647 private lakes and ponds;
- 648           (h) ~~(b)~~ A vessel owned by the United States Government;
- 649           ~~(c) A non-motor-powered vessel less than 16 feet in~~  
 650 ~~length;~~

651 ~~(d) A federally documented vessel;~~  
 652 (i)~~(e)~~ A vessel already covered by a registration number  
 653 in full force and effect which was awarded to it pursuant to a  
 654 federally approved numbering system of another state or by the  
 655 United States Coast Guard in a state without a federally  
 656 approved numbering system, if the vessel is not located in this  
 657 state for a period in excess of 90 consecutive days; or

658 (j)~~(f)~~ A vessel from a country other than the United  
 659 States temporarily used, operated, or stored on the waters of  
 660 this state for a period that is not in excess of 90 days;

661 ~~(g) An amphibious vessel for which a vehicle title is  
 662 issued by the Department of Highway Safety and Motor Vehicles;~~

663 ~~(h) A vessel used solely for demonstration, testing, or  
 664 sales promotional purposes by the manufacturer or dealer; or~~

665 ~~(i) A vessel owned and operated by the state or a  
 666 political subdivision thereof.~~

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

673 ~~(2) A person shall not operate, use, or store a vessel for  
 674 which a certificate of title is required unless the owner has  
 675 received from the Department of Highway Safety and Motor~~

676 ~~Vehicles a valid certificate of title for such vessel. However,~~  
677 ~~such vessel may be operated, used, or stored for a period of up~~  
678 ~~to 180 days after the date of application for a certificate of~~  
679 ~~title while the application is pending.~~

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

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

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

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

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

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

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

725 (8)~~(7)~~ The department ~~of Highway Safety and Motor Vehicles~~

726 shall charge a fee of \$4 in addition to that charged in  
 727 subsection (7) ~~(6)~~ for each initial certificate of title issued  
 728 for a vessel previously registered outside this state.

729 ~~(9)~~ ~~(8)~~ The department ~~of Highway Safety and Motor Vehicles~~  
 730 shall make regulations necessary and convenient to carry out the  
 731 provisions of this chapter.

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

734 328.04 Content of certificate of title.-

735 (1) A certificate of title must contain:

736 (a) The date the certificate was created;

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

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

741 (d) The hull identification number;

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

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

748 (g) All title brands indicated in the files of the  
 749 department covering the vessel, including brands indicated on a  
 750 certificate created by a governmental agency of another

751 jurisdiction and delivered to the department.

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

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

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

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

775 (6) A written certificate of title must contain a form for

776 the owner of record to indicate, in connection with a transfer  
777 of an ownership interest, that the vessel is hull damaged.

778 Section 8. Section 328.045, Florida Statutes, is created  
779 to read:

780 328.045 Title brands.-

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

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

790 (b) Indicate on the certificate in the place designated  
791 for that purpose that the vessel is hull damaged and deliver the  
792 certificate to the transferee.

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

798 (3) Before an insurer transfers an ownership interest in a  
799 hull-damaged vessel that is covered by a certificate of title  
800 created by the department, the insurer shall deliver to the



801 department an application for a new certificate that complies  
802 with s. 328.01 and includes the title brand designation "Hull  
803 Damaged." Not later than 30 days after delivery of the  
804 application to the department, the department shall create a new  
805 certificate that indicates that the vessel is branded "Hull  
806 Damaged."

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

814 Section 9. Section 328.055, Florida Statutes, is created  
815 to read:

816 328.055 Maintenance of and access to files.—

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

819 (a) Ascertain or assign the hull identification number for  
820 the vessel;

821 (b) Maintain the hull identification number and all the  
822 information submitted with the application pursuant to s.  
823 328.01(2) to which the record relates, including the date and  
824 time the record was delivered to the department;

825 (c) Maintain the files for public inspection subject to

826 subsection (5); and

827 (d) Index the files of the department as required by  
828 subsection (2).

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

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

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

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

849 Section 10. Section 328.06, Florida Statutes, is created  
850 to read:

851 328.06 Action required on creation of certificate of  
852 title.-

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

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

869 (3) Before the department creates an electronic  
870 certificate of title, any written certificate for the vessel  
871 must be surrendered to the department. If the department creates  
872 an electronic certificate, the department shall destroy or  
873 otherwise cancel the written certificate for the vessel which  
874 has been surrendered to the department and maintain in the files  
875 of the department the date and time of destruction or other

876 cancellation. If a written certificate being canceled is not  
877 destroyed, the department shall indicate on the face of the  
878 certificate that it has been canceled.

879 Section 11. Section 328.065, Florida Statutes, is created  
880 to read:

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

891 Section 12. Section 328.09, Florida Statutes, is amended  
892 to read:

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

895 328.09 Refusal to issue and authority to cancel a  
896 certificate of title or registration.—

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

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

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

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

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

911 (b) The application does not contain documentation  
912 sufficient for the department to determine whether the applicant  
913 is entitled to a certificate;

914 (c) There is a reasonable basis for concluding that the  
915 application is fraudulent or issuance of a certificate would  
916 facilitate a fraudulent or illegal act; or

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

919 (4) The department shall reject an application for a  
920 certificate of title for a vessel that is a documented vessel or  
921 a foreign-documented vessel.

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

924 (a) Could have rejected the application for the  
925 certificate under subsection (3);

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

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

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

937 Section 13. Section 328.101, Florida Statutes, is created  
938 to read:

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

946 Section 14. Section 328.11, Florida Statutes, is amended  
947 to read:

948 328.11 Duplicate certificate of title.—

949 (1) If a written certificate of title is lost, stolen,  
950 mutilated, destroyed, or otherwise becomes unavailable or

951 illegible, the secured party of record or, if no secured party  
952 is indicated in the files of the department, the owner of record  
953 may apply for and, by furnishing information satisfactory to the  
954 department, obtain a duplicate certificate in the name of the  
955 owner of record.

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

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

965 (4) If a person receiving a duplicate certificate of title  
966 subsequently obtains possession of the original written  
967 certificate, the person shall promptly destroy the original  
968 certificate of title.

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

975 (6)(2) In addition to the fee imposed by subsection (5)

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

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

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

997 Section 15. Section 328.12, Florida Statutes, is created  
998 to read:

999 328.12 Perfection of security interest.—

1000 (1) Except as otherwise provided in this section, a



1001 security interest in a vessel may be perfected only by delivery  
1002 to the department of an application for a certificate of title  
1003 that identifies the secured party and otherwise complies with s.  
1004 328.01. The security interest is perfected on the later of  
1005 delivery to the department of the application and the applicable  
1006 fee or attachment of the security interest under s. 679.2031.

1007 (2) If the interest of a person named as owner, lessor,  
1008 consignor, or bailor in an application for a certificate of  
1009 title delivered to the department is a security interest, the  
1010 application sufficiently identifies the person as a secured  
1011 party. Identification on the application for a certificate of a  
1012 person as owner, lessor, consignor, or bailor is not by itself a  
1013 factor in determining whether the person's interest is a  
1014 security interest.

1015 (3) If the department has created a certificate of title  
1016 for a vessel, a security interest in the vessel may be perfected  
1017 by delivery to the department of an application, on a form the  
1018 department may require, to have the security interest added to  
1019 the certificate. The application must be signed by an owner of  
1020 the vessel or by the secured party and must include:

1021 (a) The name of the owner of record;

1022 (b) The name and mailing address of the secured party;

1023 (c) The hull identification number for the vessel; and

1024 (d) If the department has created a written certificate of  
1025 title for the vessel, the certificate.

1026        (4) A security interest perfected under subsection (3) is  
1027 perfected on the later of delivery to the department of the  
1028 application and all applicable fees or attachment of the  
1029 security interest under s. 679.2031.

1030        (5) On delivery of an application that complies with  
1031 subsection (3) and payment of all applicable fees, the  
1032 department shall create a new certificate of title pursuant to  
1033 s. 328.09 and deliver the new certificate or a record evidencing  
1034 an electronic certificate pursuant to s. 328.06. The department  
1035 shall maintain in the files of the department the date and time  
1036 of delivery of the application to the department.

1037        (6) If a secured party assigns a perfected security  
1038 interest in a vessel, the receipt by the department of a  
1039 statement providing the name of the assignee as secured party is  
1040 not required to continue the perfected status of the security  
1041 interest against creditors of and transferees from the original  
1042 debtor. A purchaser of a vessel subject to a security interest  
1043 who obtains a release from the secured party indicated in the  
1044 files of the department or on the certificate takes free of the  
1045 security interest and of the rights of a transferee unless the  
1046 transfer is indicated in the files of the department or on the  
1047 certificate.

1048        (7) This section does not apply to a security interest:

1049        (a) Created in a vessel by a person during any period in  
1050 which the vessel is inventory held for sale or lease by the

1051 person or is leased by the person as lessor if the person is in  
1052 the business of selling vessels;

1053 (b) In a barge for which no application for a certificate  
1054 of title has been delivered to the department; or

1055 (c) In a vessel before delivery if the vessel is under  
1056 construction, or completed, pursuant to contract and for which  
1057 no application for a certificate has been delivered to the  
1058 department.

1059 (8) This subsection applies if a certificate of  
1060 documentation for a documented vessel is deleted or canceled. If  
1061 a security interest in the vessel was valid immediately before  
1062 deletion or cancellation against a third party as a result of  
1063 compliance with 46 U.S.C. s. 31321, the security interest is and  
1064 remains perfected until the earlier of 4 months after  
1065 cancellation of the certificate or the time the security  
1066 interest becomes perfected under this part.

1067 (9) A security interest in a vessel arising under s.  
1068 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is  
1069 perfected when it attaches but becomes unperfected when the  
1070 debtor obtains possession of the vessel, unless the security  
1071 interest is perfected pursuant to subsection (1) or subsection  
1072 (3) before the debtor obtains possession.

1073 (10) A security interest in a vessel as proceeds of other  
1074 collateral is perfected to the extent provided in s. 679.3151.

1075 (11) A security interest in a vessel perfected under the

1076 law of another jurisdiction is perfected to the extent provided  
1077 in s. 679.3161(4).

1078 Section 16. Section 328.125, Florida Statutes, is created  
1079 to read:

1080 328.125 Termination statement.—

1081 (1) A secured party indicated in the files of the  
1082 department as having a security interest in a vessel shall  
1083 deliver a termination statement to the department and, on the  
1084 debtor's request, to the debtor, by the earlier of:

1085 (a) Twenty days after the secured party receives a signed  
1086 demand from an owner for a termination statement and there is no  
1087 obligation secured by the vessel subject to the security  
1088 interest and no commitment to make an advance, incur an  
1089 obligation, or otherwise give value secured by the vessel; or

1090 (b) If the vessel is consumer goods, 30 days after there  
1091 is no obligation secured by the vessel and no commitment to make  
1092 an advance, incur an obligation, or otherwise give value secured  
1093 by the vessel.

1094 (2) If a written certificate of title has been created and  
1095 delivered to a secured party and a termination statement is  
1096 required under subsection (1), the secured party, not later than  
1097 the date required by subsection (1), shall deliver the  
1098 certificate to the debtor or to the department with the  
1099 statement. If the certificate is lost, stolen, mutilated,  
1100 destroyed, or is otherwise unavailable or illegible, the secured

1101 party shall deliver with the statement, not later than the date  
1102 required by subsection (1), an application for a duplicate  
1103 certificate meeting the requirements of s. 328.11.

1104 (3) On delivery to the department of a termination  
1105 statement authorized by the secured party, the security interest  
1106 to which the statement relates ceases to be perfected. If the  
1107 security interest to which the statement relates was indicated  
1108 on the certificate of title, the department shall create a new  
1109 certificate and deliver the new certificate or a record  
1110 evidencing an electronic certificate. The department shall  
1111 maintain in its files the date and time of delivery to the  
1112 department of the statement.

1113 (4) A secured party that fails to comply with this section  
1114 is liable for any loss that the secured party had reason to know  
1115 might result from its failure to comply and which could not  
1116 reasonably have been prevented and for the cost of an  
1117 application for a certificate of title under s. 328.01 or s.  
1118 328.11.

1119 Section 17. Section 328.14, Florida Statutes, is created  
1120 to read:

1121 328.14 Rights of purchaser other than secured party.—

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

1126 record was not created.

1127 (2) Except as otherwise provided in ss. 328.145 and  
1128 328.22, the rights of a purchaser of a vessel who is not a buyer  
1129 in ordinary course of business or a lien creditor are governed  
1130 by the Uniform Commercial Code.

1131 Section 18. Section 328.145, Florida Statutes, is created  
1132 to read:

1133 328.145 Rights of secured party.-

1134 (1) Subject to subsection (2), the effect of perfection  
1135 and nonperfection of a security interest and the priority of a  
1136 perfected or unperfected security interest with respect to the  
1137 rights of a purchaser or creditor, including a lien creditor, is  
1138 governed by the Uniform Commercial Code.

1139 (2) If, while a security interest in a vessel is perfected  
1140 by any method under this part, the department creates a  
1141 certificate of title that does not indicate that the vessel is  
1142 subject to the security interest or contain a statement that it  
1143 may be subject to security interests not indicated on the  
1144 certificate:

1145 (a) A buyer of the vessel, other than a person in the  
1146 business of selling or leasing vessels of that kind, takes free  
1147 of the security interest if the buyer, acting in good faith and  
1148 without knowledge of the security interest, gives value and  
1149 receives possession of the vessel; and

1150 (b) The security interest is subordinate to a conflicting

1151 security interest in the vessel that is perfected under s.  
1152 328.12 after creation of the certificate and without the  
1153 conflicting secured party's knowledge of the security interest.

1154 Section 19. Section 328.15, Florida Statutes, is amended  
1155 to read:

1156 328.15 Notice of lien on vessel; recording.—

1157 ~~(1) No lien for purchase money or as security for a debt~~  
1158 ~~in the form of retain title contract, conditional bill of sale,~~  
1159 ~~chattel mortgage, or otherwise on a vessel shall be enforceable~~  
1160 ~~in any of the courts of this state against creditors or~~  
1161 ~~subsequent purchasers for a valuable consideration and without~~  
1162 ~~notice unless a sworn notice of such lien is recorded. The lien~~  
1163 ~~certificate shall contain the following information:~~

1164 ~~(a) Name and address of the registered owner;~~

1165 ~~(b) Date of lien;~~

1166 ~~(c) Description of the vessel to include make, type, motor~~  
1167 ~~and serial number; and~~

1168 ~~(d) Name and address of lienholder.~~

1169  
1170 ~~The lien shall be recorded by the Department of Highway Safety~~  
1171 ~~and Motor Vehicles and shall be effective as constructive notice~~  
1172 ~~when filed. The date of filing of the notice of lien is the date~~  
1173 ~~of its receipt by the department's central office in~~  
1174 ~~Tallahassee, if first filed there, or otherwise by the office of~~  
1175 ~~a county tax collector or of the tax collector's agent.~~

1176 ~~(2) (a) The Department of Highway Safety and Motor Vehicles~~  
1177 ~~shall not enter any lien upon its lien records, whether it is a~~  
1178 ~~first lien or a subordinate lien, unless the official~~  
1179 ~~certificate of title issued for the vessel is furnished with the~~  
1180 ~~notice of lien, so that the record of lien, whether original or~~  
1181 ~~subordinate, may be noted upon the face thereof. After the~~  
1182 ~~department records the lien, it shall send the certificate of~~  
1183 ~~title to the holder of the first lien who shall hold such~~  
1184 ~~certificate until the lien is satisfied in full.~~

1185 ~~(b) When a vessel is registered in the names of two or~~  
1186 ~~more persons as coowners in the alternative by the use of the~~  
1187 ~~word "or," whether or not the coowners are husband and wife,~~  
1188 ~~each coowner is considered to have granted to any other coowner~~  
1189 ~~the absolute right to place a lien or encumbrance on the vessel,~~  
1190 ~~and the signature of one coowner constitutes proper execution of~~  
1191 ~~the notice of lien. When a vessel is registered in the names of~~  
1192 ~~two or more persons as coowners in the conjunctive by the use of~~  
1193 ~~the word "and," the signature of each coowner is required in~~  
1194 ~~order to place a lien or encumbrance on the vessel.~~

1195 ~~(c) If the owner of the vessel as shown on the title~~  
1196 ~~certificate or the director of the state child support~~  
1197 ~~enforcement program desires to place a second or subsequent lien~~  
1198 ~~or encumbrance against the vessel when the title certificate is~~  
1199 ~~in the possession of the first lienholder, the owner shall send~~  
1200 ~~a written request to the first lienholder by certified mail and~~



1201 ~~such first lienholder shall forward the certificate to the~~  
 1202 ~~department for endorsement. The department shall return the~~  
 1203 ~~certificate to the first lienholder, as indicated in the notice~~  
 1204 ~~of lien filed by the first lienholder, after endorsing the~~  
 1205 ~~second or subsequent lien on the certificate and on the~~  
 1206 ~~duplicate. If the first lienholder fails, neglects, or refuses~~  
 1207 ~~to forward the certificate of title to the department within 10~~  
 1208 ~~days after the date of the owner's or the director's request,~~  
 1209 ~~the department, on written request of the subsequent lienholder~~  
 1210 ~~or an assignee thereof, shall demand of the first lienholder the~~  
 1211 ~~return of such certificate for the notation of the second or~~  
 1212 ~~subsequent lien or encumbrance.~~

1213 (1)~~(3)~~ Upon the payment of a ~~any such~~ lien, the debtor or  
 1214 the registered owner of the motorboat shall be entitled to  
 1215 demand and receive from the lienholder a satisfaction of the  
 1216 lien which shall likewise be filed with the Department of  
 1217 Highway Safety and Motor Vehicles.

1218 (2)~~(4)~~ The Department of Highway Safety and Motor Vehicles  
 1219 under precautionary rules and regulations to be promulgated by  
 1220 it may permit the use, in substitution of the formal  
 1221 satisfaction of lien, of other methods of satisfaction, such as  
 1222 perforation, appropriate stamp, or otherwise, as it deems  
 1223 reasonable and adequate.

1224 (3)~~(5)~~(a) The Department of Highway Safety and Motor  
 1225 Vehicles shall adopt rules to administer this section. The

1226 department may by rule require that a notice of satisfaction of  
1227 a lien be notarized. The department shall prepare the forms of  
1228 the notice of lien and the satisfaction of lien to be supplied,  
1229 at a charge not to exceed 50 percent more than cost, to  
1230 applicants for recording the liens or satisfactions and shall  
1231 keep a record of such notices of lien and satisfactions  
1232 available for inspection by the public at all reasonable times.  
1233 The division may furnish certified copies of such satisfactions  
1234 for a fee of \$1, which are admissible in evidence in all courts  
1235 of this state under the same conditions and to the same effect  
1236 as certified copies of other public records.

1237 (b) The department shall establish and administer an  
1238 electronic titling program that requires the recording of vessel  
1239 title information for new, transferred, and corrected  
1240 certificates of title. Lienholders shall electronically transmit  
1241 liens and lien satisfactions to the department in a format  
1242 determined by the department. Individuals and lienholders who  
1243 the department determines are not normally engaged in the  
1244 business or practice of financing vessels are not required to  
1245 participate in the electronic titling program.

1246 ~~(6) The Department of Highway Safety and Motor Vehicles is~~  
1247 ~~entitled to a fee of \$1 for the recording of each notice of~~  
1248 ~~lien. No fee shall be charged for recording the satisfaction of~~  
1249 ~~a lien. All of the fees collected shall be paid into the Marine~~  
1250 ~~Resources Conservation Trust Fund.~~

1251        (4) ~~(7)~~ (a) Should any person, firm, or corporation holding  
1252 such lien, which has been recorded by the Department of Highway  
1253 Safety and Motor Vehicles, upon payment of such lien and on  
1254 demand, fail or refuse, within 30 days after such payment and  
1255 demand, to furnish the debtor or the registered owner of such  
1256 vessel a satisfaction of the lien, then, in that event, such  
1257 person, firm, or corporation shall be held liable for all costs,  
1258 damages, and expenses, including reasonable attorney ~~attorney's~~  
1259 fees, lawfully incurred by the debtor or the registered owner of  
1260 such vessel in any suit which may be brought in the courts of  
1261 this state for the cancellation of such lien.

1262        (b) Following satisfaction of a lien, the lienholder shall  
1263 enter a satisfaction thereof in the space provided on the face  
1264 of the certificate of title. If there are no subsequent liens  
1265 shown thereon, the certificate shall be delivered by the  
1266 lienholder to the person satisfying the lien or encumbrance and  
1267 an executed satisfaction on a form provided by the department  
1268 shall be forwarded to the department by the lienholder within 10  
1269 days after satisfaction of the lien.

1270        (c) If the certificate of title shows a subsequent lien  
1271 not then being discharged, an executed satisfaction of the first  
1272 lien shall be delivered by the lienholder to the person  
1273 satisfying the lien and the certificate of title showing  
1274 satisfaction of the first lien shall be forwarded by the  
1275 lienholder to the department within 10 days after satisfaction

1276 | of the lien.

1277 |       (d) If, upon receipt of a title certificate showing  
 1278 | satisfaction of the first lien, the department determines from  
 1279 | its records that there are no subsequent liens or encumbrances  
 1280 | upon the vessel, the department shall forward to the owner, as  
 1281 | shown on the face of the title, a corrected certificate showing  
 1282 | no liens or encumbrances. If there is a subsequent lien not  
 1283 | being discharged, the certificate of title shall be reissued  
 1284 | showing the second or subsequent lienholder as the first  
 1285 | lienholder and shall be delivered to the new first lienholder.  
 1286 | The first lienholder shall be entitled to retain the certificate  
 1287 | of title until his or her lien is satisfied. Upon satisfaction  
 1288 | of the lien, the lienholder shall be subject to the procedures  
 1289 | required of a first lienholder in this subsection ~~and in~~  
 1290 | ~~subsection (2)~~.

1291 |       (5) ~~(8)~~ When the original certificate of title cannot be  
 1292 | returned to the department by the lienholder and evidence  
 1293 | satisfactory to the department is produced that all liens or  
 1294 | encumbrances have been satisfied, upon application by the owner  
 1295 | for a duplicate copy of the certificate of title, upon the form  
 1296 | prescribed by the department, accompanied by the fee prescribed  
 1297 | in this chapter, a duplicate copy of the certificate of title  
 1298 | without statement of liens or encumbrances shall be issued by  
 1299 | the department and delivered to the owner.

1300 |       (6) ~~(9)~~ Any person who fails, within 10 days after receipt

1301 of a demand by the department by certified mail, to return a  
1302 certificate of title to the department ~~as required by paragraph~~  
1303 ~~(2)(e)~~ or who, upon satisfaction of a lien, fails within 10 days  
1304 after receipt of such demand to forward the appropriate document  
1305 to the department as required by paragraph (4)(b) ~~(7)(b)~~ or  
1306 paragraph (4)(c) ~~(7)(e)~~ commits a misdemeanor of the second  
1307 degree, punishable as provided in s. 775.082 or s. 775.083.

1308 (7)(10) The department shall use the last known address as  
1309 shown by its records when sending any notice required by this  
1310 section.

1311 (8)(11) If the original lienholder sells and assigns his  
1312 or her lien to some other person, and if the assignee desires to  
1313 have his or her name substituted on the certificate of title as  
1314 the holder of the lien, he or she may, after delivering the  
1315 original certificate of title to the department and providing a  
1316 sworn statement of the assignment, have his or her name  
1317 substituted as a lienholder. Upon substitution of the assignee's  
1318 name as lienholder, the department shall deliver the certificate  
1319 of title to the assignee as the first lienholder.

1320 (9) Subsections (1), (2), and (4)-(8) shall expire October  
1321 1, 2026.

1322 Section 20. Section 328.16, Florida Statutes, is amended  
1323 to read:

1324 328.16 Issuance in duplicate; delivery; liens, security  
1325 interests, and encumbrances.-

1326 (1) The department shall assign a number to each  
1327 certificate of title and shall issue each certificate of title  
1328 and each corrected certificate in duplicate. The database record  
1329 shall serve as the duplicate title certificate.

1330 (2) An authorized person must sign the original  
1331 certificate of title and each corrected certificate and, if  
1332 there are no liens, security interests, or encumbrances on the  
1333 vessel, as shown in the records of the department or as shown in  
1334 the application, must deliver the certificate to the applicant  
1335 or to another person as directed by the applicant or person,  
1336 agent, or attorney submitting the application. If there are one  
1337 or more liens, security interests, or encumbrances on the  
1338 vessel, the department must deliver the certificate to the first  
1339 lienholder or secured party as shown by department records. The  
1340 department shall deliver to the first lienholder or secured  
1341 party, along with the certificate, a form to be subsequently  
1342 used by the lienholder or secured party as a satisfaction. If  
1343 the application for certificate of title shows the name of a  
1344 first lienholder or secured party which is different from the  
1345 name of the first lienholder or secured party as shown by the  
1346 records of the department, the certificate shall not be issued  
1347 to any person until after the department notifies all parties  
1348 who appear to hold a lien or a security interest and the  
1349 applicant for the certificate, in writing by certified mail. If  
1350 the parties do not amicably resolve the conflict within 10 days

1351 after the date the notice was mailed, the department shall serve  
1352 notice in writing by certified mail on all persons that appear  
1353 to hold liens or security interests on that particular vessel,  
1354 including the applicant for the certificate, to show cause  
1355 within 15 days after the date the notice is mailed why it should  
1356 not issue and deliver the certificate to the secured party of  
1357 record or person indicated in the notice of lien filed by the  
1358 lienholder whose name appears in the application as the first  
1359 lienholder without showing any lien or liens as outstanding  
1360 other than those appearing in the application or those filed  
1361 subsequent to the filing of the application for the certificate  
1362 of title. If, within the 15-day period, any person other than  
1363 the lienholder or secured party of record shown in the  
1364 application or a party filing a subsequent lien or security  
1365 interest, in answer to the notice to show cause, appears in  
1366 person or by a representative, or responds in writing, and files  
1367 a written statement under oath that his or her lien or security  
1368 interest on that particular vessel is still outstanding, the  
1369 department shall not issue the certificate to anyone until after  
1370 the conflict has been settled by the lien or security interest  
1371 claimants involved or by a court of competent jurisdiction. If  
1372 the conflict is not settled amicably within 10 days after the  
1373 final date for filing an answer to the notice to show cause, the  
1374 complaining party shall have 10 days to obtain a ruling, or a  
1375 stay order, from a court of competent jurisdiction. If a ruling

1376 or stay order is not issued and served on the department within  
1377 the 10-day period, the department shall issue the certificate  
1378 showing no liens or security interests, except those shown in  
1379 the application or thereafter filed, to the original applicant  
1380 if there are no liens or security interests shown in the  
1381 application and none are thereafter filed, or to the person  
1382 indicated as the secured party of record or in the notice of  
1383 lien filed by the lienholder whose name appears in the  
1384 application as the first lienholder if there are liens shown in  
1385 the application or thereafter filed. A duplicate certificate or  
1386 corrected certificate must show only such security interest or  
1387 interests or lien or liens as were shown in the application and  
1388 subsequently filed liens or security interests that may be  
1389 outstanding.

1390 (3) ~~Except as provided in s. 328.15(11),~~ The certificate  
1391 of title shall be retained by the first lienholder or secured  
1392 party of record. The first lienholder or secured party of record  
1393 is entitled to retain the certificate until the first lien or  
1394 security interest is satisfied.

1395 (4) Notwithstanding any requirements in this section ~~or in~~  
1396 ~~s. 328.15~~ indicating that a lien or security interest on a  
1397 vessel shall be noted on the face of the Florida certificate of  
1398 title, if there are one or more liens, security interests, or  
1399 encumbrances on a vessel, the department shall electronically  
1400 transmit the lien or security interest to the first lienholder



1401 or secured party and notify the first lienholder or secured  
1402 party of any additional liens or security interests. Subsequent  
1403 lien or security interest satisfactions shall be electronically  
1404 transmitted to the department and must include the name and  
1405 address of the person or entity satisfying the lien or security  
1406 interest. When electronic transmission of liens or security  
1407 interest and lien satisfactions or security interest are used,  
1408 the issuance of a certificate of title may be waived until the  
1409 last lien or security interest is satisfied and a clear  
1410 certificate of title is issued to the owner of the vessel.

1411 (5) The owner of a vessel~~7~~ upon which a lien or security  
1412 interest has been filed with the department or noted upon a  
1413 certificate of title for a period of 5 years~~7~~ may apply to the  
1414 department in writing for such lien or security interest to be  
1415 removed from the department files or from the certificate of  
1416 title. The application must be accompanied by evidence  
1417 satisfactory to the department that the applicant has notified  
1418 the lienholder or secured party by certified mail, not less than  
1419 20 days before ~~prior to~~ the date of the application, of his or  
1420 her intention to apply to the department for removal of the lien  
1421 or security interest. Ten days after receipt of the application,  
1422 the department may remove the lien or security interest from its  
1423 files or from the certificate of title, as the case may be, if  
1424 no statement in writing protesting removal of the lien or  
1425 security interest is received by the department from the

1426 | lienholder or secured party within the 10-day period. However,  
 1427 | if the lienholder or secured party files with the department,  
 1428 | within the 10-day period, a written statement that the lien or  
 1429 | security interest is still outstanding, the department may not  
 1430 | remove the lien or security interest until the lienholder or  
 1431 | secured party presents a satisfaction of lien or satisfaction of  
 1432 | security interest to the department.

1433 | Section 21. Subsection (1) of section 328.165, Florida  
 1434 | Statutes, is amended to read:

1435 | 328.165 Cancellation of certificates.—

1436 | (1) If it appears that a certificate of title has been  
 1437 | improperly issued, the department shall cancel the certificate.  
 1438 | Upon cancellation of any certificate of title, the department  
 1439 | shall notify the person to whom the certificate of title was  
 1440 | issued, and any lienholders or secured parties appearing  
 1441 | thereon, of the cancellation and shall demand the surrender of  
 1442 | the certificate of title; however, the cancellation does not  
 1443 | affect the validity of any lien or security interest noted  
 1444 | thereon. The holder of the certificate of title shall  
 1445 | immediately return it to the department. If a certificate of  
 1446 | registration has been issued to the holder of a certificate of  
 1447 | title so canceled, the department shall immediately cancel the  
 1448 | certificate of registration and demand the return of the  
 1449 | certificate of registration, and the holder of such certificate  
 1450 | of registration shall immediately return it to the department.

1451 Section 22. Section 328.215, Florida Statutes, is created  
1452 to read:

1453 328.215 Application for transfer of ownership or  
1454 termination of security interest without certificate of title.-

1455 (1) Except as otherwise provided in s. 328.23 or s.  
1456 328.24, if the department receives, unaccompanied by a signed  
1457 certificate of title, an application for a new certificate that  
1458 includes an indication of a transfer of ownership or a  
1459 termination statement, the department may create a new  
1460 certificate under this section only if:

1461 (a) All other requirements under ss. 328.01 and 328.09 are  
1462 met;

1463 (b) The applicant provides an affidavit stating facts  
1464 showing the applicant is entitled to a transfer of ownership or  
1465 termination statement;

1466 (c) The applicant provides the department with  
1467 satisfactory evidence that notification of the application has  
1468 been sent to the owner of record and all persons indicated in  
1469 the files of the department as having an interest, including a  
1470 security interest, in the vessel; at least 45 days have passed  
1471 since the notification was sent; and the department has not  
1472 received an objection from any of those persons; and

1473 (d) The applicant submits any other information required  
1474 by the department as evidence of the applicant's ownership or  
1475 right to terminate the security interest, and the department has

1476 no credible information indicating theft, fraud, or an  
1477 undisclosed or unsatisfied security interest, lien, or other  
1478 claim to an interest in the vessel.

1479 (2) The department may indicate in a certificate of title  
1480 created under subsection (1) that the certificate was created  
1481 without submission of a signed certificate or termination  
1482 statement. Unless credible information indicating theft, fraud,  
1483 or an undisclosed or unsatisfied security interest, lien, or  
1484 other claim to an interest in the vessel is delivered to the  
1485 department not later than 1 year after creation of the  
1486 certificate, on request in a form and manner required by the  
1487 department, the department shall remove the indication from the  
1488 certificate.

1489 (3) Before the department creates a certificate of title  
1490 under subsection (1), the department may require the applicant  
1491 to post a reasonable bond or provide an equivalent source of  
1492 indemnity or security. The bond, indemnity, or other security  
1493 must be in a form required by the department and provide for  
1494 indemnification of any owner, purchaser, or other claimant for  
1495 any expense, loss, delay, or damage, including reasonable  
1496 attorney fees and costs, but not including incidental or  
1497 consequential damages, resulting from creation or amendment of  
1498 the certificate.

1499 (4) Unless the department receives a claim for indemnity  
1500 not later than 1 year after creation of a certificate of title

1501 under subsection (1), on request in a form and manner required  
1502 by the department, the department shall release any bond,  
1503 indemnity, or other security. The department is not liable to a  
1504 person or entity for creating a certificate of title under this  
1505 section when the department issues the certificate of title in  
1506 good faith based on the information provided by an applicant. An  
1507 applicant that submits erroneous or fraudulent information with  
1508 the intent to mislead the department into issuing a certificate  
1509 of title under this section is subject to the penalties  
1510 established in s. 328.045(4) in addition to any other criminal  
1511 or civil penalties provided by law.

1512 Section 23. Section 328.22, Florida Statutes, is created  
1513 to read:

1514 328.22 Transfer of ownership.—

1515 (1) On voluntary transfer of an ownership interest in a  
1516 vessel covered by a certificate of title, the following  
1517 requirements apply:

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

1526 transfer is prohibited by the security agreement.

1527 (b) If the certificate of title is an electronic  
1528 certificate of title, the transferor shall promptly sign by  
1529 hand, or electronically if available, and deliver to the  
1530 transferee a record evidencing the transfer of ownership to the  
1531 transferee.

1532 (c) The transferee has a right enforceable by specific  
1533 performance to require the transferor to comply with paragraph  
1534 (a) or paragraph (b).

1535 (2) The creation of a certificate of title identifying the  
1536 transferee as owner of record satisfies subsection (1).

1537 (3) A failure to comply with subsection (1) or to apply  
1538 for a new certificate of title does not render a transfer of  
1539 ownership of a vessel ineffective between the parties. Except as  
1540 otherwise provided in s. 328.101, s. 328.14(1), s. 328.145, or  
1541 s. 328.23, a transfer of ownership without compliance with  
1542 subsection (1) is not effective against another person claiming  
1543 an interest in the vessel.

1544 (4) A transferor that complies with subsection (1) is not  
1545 liable as owner of the vessel for an event occurring after the  
1546 transfer, regardless of whether the transferee applies for a new  
1547 certificate of title.

1548 Section 24. Section 328.23, Florida Statutes, is created  
1549 to read:

1550 328.23 Transfer of ownership by secured party's transfer

1551 statement.—

1552 (1) In this section, "secured party's transfer statement"  
1553 means a record signed by the secured party of record stating:

1554 (a) That there has been a default on an obligation secured  
1555 by the vessel;

1556 (b) That the secured party of record is exercising or has  
1557 exercised post-default remedies with respect to the vessel;

1558 (c) That by reason of the exercise, the secured party of  
1559 record has the right to transfer the ownership interest of an  
1560 owner, and the name of the owner;

1561 (d) The name and last known mailing address of the owner  
1562 of record and the secured party of record;

1563 (e) The name of the transferee;

1564 (f) Other information required by s. 328.01(2); and

1565 (g) One of the following:

1566 1. The certificate of title is an electronic certificate;

1567 2. The secured party does not have possession of the  
1568 written certificate of title created in the name of the owner of  
1569 record; or

1570 3. The secured party is delivering the written certificate  
1571 of title to the department with the secured party's transfer  
1572 statement.

1573 (2) Unless the department rejects a secured party's  
1574 transfer statement for a reason stated in s. 328.09(3), not  
1575 later than 30 days after delivery to the department of the

1576 statement and payment of fees and taxes payable under the laws  
 1577 of this state other than this part in connection with the  
 1578 statement or the acquisition or use of the vessel, the  
 1579 department shall:

1580 (a) Accept the statement;

1581 (b) Amend the files of the department to reflect the  
 1582 transfer; and

1583 (c) If the name of the owner whose ownership interest is  
 1584 being transferred is indicated on the certificate of title:

1585 1. Cancel the certificate even if the certificate has not  
 1586 been delivered to the department;

1587 2. Create a new certificate indicating the transferee as  
 1588 owner; and

1589 3. Deliver the new certificate or a record evidencing an  
 1590 electronic certificate.

1591 (3) An application under subsection (1) or the creation of  
 1592 a certificate of title under subsection (2) is not by itself a  
 1593 disposition of the vessel and does not by itself relieve the  
 1594 secured party of its duties under chapter 679.

1595 Section 25. Section 328.24, Florida Statutes, is created  
 1596 to read:

1597 328.24 Transfer by operation of law.—

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

1600 (a) Because of death, divorce, or other family law



1601 proceeding, merger, consolidation, dissolution, or bankruptcy;  
1602 (b) Through the exercise of the rights of a lien creditor  
1603 or a person having a lien created by statute or rule of law; or  
1604 (c) Through other legal process.  
1605 (2) A transfer-by-law statement must contain:  
1606 (a) The name and last known mailing address of the owner  
1607 of record and the transferee and the other information required  
1608 by s. 328.01;  
1609 (b) Documentation sufficient to establish the transferee's  
1610 ownership interest or right to acquire the ownership interest;  
1611 (c) A statement that:  
1612 1. The certificate of title is an electronic certificate  
1613 of title;  
1614 2. The transferee does not have possession of the written  
1615 certificate of title created in the name of the owner of record;  
1616 or  
1617 3. The transferee is delivering the written certificate to  
1618 the department with the transfer-by-law statement; and  
1619 (d) Except for a transfer described in paragraph (1)(a),  
1620 evidence that notification of the transfer and the intent to  
1621 file the transfer-by-law statement has been sent to all persons  
1622 indicated in the files of the department as having an interest,  
1623 including a security interest, in the vessel.  
1624 (3) Unless the department rejects a transfer-by-law  
1625 statement for a reason stated in s. 328.09(3) or because the

1626 statement does not include documentation satisfactory to the  
1627 department as to the transferee's ownership interest or right to  
1628 acquire the ownership interest, not later than 30 days after  
1629 delivery to the department of the statement and payment of fees  
1630 and taxes payable under the law of this state other than this  
1631 part in connection with the statement or with the acquisition or  
1632 use of the vessel, the department shall:

1633 (a) Accept the statement;

1634 (b) Amend the files of the department to reflect the  
1635 transfer; and

1636 (c) If the name of the owner whose ownership interest is  
1637 being transferred is indicated on the certificate of title:

1638 1. Cancel the certificate even if the certificate has not  
1639 been delivered to the department;

1640 2. Create a new certificate indicating the transferee as  
1641 owner;

1642 3. Indicate on the new certificate any security interest  
1643 indicated on the canceled certificate, unless a court order  
1644 provides otherwise; and

1645 4. Deliver the new certificate or a record evidencing an  
1646 electronic certificate.

1647 (4) This section does not apply to a transfer of an  
1648 interest in a vessel by a secured party under part VI of chapter  
1649 679.

1650 Section 26. Section 328.25, Florida Statutes, is created

1651 to read:

1652 328.25 Supplemental principles of law and equity.—Unless  
1653 displaced by a provision of this part, the principles of law and  
1654 equity supplement its provisions.

1655 Section 27. Section 328.41, Florida Statutes, is created  
1656 to read:

1657 328.41 Rulemaking.—The department may adopt rules pursuant  
1658 to ss. 120.536(1) and 120.54 to implement this part.

1659 Section 28. Section 409.2575, Florida Statutes, is amended  
1660 to read:

1661 409.2575 Liens on motor vehicles and vessels.—

1662 (1) The director of the state IV-D program, or the  
1663 director's designee, may cause a lien for unpaid and delinquent  
1664 support to be placed upon motor vehicles, as defined in chapter  
1665 320, and upon vessels, as defined in chapter 327, that are  
1666 registered in the name of an obligor who is delinquent in  
1667 support payments, if the title to the property is held by a  
1668 lienholder, in the manner provided in chapter 319 or, if  
1669 applicable in accordance with s. 328.15(9), chapter 328. Notice  
1670 of lien shall not be mailed unless the delinquency in support  
1671 exceeds \$600.

1672 (2) If the first lienholder fails, neglects, or refuses to  
1673 forward the certificate of title to the appropriate department  
1674 as requested pursuant to s. 319.24 or, if applicable in  
1675 accordance with s. 328.15(9), s. 328.15, the director of the IV-

1676 D program, or the director's designee, may apply to the circuit  
 1677 court for an order to enforce the requirements of s. 319.24 or  
 1678 s. 328.15, whichever applies.

1679 Section 29. Subsection (2) of section 705.103, Florida  
 1680 Statutes, is amended to read:

1681 705.103 Procedure for abandoned or lost property.—

1682 (2) Whenever a law enforcement officer ascertains that an  
 1683 article of lost or abandoned property is present on public  
 1684 property and is of such nature that it cannot be easily removed,  
 1685 the officer shall cause a notice to be placed upon such article  
 1686 in substantially the following form:

1687 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED  
 1688 PROPERTY. This property, to wit: ...(setting forth brief  
 1689 description)... is unlawfully upon public property known as  
 1690 ...(setting forth brief description of location)... and must be  
 1691 removed within 5 days; otherwise, it will be removed and  
 1692 disposed of pursuant to chapter 705, Florida Statutes. The owner  
 1693 will be liable for the costs of removal, storage, and  
 1694 publication of notice. Dated this: ...(setting forth the date of  
 1695 posting of notice)..., signed: ...(setting forth name, title,  
 1696 address, and telephone number of law enforcement officer)....

1697 Such notice shall be not less than 8 inches by 10 inches and  
 1698 shall be sufficiently weatherproof to withstand normal exposure  
 1699 to the elements. In addition to posting, the law enforcement  
 1700 officer shall make a reasonable effort to ascertain the name and

1701 address of the owner. If such is reasonably available to the  
 1702 officer, she or he shall mail a copy of such notice to the owner  
 1703 on or before the date of posting. If the property is a motor  
 1704 vehicle as defined in s. 320.01(1) or a vessel as defined in s.  
 1705 327.02, the law enforcement agency shall contact the Department  
 1706 of Highway Safety and Motor Vehicles in order to determine the  
 1707 name and address of the owner and any person who has filed a  
 1708 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)  
 1709 ~~or s. 328.15(1)~~. On receipt of this information, the law  
 1710 enforcement agency shall mail a copy of the notice by certified  
 1711 mail, return receipt requested, to the owner and to the  
 1712 lienholder, if any, except that a law enforcement officer who  
 1713 has issued a citation for a violation of s. 823.11 to the owner  
 1714 of a derelict vessel is not required to mail a copy of the  
 1715 notice by certified mail, return receipt requested, to the  
 1716 owner. If, at the end of 5 days after posting the notice and  
 1717 mailing such notice, if required, the owner or any person  
 1718 interested in the lost or abandoned article or articles  
 1719 described has not removed the article or articles from public  
 1720 property or shown reasonable cause for failure to do so, the  
 1721 following shall apply:  
 1722 (a) For abandoned property, the law enforcement agency may  
 1723 retain any or all of the property for its own use or for use by  
 1724 the state or unit of local government, trade such property to  
 1725 another unit of local government or state agency, donate the

1726 | property to a charitable organization, sell the property, or  
1727 | notify the appropriate refuse removal service.

1728 |       (b) For lost property, the officer shall take custody and  
1729 | the agency shall retain custody of the property for 90 days. The  
1730 | agency shall publish notice of the intended disposition of the  
1731 | property, as provided in this section, during the first 45 days  
1732 | of this time period.

1733 |       1. If the agency elects to retain the property for use by  
1734 | the unit of government, donate the property to a charitable  
1735 | organization, surrender such property to the finder, sell the  
1736 | property, or trade the property to another unit of local  
1737 | government or state agency, notice of such election shall be  
1738 | given by an advertisement published once a week for 2  
1739 | consecutive weeks in a newspaper of general circulation in the  
1740 | county where the property was found if the value of the property  
1741 | is more than \$100. If the value of the property is \$100 or less,  
1742 | notice shall be given by posting a description of the property  
1743 | at the law enforcement agency where the property was turned in.  
1744 | The notice must be posted for not less than 2 consecutive weeks  
1745 | in a public place designated by the law enforcement agency. The  
1746 | notice must describe the property in a manner reasonably  
1747 | adequate to permit the rightful owner of the property to claim  
1748 | it.

1749 |       2. If the agency elects to sell the property, it must do  
1750 | so at public sale by competitive bidding. Notice of the time and

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

1767 Section 30. Paragraph (c) of subsection (2) of section  
1768 721.08, Florida Statutes, is amended to read:

1769 721.08 Escrow accounts; nondisturbance instruments;  
1770 alternate security arrangements; transfer of legal title.—

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

1776 other property may be released from escrow only as follows:  
 1777 (c) Compliance with conditions.—  
 1778 1. Timeshare licenses.—If the timeshare plan is one in  
 1779 which timeshare licenses are to be sold and no cancellation or  
 1780 default has occurred, the escrow agent may release the escrowed  
 1781 funds or other property to or on the order of the developer upon  
 1782 presentation of:  
 1783 a. An affidavit by the developer that all of the following  
 1784 conditions have been met:  
 1785 (I) Expiration of the cancellation period.  
 1786 (II) Completion of construction.  
 1787 (III) Closing.  
 1788 (IV) Either:  
 1789 (A) Execution, delivery, and recordation by each  
 1790 interestholder of the nondisturbance and notice to creditors  
 1791 instrument, as described in this section; or  
 1792 (B) Transfer by the developer of legal title to the  
 1793 subject accommodations and facilities, or all use rights  
 1794 therein, into a trust satisfying the requirements of  
 1795 subparagraph 4. and the execution, delivery, and recordation by  
 1796 each other interestholder of the nondisturbance and notice to  
 1797 creditors instrument, as described in this section.  
 1798 b. A certified copy of each recorded nondisturbance and  
 1799 notice to creditors instrument.  
 1800 c. One of the following:



1801 (I) A copy of a memorandum of agreement, as defined in s.  
1802 721.05, together with satisfactory evidence that the original  
1803 memorandum of agreement has been irretrievably delivered for  
1804 recording to the appropriate official responsible for  
1805 maintaining the public records in the county in which the  
1806 subject accommodations and facilities are located. The original  
1807 memorandum of agreement must be recorded within 180 days after  
1808 the date on which the purchaser executed her or his purchase  
1809 agreement.

1810 (II) A notice delivered for recording to the appropriate  
1811 official responsible for maintaining the public records in each  
1812 county in which the subject accommodations and facilities are  
1813 located notifying all persons of the identity of an independent  
1814 escrow agent or trustee satisfying the requirements of  
1815 subparagraph 4. that shall maintain separate books and records,  
1816 in accordance with good accounting practices, for the timeshare  
1817 plan in which timeshare licenses are to be sold. The books and  
1818 records shall indicate each accommodation and facility that is  
1819 subject to such a timeshare plan and each purchaser of a  
1820 timeshare license in the timeshare plan.

1821 2. Timeshare estates.—If the timeshare plan is one in  
1822 which timeshare estates are to be sold and no cancellation or  
1823 default has occurred, the escrow agent may release the escrowed  
1824 funds or other property to or on the order of the developer upon  
1825 presentation of:

1826 a. An affidavit by the developer that all of the following  
 1827 conditions have been met:

1828 (I) Expiration of the cancellation period.

1829 (II) Completion of construction.

1830 (III) Closing.

1831 b. If the timeshare estate is sold by agreement for deed,  
 1832 a certified copy of the recorded nondisturbance and notice to  
 1833 creditors instrument, as described in this section.

1834 c. Evidence that each accommodation and facility:

1835 (I) Is free and clear of the claims of any  
 1836 interestholders, other than the claims of interestholders that,  
 1837 through a recorded instrument, are irrevocably made subject to  
 1838 the timeshare instrument and the use rights of purchasers made  
 1839 available through the timeshare instrument;

1840 (II) Is the subject of a recorded nondisturbance and  
 1841 notice to creditors instrument that complies with subsection (3)  
 1842 and s. 721.17; or

1843 (III) Has been transferred into a trust satisfying the  
 1844 requirements of subparagraph 4.

1845 d. Evidence that the timeshare estate:

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

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

1854 3. Personal property timeshare interests.—If the timeshare  
1855 plan is one in which personal property timeshare interests are  
1856 to be sold and no cancellation or default has occurred, the  
1857 escrow agent may release the escrowed funds or other property to  
1858 or on the order of the developer upon presentation of:

1859 a. An affidavit by the developer that all of the following  
1860 conditions have been met:

1861 (I) Expiration of the cancellation period.

1862 (II) Completion of construction.

1863 (III) Closing.

1864 b. If the personal property timeshare interest is sold by  
1865 agreement for transfer, evidence that the agreement for transfer  
1866 complies fully with s. 721.06 and this section.

1867 c. Evidence that one of the following has occurred:

1868 (I) Transfer by the owner of the underlying personal  
1869 property of legal title to the subject accommodations and  
1870 facilities or all use rights therein into a trust satisfying the  
1871 requirements of subparagraph 4.; or

1872 (II) Transfer by the owner of the underlying personal  
1873 property of legal title to the subject accommodations and  
1874 facilities or all use rights therein into an owners' association  
1875 satisfying the requirements of subparagraph 5.

1876 d. Evidence of compliance with the provisions of  
 1877 subparagraph 6., if required.

1878 e. If a personal property timeshare plan is created with  
 1879 respect to accommodations and facilities that are located on or  
 1880 in an oceangoing vessel, including a "documented vessel" or a  
 1881 "foreign vessel," as defined and governed by 46 U.S.C. chapter  
 1882 301:

1883 (I) In making the transfer required in sub-subparagraph  
 1884 c., the developer shall use as its transfer instrument a  
 1885 document that establishes and protects the continuance of the  
 1886 use rights in the subject accommodations and facilities in a  
 1887 manner that is enforceable by the trust or owners' association.

1888 (II) The transfer instrument shall comply fully with the  
 1889 provisions of this chapter, shall be part of the timeshare  
 1890 instrument, and shall contain specific provisions that:

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

1901 all of the accommodations on the vessel are subject to the  
 1902 timeshare plan, shall be common expenses of the timeshare plan.

1903 (B) Grant a lien against the vessel in favor of the  
 1904 owners' association or trustee to secure the full and faithful  
 1905 performance of the vessel owner and developer of all of their  
 1906 obligations to the purchasers.

1907 (C) Establish governing law in a jurisdiction that  
 1908 recognizes and will enforce the timeshare instrument and the  
 1909 laws of the jurisdiction of registry of the vessel.

1910 (D) Require that a description of the use rights of  
 1911 purchasers be posted and displayed on the vessel in a manner  
 1912 that will give notice of such rights to any party examining the  
 1913 vessel. This notice must identify the owners' association or  
 1914 trustee and include a statement disclosing the limitation on  
 1915 incurring liens against the vessel described in sub-sub-sub-  
 1916 subparagraph (A).

1917 (E) Include the nondisturbance and notice to creditors  
 1918 instrument for the vessel owner and any other interestholders.

1919 (F) The owners' association created under subparagraph 5.  
 1920 or trustee created under subparagraph 4. shall have access to  
 1921 any certificates of classification in accordance with the  
 1922 timeshare instrument.

1923 (III) If the vessel is a foreign vessel, the vessel must  
 1924 be registered in a jurisdiction that permits a filing evidencing  
 1925 the use rights of purchasers in the subject accommodations and

1926 facilities, offers protection for such use rights against  
 1927 unfiled and inferior claims, and recognizes the document or  
 1928 instrument creating such use rights as a lien against the  
 1929 vessel.

1930 (IV) In addition to the disclosures required by s.  
 1931 721.07(5), the public offering statement and purchase contract  
 1932 must contain a disclosure in conspicuous type in substantially  
 1933 the following form:

1934 The laws of the State of Florida govern the offering of this  
 1935 timeshare plan in this state. There are inherent risks in  
 1936 purchasing a timeshare interest in this timeshare plan because  
 1937 the accommodations and facilities of the timeshare plan are  
 1938 located on a vessel that will sail into international waters and  
 1939 into waters governed by many different jurisdictions. Therefore,  
 1940 the laws of the State of Florida cannot fully protect your  
 1941 purchase of an interest in this timeshare plan. Specifically,  
 1942 management and operational issues may need to be addressed in  
 1943 the jurisdiction in which the vessel is registered, which is  
 1944 (insert jurisdiction in which vessel is registered). Concerns of  
 1945 purchasers may be sent to (insert name of applicable regulatory  
 1946 agency and address).

1947 4. Trust.—

1948 a. If the subject accommodations or facilities, or all use  
 1949 rights therein, are to be transferred into a trust in order to  
 1950 comply with this paragraph, such transfer shall take place

1951 pursuant to this subparagraph. If the accommodations or  
1952 facilities included in such transfer are subject to a lease, the  
1953 unexpired term of the lease must be disclosed as the term of the  
1954 timeshare plan pursuant to s. 721.07(5)(f)4.

1955 b. Prior to the transfer of the subject accommodations and  
1956 facilities, or all use rights therein, to a trust, any lien or  
1957 other encumbrance against such accommodations and facilities, or  
1958 use rights therein, shall be made subject to a nondisturbance  
1959 and notice to creditors instrument pursuant to subsection (3).  
1960 No transfer pursuant to this subparagraph shall become effective  
1961 until the trustee accepts such transfer and the responsibilities  
1962 set forth herein. A trust established pursuant to this  
1963 subparagraph shall comply with the following provisions:

1964 (I) The trustee shall be an individual or a business  
1965 entity authorized and qualified to conduct trust business in  
1966 this state. Any corporation authorized to do business in this  
1967 state may act as trustee in connection with a timeshare plan  
1968 pursuant to this chapter. The trustee must be independent from  
1969 any developer or managing entity of the timeshare plan or any  
1970 interestholder of any accommodation or facility of such plan.

1971 (II) The trust shall be irrevocable so long as any  
1972 purchaser has a right to occupy any portion of the timeshare  
1973 property pursuant to the timeshare plan.

1974 (III) The trustee shall not convey, hypothecate, mortgage,  
1975 assign, lease, or otherwise transfer or encumber in any fashion

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

1985 (IV) All purchasers of the timeshare plan or the owners'  
1986 association of the timeshare plan shall be the express  
1987 beneficiaries of the trust. The trustee shall act as a fiduciary  
1988 to the beneficiaries of the trust. The personal liability of the  
1989 trustee shall be governed by ss. 736.08125, 736.08163, 736.1013,  
1990 and 736.1015. The agreement establishing the trust shall set  
1991 forth the duties of the trustee. The trustee shall be required  
1992 to furnish promptly to the division upon request a copy of the  
1993 complete list of the names and addresses of the owners in the  
1994 timeshare plan and a copy of any other books and records of the  
1995 timeshare plan required to be maintained pursuant to s. 721.13  
1996 that are in the possession, custody, or control of the trustee.  
1997 All expenses reasonably incurred by the trustee in the  
1998 performance of its duties, together with any reasonable  
1999 compensation of the trustee, shall be common expenses of the  
2000 timeshare plan.



2001 (V) The trustee shall not resign upon less than 90 days'  
 2002 prior written notice to the managing entity and the division. No  
 2003 resignation shall become effective until a substitute trustee,  
 2004 approved by the division, is appointed by the managing entity  
 2005 and accepts the appointment.

2006 (VI) The documents establishing the trust arrangement  
 2007 shall constitute a part of the timeshare instrument.

2008 (VII) For trusts holding property in a timeshare plan  
 2009 located outside this state, the trust and trustee holding such  
 2010 property shall be deemed in compliance with the requirements of  
 2011 this subparagraph if such trust and trustee are authorized and  
 2012 qualified to conduct trust business under the laws of such  
 2013 jurisdiction and the agreement or law governing such trust  
 2014 arrangement provides substantially similar protections for the  
 2015 purchaser as are required in this subparagraph for trusts  
 2016 holding property in a timeshare plan in this state.

2017 (VIII) The trustee shall have appointed a registered agent  
 2018 in this state for service of process. In the event such a  
 2019 registered agent is not appointed, service of process may be  
 2020 served pursuant to s. 721.265.

2021 5. Owners' association.—

2022 a. If the subject accommodations or facilities, or all use  
 2023 rights therein, are to be transferred into an owners'  
 2024 association in order to comply with this paragraph, such  
 2025 transfer shall take place pursuant to this subparagraph.

2026           b. Before the transfer of the subject accommodations and  
 2027 facilities, or all use rights therein, to an owners'  
 2028 association, any lien or other encumbrance against such  
 2029 accommodations and facilities, or use rights therein, shall be  
 2030 made subject to a nondisturbance and notice to creditors  
 2031 instrument pursuant to subsection (3). No transfer pursuant to  
 2032 this subparagraph shall become effective until the owners'  
 2033 association accepts such transfer and the responsibilities set  
 2034 forth herein. An owners' association established pursuant to  
 2035 this subparagraph shall comply with the following provisions:

2036           (I) The owners' association shall be a business entity  
 2037 authorized and qualified to conduct business in this state.  
 2038 Control of the board of directors of the owners' association  
 2039 must be independent from any developer or managing entity of the  
 2040 timeshare plan or any interestholder.

2041           (II) The bylaws of the owners' association shall provide  
 2042 that the corporation may not be voluntarily dissolved without  
 2043 the unanimous vote of all owners of personal property timeshare  
 2044 interests so long as any purchaser has a right to occupy any  
 2045 portion of the timeshare property pursuant to the timeshare  
 2046 plan.

2047           (III) The owners' association shall not convey,  
 2048 hypothecate, mortgage, assign, lease, or otherwise transfer or  
 2049 encumber in any fashion any interest in or portion of the  
 2050 timeshare property with respect to which any purchaser has a

2051 right of use or occupancy, unless the timeshare plan is  
2052 terminated pursuant to the timeshare instrument, or unless such  
2053 conveyance, hypothecation, mortgage, assignment, lease,  
2054 transfer, or encumbrance is approved by a vote of two-thirds of  
2055 all voting interests of the association and such decision is  
2056 declared by a court of competent jurisdiction to be in the best  
2057 interests of the purchasers of the timeshare plan. The owners'  
2058 association shall notify the division in writing within 10 days  
2059 after receiving notice of the filing of any petition relating to  
2060 obtaining such a court order. The division shall have standing  
2061 to advise the court of the division's interpretation of the  
2062 statute as it relates to the petition.

2063 (IV) All purchasers of the timeshare plan shall be members  
2064 of the owners' association and shall be entitled to vote on  
2065 matters requiring a vote of the owners' association as provided  
2066 in this chapter or the timeshare instrument. The owners'  
2067 association shall act as a fiduciary to the purchasers of the  
2068 timeshare plan. The articles of incorporation establishing the  
2069 owners' association shall set forth the duties of the owners'  
2070 association. All expenses reasonably incurred by the owners'  
2071 association in the performance of its duties, together with any  
2072 reasonable compensation of the officers or directors of the  
2073 owners' association, shall be common expenses of the timeshare  
2074 plan.

2075 (V) The documents establishing the owners' association

2076 shall constitute a part of the timeshare instrument.

2077 (VI) For owners' associations holding property in a  
 2078 timeshare plan located outside this state, the owners'  
 2079 association holding such property shall be deemed in compliance  
 2080 with the requirements of this subparagraph if such owners'  
 2081 association is authorized and qualified to conduct owners'  
 2082 association business under the laws of such jurisdiction and the  
 2083 agreement or law governing such arrangement provides  
 2084 substantially similar protections for the purchaser as are  
 2085 required in this subparagraph for owners' associations holding  
 2086 property in a timeshare plan in this state.

2087 (VII) The owners' association shall have appointed a  
 2088 registered agent in this state for service of process. In the  
 2089 event such a registered agent cannot be located, service of  
 2090 process may be made pursuant to s. 721.265.

2091 6. Personal property subject to certificate of title.—If  
 2092 any personal property that is an accommodation or facility of a  
 2093 timeshare plan is subject to a certificate of title in this  
 2094 state pursuant to chapter 319 or chapter 328, the following  
 2095 notation must be made on such certificate of title pursuant to  
 2096 s. 319.27(1) or s. 328.15 ~~s. 328.15(1)~~:

2097 The further transfer or encumbrance of the property subject to  
 2098 this certificate of title, or any lien or encumbrance thereon,  
 2099 is subject to the requirements of section 721.17, Florida  
 2100 Statutes, and the transferee or lienor agrees to be bound by all

2101 of the obligations set forth therein.

2102 7. If the developer has previously provided a certified  
2103 copy of any document required by this paragraph, she or he may  
2104 for all subsequent disbursements substitute a true and correct  
2105 copy of the certified copy, provided no changes to the document  
2106 have been made or are required to be made.

2107 8. In the event that use rights relating to an  
2108 accommodation or facility are transferred into a trust pursuant  
2109 to subparagraph 4. or into an owners' association pursuant to  
2110 subparagraph 5., all other interestholders, including the owner  
2111 of the underlying fee or underlying personal property, must  
2112 execute a nondisturbance and notice to creditors instrument  
2113 pursuant to subsection (3).

2114 Section 31. (1) The rights, duties, and interests flowing  
2115 from a transaction, certificate of title, or record relating to  
2116 a vessel which was validly entered into or created before the  
2117 effective date of this act and would be subject to this act if  
2118 it had been entered into or created on or after the effective  
2119 date of this act remain valid on and after the effective date of  
2120 this act.

2121 (2) This act does not affect an action or proceeding  
2122 commenced before the effective date of this act.

2123 (3) Except as otherwise provided in subsection (4), a  
2124 security interest that is enforceable immediately before the  
2125 effective date of this act and would have priority over the

2126 | rights of a person who becomes a lien creditor at that time is a  
 2127 | perfected security interest under this act.

2128 | (4) A security interest perfected immediately before the  
 2129 | effective date of this act remains perfected until the earlier  
 2130 | of:

2131 | (a) The time perfection would have ceased under the law  
 2132 | under which the security interest was perfected; or

2133 | (b) Three years after the effective date of this act.

2134 | (5) This act does not affect the priority of a security  
 2135 | interest in a vessel if immediately before the effective date of  
 2136 | this act the security interest is enforceable and perfected, and  
 2137 | that priority is established.

2138 | Section 32. Subject to section 25, this act applies to any  
 2139 | transaction, certificate of title, or record relating to a  
 2140 | vessel, even if the transaction, certificate of title, or record  
 2141 | was entered into or created before the effective date of this  
 2142 | act.

2143 | Section 33. This act shall take effect July 1, 2023.