

WEEK 2 REPORT

// 2019 LEGISLATIVE SESSION

+ MARINE INDUSTRIES ASSOCIATION OF FLORIDA
MARCH 11 - 15, 2019



// WEEK 2 REPORT

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The second week is behind us, and the bill lifting the ban on smokable marijuana is headed to the Governor's desk. The second week was full of committee hearings and bills being amended. As we settle in to the daily grind of Legislative Session, we become more aware of the sixty-day clock and how we are down to seven weeks to accomplish our goals this Legislative Session.

As we venture into the third week, expectations are high that we will begin to see the proposed budgets for both chambers. Once the budgets are released, the amendments will start flying in appropriations subcommittees, appropriation committees, and the respective House and Senate floor. The following weeks will include excitement and quick turnarounds and timelines. The third week (historically) is one of the busiest of the nine-week Legislative Session.

This week, we are looking forward to the NMMA fly-in. Some of our Marine Industries Association members will be attending. We look forward to listening, learning, and advocating this week.

As always, thank you for the opportunity to represent you in Tallahassee. Below are just some of the bills we are watching for you. Pay close attention, as some of these bills are on agendas this week.

HB529 by Mariano and SB436 by Hooper - Use of Vessel Registration Fees. The bills continue to progress through the process. HB 529 has passed the House Transportation and Infrastructure Subcommittee back in February, 11-0. The bill passed the House Local, Federal, and Veterans Affairs Subcommittee this week, 13-0. This bill has one more committee stop in House State Affairs. Senate Bill 436 passed the Senate Community Affairs agenda on March 3rd. The bill passed 5-0. The bill has two more committee references and is not on the Senate Environment and Natural Resources agenda this week.

HB 475 by Williamson and SB 676 by Hooper - Certificates of Title for Vessels. HB 475 was heard in its first committee of reference and passed as a committee substitute, 13-0. The bill has two more committee stops, House Transportation and Tourism Appropriations Subcommittee and State Affairs. HB 475 is currently scheduled to be heard in House Transportation and Tourism Appropriations Subcommittee on March 19th at 8:00 am. The Senate Bill is referred to Senate Infrastructure and Security, Senate Appropriations Subcommittee on Transportation, Tourism, and Economic

Development and Senate Appropriations. SB 676 is also on the agenda this week. The bill is scheduled to be heard March 20th in the Senate Infrastructure and Security Committee.

HB 1319 by Diamond and SB 1530 by Rouson - Vessels. Yes, these are anchoring bills. Rumor has it these are coming from the City of St. Petersburg. We are currently in the process of trying to gather more information and have agreed to discuss with their lobbyists. We will keep you posted. HB 1319 has been referred to House Agriculture and Natural Resources Subcommittee, House Agriculture and Natural Resources Appropriations Subcommittee, House State Affairs Committee. SB 1530 also has three references. The committees are Senate Environment and Natural Resources, Senate Criminal Justice and Senate Rules.

Unfortunately, our meetings with their lobbyist never took place and they did not take us up on our offer to meet. HB 1319 by Diamond is scheduled to be heard in the House Agriculture and Natural Resources Subcommittee on March 19th at 12:00.

The Senate Bill is not scheduled to be heard this week.

MIAF opposes these bills.

HB 1237 by McClain and SB 1792 by Gruters - Towing and Immobilizing of Vehicles and Vessels. Both bills have three committees of reference. House Bill 1237 was referred to House Local, Federal and Veterans Affairs Subcommittee, House Business and Professions Subcommittee and State Affairs Committee. Senate Bill 1792 was referred to Community Affairs, Infrastructure and Security and Rules. House Bill 1237 is currently on the agenda for House Local, Federal and Veterans Affairs Subcommittee on March 19th at 8:00 am. SB 1792 has not been placed on an agenda as of the writing of this newsletter.

HB 1221 by Polsky and SB 1666 by Flores - Anchoring and Mooring of Vessels Outside of Public Mooring Fields. Apparently even those these bills are not linked in the computer system, they are considered companion bills. The bills are very different, and we will continue to research them as filed. The rumor in the halls is the bills originated for FWCC. House Bill 1221 was referred to House Agriculture and Natural Resources Subcommittee, House Agriculture and Natural Resources Appropriations Subcommittee and House State Affairs. Senate Bill 1666 was referred to Senate Environmental and Natural Resources, Senate Community Affairs and Senate Rules.

MIAF has concerns with both bills as filed. HB 1221 is scheduled to be heard on the House Agriculture and Natural Resource Subcommittee on March 19th at Noon.

SB 1666 is not currently scheduled in the Senate this week.

HB 1395 by Raschein and SB 1758 by Mayfield - Water Quality Improvements. These bills are identical and are sponsored by the Senate Appropriations Subcommittee on Agriculture, Environment and General Government Chairwoman and by the House Agriculture and Natural Resources Appropriations Subcommittee Chairwoman. HB 1395 is referenced to House Agriculture and Natural Resources Subcommittee, House Appropriations Committee and House State Affairs Committee. Senate Bill 1758 has been referred to Senate Environment and Natural Resources, Senate Appropriations Subcommittee on Agriculture, Environment and General Government and Senate Appropriations.

SB 1395 is still waiting to be placed on the agenda. SB 1758 is currently scheduled to be heard in the Senate Environment and Natural Resources on March 20th at 4:00.

SB 1502 by Bradley - Department of Environmental Protection. This bill will transfer some positions from FWC to DEP for law enforcement. This bill is a priority. The Senate bill is referred to Senate Environment

and Natural Resources, Senate Appropriations Subcommittee on Agriculture, Environment and General Government and Senate Appropriations. The bill is not currently placed on agenda as of the writing of this report.

As anticipated, the House has filed a committee bill ANR 19-01. The bill is scheduled to be heard this week in House Agriculture and Natural Resources Appropriations on March 19th. This bill will eventually get a House bill number and will be linked to SB 1502.

For more information on these bills and others, please review the attachments.

A handwritten signature in black ink, appearing to read "Margaret Timmins", with a large, stylized flourish extending to the right.

Margaret "Missy" Timmins
President
Timmins Consulting, LLC

// USE OF VESSEL REGISTRATION FEES

Senate Bill 436 // Sen. Ed Hooper // Referred to: Community Affairs; Environment and Natural Resources; Rules

House Bill 529 // Rep. Amber Mariano // Referred to: Transportation & Infrastructure Subcommittee; Local, Federal & Veterans Affairs Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

Senate Bill 436: Currently, any county may impose an annual registration fee on vessels registered, operated, used, or stored on waters within its jurisdiction. This fee is 50 percent of the applicable state registration fee and must be used for patrol, regulation, and maintenance of the lakes, rivers, and waters and for other boating-related activities within the county.

The bill expands the authorized uses of the county vessel registration fees to include channel and other navigational dredging, the construction, expansion, or maintenance of public boat ramps and other public water access facilities, and associated engineering and permitting costs.

Most Recent Action: Favorable by Community Affairs; 5 Yeas, 0 Nays

House Bill 529: Florida law authorizes counties to assess an optional vessel registration fee of 50 percent of the applicable state vessel registration fee. The first \$1 of every optional registration fee is deposited into the Save the Manatee Trust Fund for purposes specified by law. All other moneys received from such fee must be expended for the patrol, regulation, and maintenance of the lakes, rivers, and waters and for other boating-related activities.

The bill specifies that the optional county and municipal vessel registration fee may be used for dredging, constructing, expanding or maintaining public boat ramps and other public water access facilities, including associated engineering and permitting fees.

Most Recent Action: Favorable by Local, Federal & Veterans Affairs Subcommittee; 13 Yeas, 0 Nays

Attached documents: HB 529 (as filed) + staff analysis

// CERTIFICATES OF TITLES FOR VESSELS

Senate Bill 676 // Sen. Ed Hooper // Referred to: Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

House Bill 475 // Rep. Jay Williamson // Referred to: Transportation & Infrastructure Subcommittee; Transportation & Tourism Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 676: Designating the “Uniform Certificate of Title for Vessels Act”; revising requirements for application for, and information to be included in, a certificate of title for a vessel; requiring the Department of Highway Safety and Motor Vehicles to retain certain information relating to ownership and titling of vessels; providing duties of the department relating to creation, issuance, refusal to issue, or cancellation of a certificate of title; providing for the rights of a purchaser of a vessel who is not a secured party; providing rules for the transfer of ownership in a vessel, etc.

Most Recent Action: On Committee agenda - Infrastructure and Security, 03/20/19, 4:00 pm

House Bill 475: The bill incorporates the Uniform Certificate of Title for Vessels Act into Florida’s existing vessel titling law. In doing this, the bill includes numerous changes to the title application requirements, information that must be included on the certificate of title, and the Department of Highway Safety and Motor Vehicle’s (DHSMV) maintenance and public access to vessel title files. In general, the bill:

- Cites the short title as the, “Uniform Certificate of Title for Vessels Act.”
- Creates a number of new definitions for purposes of vessel titling.
- Requires an application for a certificate of title to contain a detailed description of the vessel.
- Provides that state law governs all issues relating to the certificate of title for vessels.
- Requires a vessel owner to deliver an application and fee for certificate of title for the vessel, no later than 30 days from the date of ownership or the date Florida becomes the state of principal use.
- Provides new requirements for the contents of a certificate of title.
- Provides certain responsibilities applicable to an owner and insurer of a hull-damaged vessel.
- Requires DHSMV to maintain the information contained in all certificates of title and the information submitted with the application.
- Specifies that possession of a certificate of title does not by itself provide a right to obtain possession of a vessel.
- Provides DHSMV with certain duties relating to creation, issuance, refusal to issue, or cancellation of a certificate of title.

- Specifies that a certificate of title is effective even if it contains scrivener's errors or does not contain certain required information that DHSMV determines to be inconsequential to the issuing of a certificate of title.
- Provides additional requirements for obtaining a duplicate certificate of title.
- Provides requirements for the determination and perfection of a security interest in a vessel.
- Provides requirements for the delivery of a statement of the termination of a security interest.
- Provides requirements for the transfer of ownership in a vessel.

Most Recent Action: On Committee agenda - Transportation & Tourism Appropriations Subcommittee, 03/19/19, 8:00 am

Attached documents: SB 676 (as filed); CS/HB 475 + staff analysis

// VESSELS

Senate Bill 1530 // Sen. Darryl Rouson // Referred to: Environment and Natural Resources; Criminal Justice; Rules

House Bill 1319 // Rep. Ben Diamond // Referred to: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

Senate Bill 1530: Requiring vessel operators to reduce speed in specified hazardous situations; revising criteria for determining that a vessel is at risk of becoming derelict; providing criminal penalties for failure to present a certificate of title showing proper transfer of vessel ownership; revising civil penalties relating to certain at-risk vessels and prohibited anchoring or mooring, etc.

Most Recent Action: Referred to Environment and Natural Resources; Criminal Justice; Rules

House Bill 1319: A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property. Both state and local law enforcement agencies are authorized and empowered to relocate or remove

a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons.

A purchaser of a new or used vessel has 30 days to title and register that vessel.

The bill requires vessel operators to reduce to slow speed, minimum wake upon: seeing a vessel or person in a hazardous or vulnerable position, where the wake of the vessel is likely to cause property damage or injury to the vulnerable person or vessel; approaching within 300 feet of any emergency vessel, including but not limited to, a law enforcement vessel, a United States Coast Guard vessel or auxiliary vessel, fire vessel, or tow vessel, with its emergency lights activated; and approaching within 300 feet of any construction vessel or barge actively engaged in operations and displaying an orange flag or yellow flashing light from the tallest portion of the vessel or barge. The bill provides that a vessel operator found in violation of the above requirements is guilty of a noncriminal infraction and further provides civil penalties.

The bill further provides that a vessel that does not have or is unable to demonstrate an effective means of propulsion, does not have a declared destination upon inquiry by a law enforcement officer, and the owner is unable to provide documentation of vessel repair may be deemed at risk for becoming derelict. The bill requires a vessel at risk of becoming derelict to move to a location at least three miles from the previous location on or before 90 days after the date of notice is delivered to the owner or posted conspicuously on the vessel.

The bill further provides that a person who fails to present the certificate of title with the new owner information to ensure proper transfer of ownership is guilty of a second degree misdemeanor.

The bill increases the civil penalties for a vessel deemed at risk for becoming derelict and for anchoring or mooring in a prohibited area and creates a penalty for a vessel that creates a special hazard. The bill further provides that a person cited more than three times in a 12-month period may have their vessel impounded by law enforcement.

Most Recent Action: On Committee agenda - Agriculture & Natural Resources Subcommittee, 03/19/19, 12:00 pm

Attached documents: HB 1319 (as filed) + staff analysis

// TOWING AND IMMOBILIZING OF VEHICLES AND VESSELS

Senate Bill 1792 // Sen. Joe Gruters // Referred to: Community Affairs; Infrastructure and Security; Rules

House Bill 1237 // Rep. Stan McClain // Referred to: Local, Federal & Veterans Affairs Subcommittee; Business & Professions Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 1792: Specifying that local governments may enact rates to tow or immobilize vessels on private property and to remove and store vessels under specified circumstances; prohibiting counties and municipalities, respectively, from enacting certain ordinances or rules that impose fees or charges on authorized wrecker operators, towing businesses, or vehicle immobilization services; authorizing certain persons to place liens on vehicles or vessels to recover specified fees or charges; authorizing vehicle immobilization devices to be used on trespassing motor vehicles, etc.

Most Recent Action: Referred to Community Affairs; Infrastructure and Security; Rules

House Bill 1237: County and municipal governments may contract with wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites within their jurisdiction. Counties and municipalities may establish a wrecker operator system to apportion towing services across multiple wrecker operators. Wrecker operators who participate in the wrecker operator system are known as authorized wrecker operators. Counties and municipalities are authorized to establish maximum rates for the towing and storage of vehicles pursuant to an ordinance or rule adopted pursuant to s. 125.0103, F.S., or s. 166.043, F.S.

Some municipalities impose an administrative fee on vehicles towed by an authorized wrecker operator if the vehicle is seized or towed in connection with certain misdemeanors or felonies. The administrative fee is collected by the towing company on behalf of the municipal government and, in addition to towing and storage fees, must be paid before the vehicle is released to the registered owner or lienholder.

Vehicles or vessels parked without permission on private property may be towed at the direction of the owner or lessee of the property. The towing or removal must be conducted by a person regularly engaged in the business of towing vehicles or vessels and is subject to strict compliance with certain conditions and restrictions placed on the towing company. If the property is not a single-family residence, towing may only occur if notice is given via signage that must meet certain conditions.

The bill requires a county or municipality to establish maximum rates for the towing and storage of vessels, as well as to place a cap on the maximum rate for immobilizing a vehicle or vessel.

The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators. The bill provides that an authorized wrecker operator may impose and collect the administrative fee and is only required to remit the fee to the county or municipality after it has been collected. The bill prohibits counties and municipalities from adopting or enforcing ordinances or rules that impose fees on the registered owner or lienholder of a vehicle or vessel removed and impounded by an authorized wrecker operator. The bill provides that a wrecker operator who recovers, removes, or stores a vehicle or vessel shall have a lien on the vehicle or vessel that includes the value of the reasonable administrative fee or charge imposed by a county or municipality.

The bill establishes requirements for businesses engaged in vehicle immobilization operations. The bill requires vehicle immobilization operations to be licensed by the local government in the area the business operates and to meet certain insurance requirements. The bill establishes notice requirements for areas when an improperly parked vehicle may be subject to immobilization.

The bill may have an indeterminate fiscal impact on local governments.

Most Recent Action: On Committee agenda - Local, Federal & Veterans Affairs Subcommittee, 03/19/19, 8:00 am

Attached documents: HB 1237 (as filed)

// ANCHORING AND MOORING OF VESSELS OUTSIDE OF PUBLIC MOORING FIELDS

Senate Bill 1666 // Sen. Anitere Flores // Referred to: Environment and Natural Resources; Community Affairs; Rules

HOUSE/SENATE BILL RELATIONSHIP: N/A

Senate Bill 1666: Defining the terms “store” and “stored”; prohibiting the owner, operator, or person in charge of a vessel from anchoring or mooring outside of public mooring fields for longer than a specified period of time; requiring the relocation or removal from the water of vessels anchored or moored in violation of the prohibition; providing that such a violation is noncriminal and is punishable by a fine, etc.

Most Recent Action: Referred to Environment and Natural Resources; Community Affairs; Rules

Attached documents: None

// ANCHORED VESSELS

House Bill 1221 // Rep. Tina Polsky // Referred to: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee;

State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: N/A

House Bill 1221: A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property. Both state and local law enforcement are authorized and empowered to relocate or remove a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons.

The bill defines “long-term stored vessel” as a vessel on the waters of the state that has remained anchored outside of a public mooring field for at least 21 days out of a 60-day period and requires the Florida Fish and Wildlife Conservation Commission (FWC) to conduct a study of the impacts of long-term stored vessels on local communities and the state. The study must investigate if and how long-term stored vessels contribute to the number of derelict and abandoned vessels on the waters of the state; investigate the impacts of long-term stored vessels and vessels anchored within public mooring fields on the local and state economies, public safety, and the environment during and after a significant tropical storm or hurricane event; and provide recommendations for appropriate management options for long-term stored vessels to mitigate any identified negative impacts. The bill further requires FWC to submit a report of its findings to the Governor and the Legislature by January 1, 2025.

The bill requires certain amounts from vessel registration fees designated for use by the counties be deposited into the Marine Resources Conservation Trust Fund to fund a grant program for derelict vessel removal. The bill specifies that the funding for the local government grant program for the removal of derelict vessels must come from the Marine Resources Conservation Trust Fund or the Florida Coastal Protection Trust Fund.

The bill allows FWC to use funds from the local government grant program to remove, or pay private contractors to remove, derelict vessels if, in a given year, all funds appropriated are not requested by and granted to local governments for the removal of derelict vessels by the end of the third quarter.

The bill prohibits a person from residing or dwelling on a vessel that has been charged by an officer of FWC or any law enforcement agency as derelict until the vessel is removed from the waters of the state permanently or returned to the waters of the state in a condition that is no longer derelict.

Most Recent Action: On Committee agenda - Agriculture & Natural Resources Subcommittee, 03/19/19, 12:00 pm

Attached documents: HB 1221 (as filed) + staff analysis

// COASTAL MANAGEMENT

Senate Bill 446 // Sen. Debbie Mayfield // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 325 // Rep. Chip LaMarca // Referred to Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 446: SB 446 revises the criteria the Department of Environmental Protection uses to determine annual funding priorities for beach erosion control projects and inlet management projects. The bill also revises related requirements for the Department of Environmental Protection regarding reporting and oversight, and the use of surplus funds for beach erosion control projects or inlet management projects. The bill revises requirements regarding funding and reporting on inlet management projects.

The bill revises the requirements for the Department of Environmental Protection to develop and submit the components of the comprehensive long-term management plan for the restoration and maintenance of Florida's critically eroded beaches.

The bill has an indeterminate fiscal impact. The DEP can absorb any costs within existing resources. Funding for beach erosion projects and inlet management projects is subject to legislative appropriations.

The bill takes effect July 1, 2019, except for changes to the scoring system for beach erosion control projects amended in s. 161.101, F.S., and changes to the comprehensive long-term beach management plan amended in s. 161.161, F.S., which will both take effect July 1, 2020.

Most Recent Action: Subcommittee Recommendation: Favorable by Appropriations Subcommittee on Agriculture, Environment, and General Government; 10 Yeas, 0 Nays

House Bill 325: Due to storm events, construction and maintenance of inlets, imprudent coastal developments, and other factors, 420.9 miles of Florida's beaches are critically eroded. The Beach Management Funding Assistance Program (program) within the Department of Environmental Protection (DEP) works with local sponsors to protect and restore the state's beaches through a comprehensive beach management planning program. Local sponsors submit annual funding requests to DEP for beach management and inlet management projects. DEP ranks the requests and provides a funding recommendation to the Legislature.

As it relates to beach management projects, the bill revises and provides more detail on the criteria DEP must consider when ranking beach management projects for funding consideration and requires DEP to implement a scoring system for annual project funding priorities that

consists of criteria divided into four tiers. The bill assigns each tier a certain percentage of overall point value and requires that the criteria be equally weighted within each tier. The bill changes how DEP may utilize surplus funds and the procedures that must be followed.

For inlet management projects, the bill:

- Revises and updates the criteria DEP must consider when ranking inlet management projects for funding consideration, and requires DEP to weigh each criterion equally;
- Authorizes DEP to pay up to 75 percent of the construction costs of an initial major inlet management project component, and allows DEP to share the costs of the other components of inlet management projects equally with the local sponsor;
- Requires DEP to rank the inlet monitoring activities for inlet management projects as one overall subcategory request for funding separate from the beach management project funding requests; and
- Eliminates the requirement for the Legislature to designate one of the three highest ranked inlet management projects on the priority list as the Inlet of the Year.

The bill updates how DEP must develop and maintain a Comprehensive Long-Term Beach Management Plan that requires DEP to include, at a minimum, the following: a strategic beach management plan, critically eroded beaches report, and statewide long-range budget plan that includes a three-year work plan identifying beach nourishment and inlet management projects viable for implementation during the ensuing fiscal years.

The bill will have an insignificant negative fiscal impact on DEP.

The changes to the beach ranking criteria and the Comprehensive Long-Term Beach Management Plan criteria have an effective date of July 1, 2020. The other aspects of the bill have an effective date of July 1, 2019.

Most Recent Action: Favorable with CS by State Affairs Committee; 22 Yeas, 0 Nays

Attached documents: SB 446 (as filed) + staff analysis; HB 325 (as filed) + staff analysis

// WATER QUALITY IMPROVEMENTS

Senate Bill 1758 // Sen. Debbie Mayfield // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 1395 // Rep. Holly Raschein // Referred to: Agriculture & Natural Resources Subcommittee; Appropriations Committee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: IDENTICAL

Senate Bill 1758: Citing this act as the “Clean Waterways Act”; transferring the onsite sewage program of the Department of Health to the Department of Environmental Protection by a type two transfer; establishing a wastewater grant program within the Department of Environmental Protection; revising requirements for a basin management action plan; requiring a wastewater treatment plant to notify customers of unlawful discharges of raw or partially treated sewage into any waterway or aquifer within a specified timeframe, etc.

Most Recent Action: On Committee agenda - Environment and Natural Resources, 03/20/19, 4:00 pm

House Bill 1395: Transfers onsite sewage program of DOH to DEP by type two transfer; prohibits local government from approving certain building permits; requires DEP to develop agricultural remediation plan as part of each basin management action plan; establishes wastewater grant program within DEP; revises requirements for basin management action plan; requires estimated nutrient load reductions in such plans to exceed specified amount; requires each local government to develop wastewater treatment plan that meets certain requirements; requires local government to create onsite sewage treatment & disposal system remediation plan as part of basin management action plan; prohibits facilities for sanitary sewage disposal from disposing of any waste in Indian River Lagoon without first providing advanced waste treatment.

Most Recent Action: Referred to Agriculture & Natural Resources Subcommittee; Appropriations Committee; State Affairs Committee

Attached documents: SB 1758 (as filed)

// DEPARTMENT OF ENVIRONMENTAL PROTECTION

Senate Bill 1502 // Sen. Rob Bradley // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

HOUSE/SENATE BILL RELATIONSHIP: N/A

Senate Bill 1502: Transferring and reassigning functions and responsibilities of the Division of Law Enforcement relating to investigators of environmental crimes within the Fish and Wildlife Conservation Commission to the Division of Law Enforcement of the Department of Environmental Protection; providing requirements for a memorandum of agreement between the department and the commission regarding the responsibilities of the department and the commission; establishing the Division of Law Enforcement within the department, etc.

Most Recent Action: Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

Attached documents: None

// BOATING-RELATED APPROPRIATIONS

Boating Appropriations Highlights

2019-2020 Governor’s Proposed Budget

1755 SPECIAL CATEGORIES

FLORIDA RESILIENT COASTLINE INITIATIVE

FROM GENERAL REVENUE FUND 6,000,000

The funds in Specific Appropriation 1755 are provided for the purpose of assisting local governments with sea level rise planning and coastal resilience projects. Funds may also be used for storm resiliency, including the placement of sand to mitigate erosion and ensure public safety, or for the protection of coral reef health, including restoration and monitoring.

1766 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND

NONSTATE ENTITIES - FIXED CAPITAL OUTLAY CLEAN MARINA

FROM FEDERAL GRANTS TRUST FUND 1,960,000

FROM GRANTS AND DONATIONS TRUST FUND 200,000

1824 SPECIAL CATEGORIES

BOATING AND WATERWAYS ACTIVITIES

FROM MARINE RESOURCES CONSERVATION TRUST FUND 1,626,025

1829 SPECIAL CATEGORIES

BOATING SAFETY EDUCATION PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND 625,650

1830 FIXED CAPITAL OUTLAY

BOATING INFRASTRUCTURE

FROM FEDERAL GRANTS TRUST FUND . . . 3,900,000

1831 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND

NONSTATE ENTITIES - FIXED CAPITAL OUTLAY

DERELICT VESSEL REMOVAL PROGRAM

FROM GENERAL REVENUE FUND 1,400,000

1832 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND

NONSTATE ENTITIES - FIXED CAPITAL OUTLAY

FLORIDA BOATING IMPROVEMENT PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND 592,600

FROM STATE GAME TRUST FUND 1,250,000

1906 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND

NONSTATE ENTITIES - FIXED CAPITAL OUTLAY

ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM

FROM GENERAL REVENUE FUND 300,000

FROM FEDERAL GRANTS TRUST FUND . . . 300,000

Comparison to 2018-19 Appropriations

House Budget-HB 5001-Final

Enrolled

1694 SPECIAL CATEGORIES FLORIDA RESILIENT COASTLINE INITIATIVE

FROM GENERAL REVENUE FUND 3,600,000

From the funds provided in Specific Appropriation 1694, \$2,600,000 in recurring and \$1,000,000 in nonrecurring funds from the General Revenue Fund are provided for the Florida Resilient Coastline Initiative to assist local governments with storm

resiliency, sea level rise planning, coastal resilience projects, and coral reef health.

1703 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
CLEAN MARINA

FROM FEDERAL GRANTS TRUST FUND . . .	1,960,000	
FROM GRANTS AND DONATIONS TRUST FUND		200,000

1758 SPECIAL CATEGORIES BOATING SAFETY EDUCATION PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND	625,650
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1759 FIXED CAPITAL OUTLAY BOATING INFRASTRUCTURE

FROM FEDERAL GRANTS TRUST FUND . . .	3,900,000
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1760 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
DERELICT VESSEL REMOVAL PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND	1,000,000
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1761 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
FLORIDA BOATING IMPROVEMENT PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND	1,296,300
FROM STATE GAME TRUST FUND	1,250,000

1827 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM

FROM FEDERAL GRANTS TRUST FUND . . .	300,000
FROM MARINE RESOURCES CONSERVATION TRUST FUND	300,000

APPENDIX

// USE OF VESSEL REGISTRATION FEES

HB 529 (as filed) + Staff Analysis

// CERTIFICATES OF TITLES FOR VESSELS

SB 676 (as filed)

CS/HB 475 (as filed) + Staff Analysis

// VESSELS

HB 1319 (as filed) + Staff Analysis

// TOWING AND IMMOBILIZING OF VEHICLES AND VESSELS

SB 1792 (as filed)

HB 1237 (as filed) + Staff Analysis

// ANCHORING AND MOORING OF VESSELS OUTSIDE OF PUBLIC MOORING FIELDS

No attachments

// ANCHORED VESSELS

HB 1221 (as filed) + Staff Analysis

// COASTAL MANAGEMENT

SB 446 (as filed) + Staff Analysis

CS/HB 325 (as filed) + Staff Analysis

// WATER QUALITY IMPROVEMENTS

SB 1758 (as filed)

// DEPARTMENT OF ENVIRONMENTAL PROTECTION

No attachments

// CURRENT BILL TRACKING LIST

1 A bill to be entitled
 2 An act relating to use of vessel registration fees;
 3 amending s. 328.66, F.S.; authorizing a portion of
 4 county or municipal vessel registration fees to be
 5 used for specified purposes; providing an effective
 6 date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Subsection (1) of section 328.66, Florida
 11 Statutes, is amended to read:

12 328.66 County and municipality optional registration fee.—

13 (1) A ~~Any~~ county may impose an annual registration fee on
 14 vessels registered, operated, used, or stored on the waters of
 15 this state within its jurisdiction. This fee shall be 50 percent
 16 of the applicable state registration fee as provided in s.
 17 328.72(1) and not the reduced vessel registration fee specified
 18 in s. 328.72(18). However, the first \$1 of every registration
 19 fee imposed under this subsection shall be remitted to the state
 20 for deposit in the Save the Manatee Trust Fund created within
 21 the Fish and Wildlife Conservation Commission, and shall be used
 22 only for the purposes specified in s. 379.2431(4). All other
 23 moneys received from such fee shall be expended for the patrol,
 24 regulation, and maintenance of the lakes, rivers, and waters and
 25 for other boating-related activities of such municipality or

26 | county, which may include channel and other navigational
27 | dredging, the construction, expansion, or maintenance of public
28 | boat ramps and other public water access facilities, and
29 | associated engineering and permitting costs. A municipality that
30 | was imposing a registration fee before April 1, 1984, may
31 | continue to levy such fee, notwithstanding the provisions of
32 | this section.

33 | Section 2. This act shall take effect July 1, 2019.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 529 Use of Vessel Registration Fees
SPONSOR(S): Mariano
TIED BILLS: **IDEN./SIM. BILLS:** SB 436

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	11 Y, 0 N	Roth	Vickers
2) Local, Federal & Veterans Affairs Subcommittee	13 Y, 0 N	Renner	Miller
3) State Affairs Committee			

SUMMARY ANALYSIS

Florida law authorizes counties to assess an optional vessel registration fee of 50 percent of the applicable state vessel registration fee. The first \$1 of every optional registration fee is deposited into the Save the Manatee Trust Fund for purposes specified by law. All other moneys received from such fee must be expended for the patrol, regulation, and maintenance of the lakes, rivers, and waters and for other boating-related activities.

The bill specifies that the optional county and municipal vessel registration fee may be used for dredging, constructing, expanding or maintaining public boat ramps and other public water access facilities, including associated engineering and permitting fees.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Vessel Registration

By statute, vessels are registered and numbered uniformly throughout the state.¹ The goal is to make registration and numbering procedures for vessels similar to those of automobiles and airplanes and to provide for a vessel registration fee and certificate so as to determine the ownership of vessels which are operated, used, or stored on the waters of this state and to aid in the advancement of maritime safety.²

State Vessel Registration Fees

State vessel registration fees are based on the length of the vessel and range from a low of \$5.50 to a high of \$189.75.³ A portion of state vessel registration fees goes to the counties, with priority given to counties with more than 35,000 registered vessels.⁴ The portion of money going to the counties must be used for specific boating-related purposes.⁵ Section 328.72(1)(a), F.S., provides the following state vessel registration fees:

- Class A-1—Less than 12 feet in length, and all canoes to which propulsion motors have been attached, regardless of length: \$5.50 for each 12-month period registered.
- Class A-2—12 feet or more and less than 16 feet in length: \$16.25 for each 12-month period registered. To county: \$2.85 for each 12-month period registered.
- Class 1—16 feet or more and less than 26 feet in length: \$28.75 for each 12-month period registered. To county: \$8.85 for each 12-month period registered.
- Class 2—26 feet or more and less than 40 feet in length: \$78.25 for each 12-month period registered. To county: \$32.85 for each 12-month period registered.
- Class 3—40 feet or more and less than 65 feet in length: \$127.75 for each 12-month period registered. To county: \$56.85 for each 12-month period registered.
- Class 4—65 feet or more and less than 110 feet in length: \$152.75 for each 12-month period registered. To county: \$68.85 for each 12-month period registered.
- Class 5—110 feet or more in length: \$189.75 for each 12-month period registered. To county: \$86.85 for each 12-month period registered.
- Dealer registration certificate: \$25.50 for each 12-month period registered.

Local Vessel Registration Fees

In addition to the state vessel registration fees above, each county may opt to impose an annual registration fee on vessels registered, operated, used, or stored on the waters of Florida within the county's jurisdiction. The fee must be 50 percent of the applicable state registration fee.^{6,7} The first \$1 of every optional registration fee is deposited in the Save the Manatee Trust Fund⁸ to be used only for specific purposes found in statute.^{9,10} All other moneys received from such fee must be expended for the patrol, regulation, and maintenance of the lakes, rivers, and waters and for other boating-related

¹ Ch. 328, part II, F.S.

² Section 328.65, F.S.

³ Section 328.72(1)(a), F.S.

⁴ Section 328.72(15), F.S.

⁵ *Id.* The dredging of channels is prohibited as a use for the money by the counties.

⁶ Section 328.66(1), F.S.

⁷ Section 328.72(18), F.S., provides for reduced registration fees for vessels equipped with an emergency position-indicating radio beacon. The optional county and municipality vessel registration fees are based upon the registration fees for vessels without an emergency position-indicating radio beacon.

⁸ The Save the Manatee Trust Fund is created within the Fish and Wildlife Conservation Commission.

⁹ Section 379.2431(4), F.S., provides for annual funding of programs for marine mammals.

¹⁰ Section 328.66(1), F.S.

activities of such county or municipality.¹¹ Any county which imposes an annual registration fee may establish, by interlocal agreement with one or more of the municipalities located in the county, a distribution formula for dividing the proceeds of the fee or for use of the funds for boating-related projects located within the county or the municipality or municipalities.¹²

Currently, 15 counties have elected to impose the local vessel registration fee. The following chart¹³ summarizes the associated revenue by county for Fiscal Years (FY) 2014-2018.

County	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Grand Total
Broward	\$646,377	\$661,252	\$647,331	\$666,747	\$2,621,709
Charlotte	\$290,149	\$277,469	\$282,224	275,992	\$1,125,837
Collier	\$316,518	\$299,851	\$307,364	\$296,035	\$1,219,768
Hillsborough	\$474,200	\$458,475	\$463,849	\$456,017	\$1,852,543
Lee	\$670,734	\$644,349	\$637,290	\$596,483	\$2,548,858
Manatee	\$228,000	\$224,801	\$238,995	\$241,824	\$933,622
Martin	\$274,405	\$265,108	\$266,783	262,120	\$1,068,417
Miami-Dade	\$1,079,990	\$1,074,695	\$1,072,980	1,070,178	\$4,297,844
Monroe	\$425,664	\$429,461	\$426,726	\$386,365	\$1,668,217
Palm Beach	\$552,207	\$519,426	\$505,409	\$488,801	\$2,065,844
Pinellas	\$618,028	\$592,602	\$619,023	\$599,254	\$2,428,909
Polk	\$308,231	\$305,645	\$308,556	\$303,986	\$1,226,419
Santa Rosa		\$326			\$326
Sarasota	\$298,934	\$290,950	\$294,975	\$291,726	\$1,176,586
Volusia	\$291,980	\$288,299	\$295,899	\$285,635	\$1,161,814
Grand Total	\$6,475,425	\$6,332,715	\$6,367,410	\$6,221,169	\$25,396,720

dging

Dredging means excavation in wetlands or other surface waters or excavation in uplands that creates wetlands or other surface waters. Filling means deposition of any material (such as sand, dock pilings or seawalls) in wetlands or other surface waters.¹⁴

Any activity on or over wetlands and other surface waters (dredging and filling) is regulated by the Department of Environmental Protection (DEP) and the five water management districts through the Environmental Resources Permitting (ERP) program. Dredging and filling is also regulated by the federal government under a separate program administered by the U.S. Army Corps of Engineers. The process is initiated by submitting a joint (interagency) application to DEP or to one of the above water management districts. The appropriate agency is determined by a division of responsibilities specified in Operating Agreements between the agencies. Upon receipt of the application by DEP or water management district, a copy is also forwarded to the Corps to initiate the federal permitting process.¹⁵

Effect of the Bill

The bill amends s. 328.66(1), F.S., specifying that a county or municipality may use its optional vessel registration fee for boating activities including channel and other navigational dredging, the construction, expansion, or maintenance of public boat ramps and other public water access facilities, and associated engineering and permitting costs.

¹¹ *Id.*

¹² Section 328.66(2), F.S.

¹³ Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: HB 529, (January 4, 2019), on file with the Transportation & Infrastructure Subcommittee.

¹⁴ Department of Environmental Protection, *ERP Dredging and Filing*, available at <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-dredging-and-filing> (last visited February 5, 2019).

¹⁵ *Id.*

The bill does not alter existing regulatory or permitting requirements.

B. SECTION DIRECTORY:

Section 1: Amends s. 328.66, F.S., relating to county and municipality optional vessel registration fee.

Section 2: Provides an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill does not have a fiscal impact on local governments; however, the bill does specify additional eligible uses for the existing optional vessel registration fee imposed by counties.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

By Senator Hooper

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1 A bill to be entitled
2 An act relating to certificates of title for vessels;
3 creating s. 328.001, F.S.; providing a short title;
4 creating s. 328.0015, F.S.; defining terms; amending
5 s. 328.01, F.S.; revising requirements for application
6 for, and information to be included in, a certificate
7 of title for a vessel; creating s. 328.015, F.S.;
8 requiring the Department of Highway Safety and Motor
9 Vehicles to retain certain information relating to
10 ownership and titling of vessels; requiring the
11 department to furnish certain information upon
12 request; creating s. 328.02, F.S.; providing that
13 local law governs all issues relating to a certificate
14 of title; specifying when a vessel becomes covered by
15 such certificate; amending s. 328.03, F.S.; requiring
16 a vessel owner to deliver an application for a
17 certificate of title to the department by a specified
18 time; revising circumstances under which a vessel must
19 be titled by this state; providing requirements for
20 issuing, transferring, or renewing the number of an
21 undocumented vessel issued under certain federal
22 provisions; deleting provisions relating to operation,
23 use, or storage of a vessel; deleting provisions
24 relating to selling, assigning, or transferring a
25 vessel; specifying that a certificate of title is
26 prima facie evidence of the accuracy of the
27 information in the record that constitutes the
28 certificate; creating s. 328.04, F.S.; providing
29 requirements for the content of a certificate of

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

43 specifying effect of possession of a certificate of
44 title; providing construction; amending s. 328.09,
45 F.S.; providing duties of the department relating to
46 creation, issuance, refusal to issue, or cancellation
47 of a certificate of title; providing for a hearing;
48 creating s. 328.101, F.S.; specifying that a
49 certificate of title and certain other records are
50 effective despite missing or incorrect information;
51 amending s. 328.11, F.S.; providing requirements for
52 obtaining a duplicate certificate of title; creating
53 s. 328.12, F.S.; providing requirements for the
54 determination and the perfection of a security
55 interest in a vessel; providing applicability;
56 requiring the department to adopt rules; creating s.
57 328.125, F.S.; providing requirements for the delivery
58 of a statement of termination of a security interest;

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

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

89 providing that the principles and law of equity

90 supplement the provisions of the act; amending ss.

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

92 provisions and cross-references to changes made by the

93 act; providing construction and applicability

94 regarding transactions, certificates of title, and

95 records entered into or created, actions or

96 proceedings commenced, and security interests

97 perfected before the effective date of the act;

98 providing applicability; providing an effective date.

99

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

101

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

103 read:

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

105 Certificate of Title for Vessels Act.”

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

107 to read:

108 328.0015 Definitions.—

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

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

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

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

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

114 67.99.

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

116 vessel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

214 1. Make or adopt a tangible symbol; or

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

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

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

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

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

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

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

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

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

280 328.01 Application for certificate of title.—

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

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

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

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

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

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

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

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

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

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

305 4. The overall length of the vessel;

306 5. The vessel type;

307 6. The hull material;

308 7. The propulsion type;

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

310 9. The fuel type, if any;

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

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

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

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

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

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

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

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

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

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

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

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

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

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349 applicant as the owner; or

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

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

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

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

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

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378 of title by filing an application accompanied by the prescribed
379 fee.

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

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

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

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

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

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

404 ~~2. A certificate of inspection from the Fish and Wildlife~~
405 ~~Conservation Commission and a notarized statement of the builder~~
406 ~~or its equivalent, whichever is acceptable to the Department of~~

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407 ~~Highway Safety and Motor Vehicles, if the vessel is 16 feet or~~
408 ~~more in length.~~

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

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

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

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436 ~~sale applicable to the vessel.~~

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

450 ~~(b) If the application for transfer of title is based upon~~
451 ~~a contractual default, the recorded lienholder shall establish~~
452 ~~proof of right to ownership by submitting with the application~~
453 ~~the original certificate of title and a copy of the applicable~~
454 ~~contract upon which the claim of ownership is made. If the claim~~
455 ~~is based upon a court order or judgment, a copy of such document~~
456 ~~shall accompany the application for transfer of title. If, on~~
457 ~~the basis of departmental records, there appears to be any other~~
458 ~~lien on the vessel, the certificate of title must contain a~~
459 ~~statement of such a lien, unless the application for a~~
460 ~~certificate of title is either accompanied by proper evidence of~~
461 ~~the satisfaction or extinction of the lien or contains a~~
462 ~~statement certifying that any lienholder named on the last-~~
463 ~~issued certificate of title has been sent notice by certified~~
464 ~~mail, at least 5 days before the application was filed, of the~~

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

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

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494 ~~the department.~~

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

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

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

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

520 b. The signatures of every coowner or of the respective
521 personal representatives of the coowners if the vessel is
522 registered in the names of two or more persons as coowners in

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523 the conjunctive by the use of the word "and."
524

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

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

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

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

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

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

554 328.015 Duties and operation of the department.-

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

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

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

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

578 (a) Whether the files of the department indicate, as of a
579 date and time specified by the department, but not a date
580 earlier than 3 days before the department received the request,

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581 any certificate of title, security interest, termination
582 statement, or title brand that relates to a vessel:

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

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

586 or

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

588 (b) With respect to the vessel:

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

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

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

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

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

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

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

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

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

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

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

623 328.03 Certificate of title required.-

624 (1) Except as otherwise provided in subsections (2) and
625 (3), each vessel that is operated, used, or stored on the waters
626 of this state must be titled by this state pursuant to this
627 part, and the owner of a vessel for which this state is the
628 state of principal use shall deliver to the department an
629 application for a certificate of title for the vessel, with the
630 applicable fee, not later than 20 days after the later of:

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

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

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

635 (a) A documented vessel;

636 (b) A foreign-documented vessel;

637 (c) A barge;

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

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

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668 been delivered to the department.

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

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

686 (4) An additional \$10 fee shall be charged against the
687 purchaser or transferee if he or she files a title transfer
688 application after the 20-day ~~30-day~~ period. The county tax
689 collector shall be entitled to retain \$5 of the additional
690 amount.

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

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

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

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

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

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

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

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

731 328.04 Content of certificate of title.—

732 (1) A certificate of title must contain:

733 (a) The date the certificate was created;

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

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

738 (d) The hull identification number;

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

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

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

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

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

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

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

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

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

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

777 328.045 Title brands.—

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

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

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

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

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

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

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

811 328.055 Maintenance of and access to files.—

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

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813 submitted to the department, the department shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

938 328.11 Duplicate certificate of title.—

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

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

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

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

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958 certificate of title.

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

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

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

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

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

989 328.12 Perfection of security interest.-

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

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

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

- 1011 (a) The name of the owner of record;
1012 (b) The name and mailing address of the secured party;
1013 (c) The hull identification number for the vessel; and
1014 (d) If the department has created a written certificate of
1015 title for the vessel, the certificate.

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

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

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

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

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

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

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

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

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

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

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

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

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

1072 328.125 Termination statement.—

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

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

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

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

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

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

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

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

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

1113 328.14 Rights of purchaser other than secured party.-

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

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

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

1125 328.145 Rights of secured party.-

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

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

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

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

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

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

1148 328.15 Notice of lien on vessel; recording.-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1427 328.165 Cancellation of certificates.—

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

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

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

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

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

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

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

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

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

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

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1480 certificate.

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

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

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

1501 328.22 Transfer of ownership.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1583 328.24 Transfer by operation of law.—

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

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

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

1590 (c) Through other legal process.

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

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

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

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1596 ownership interest or right to acquire the ownership interest;

1597 (c) A statement that:

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

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

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

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

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

1619 (a) Accept the statement;

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

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

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

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1625 been delivered to the department;

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

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

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

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

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

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

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

1643 409.2575 Liens on motor vehicles and vessels.—

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

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

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

1663 705.103 Procedure for abandoned or lost property.—

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

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

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

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

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

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

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

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

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

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

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

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

1761 (c) *Compliance with conditions.-*

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

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

1769 (I) Expiration of the cancellation period.

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1770 (II) Completion of construction.

1771 (III) Closing.

1772 (IV) Either:

1773 (A) Execution, delivery, and recordation by each

1774 interestholder of the nondisturbance and notice to creditors

1775 instrument, as described in this section; or

1776 (B) Transfer by the developer of legal title to the subject

1777 accommodations and facilities, or all use rights therein, into a

1778 trust satisfying the requirements of subparagraph 4. and the

1779 execution, delivery, and recordation by each other

1780 interestholder of the nondisturbance and notice to creditors

1781 instrument, as described in this section.

1782 b. A certified copy of each recorded nondisturbance and

1783 notice to creditors instrument.

1784 c. One of the following:

1785 (I) A copy of a memorandum of agreement, as defined in s.

1786 721.05, together with satisfactory evidence that the original

1787 memorandum of agreement has been irretrievably delivered for

1788 recording to the appropriate official responsible for

1789 maintaining the public records in the county in which the

1790 subject accommodations and facilities are located. The original

1791 memorandum of agreement must be recorded within 180 days after

1792 the date on which the purchaser executed her or his purchase

1793 agreement.

1794 (II) A notice delivered for recording to the appropriate

1795 official responsible for maintaining the public records in each

1796 county in which the subject accommodations and facilities are

1797 located notifying all persons of the identity of an independent

1798 escrow agent or trustee satisfying the requirements of

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

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

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

1812 (I) Expiration of the cancellation period.

1813 (II) Completion of construction.

1814 (III) Closing.

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

1818 c. Evidence that each accommodation and facility:

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

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

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

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1828 requirements of subparagraph 4.

1829 d. Evidence that the timeshare estate:

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

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

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

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

1845 (I) Expiration of the cancellation period.

1846 (II) Completion of construction.

1847 (III) Closing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1932 4. Trust.—

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

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

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

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

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

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

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

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

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

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

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

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

2006 5. Owners' association.—

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

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

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

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

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2031 plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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2118 (b) October 1, 2022.

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

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

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

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, 2025.

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, 2022.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 475 Certificates of Title for Vessels
SPONSOR(S): Transportation & Infrastructure Subcommittee, Williamson
TIED BILLS: **IDEN./SIM. BILLS:** SB 676 SB 676

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	13 Y, 0 N, As CS	Roth	Vickers
2) Transportation & Tourism Appropriations Subcommittee		Hicks	Davis
3) State Affairs Committee			

SUMMARY ANALYSIS

The bill incorporates the Uniform Certificate of Title for Vessels Act into Florida's existing vessel titling law. In doing this, the bill includes numerous changes to the title application requirements, information that must be included on the certificate of title, and the Department of Highway Safety and Motor Vehicle's (DHSMV's) maintenance and public access to vessel title files. In general, the bill:

- Cites the short title as the, "Uniform Certificate of Title for Vessels Act."
- Creates a number of new definitions for purposes of vessel titling.
- Requires an application for a certificate of title to contain a detailed description of the vessel.
- Provides that state law governs all issues relating to the certificate of title for vessels.
- Requires a vessel owner to deliver an application and fee for certificate of title for the vessel, no later than 30 days from the date of ownership or the date Florida becomes the state of principal use.
- Provides new requirements for the contents of a certificate of title.
- Provides certain responsibilities applicable to an owner and insurer of a hull-damaged vessel.
- Requires DHSMV to maintain the information contained in all certificates of title and the information submitted with the application.
- Specifies that possession of a certificate of title does not by itself provide a right to obtain possession of a vessel.
- Provides DHSMV with certain duties relating to creation, issuance, refusal to issue, or cancellation of a certificate of title.
- Specifies that a certificate of title is effective even if it contains scrivener's errors or does not contain certain required information that DHSMV determines to be inconsequential to the issuing of a certificate of title.
- Provides additional requirements for obtaining a duplicate certificate of title.
- Provides requirements for the determination and perfection of a security interest in a vessel.
- Provides requirements for the delivery of a statement of the termination of a security interest.
- Provides requirements for the transfer of ownership in a vessel.

DHSMV estimates an insignificant positive fiscal impact on its revenues and an indeterminate negative impact on its expenditures that can be absorbed within existing resources. See Fiscal Analysis for details.

This bill has an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill revises Part I of Chapter 328, F.S., governing vessel title certificates and liens, by enacting the Uniform Certificate of Title for Vessels Act.

Current Situation

Vessel Titling

Application for Certificate of Title

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

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

The owner of a homemade vessel must establish proof of ownership by submitting with the application a notarized statement of the builder (if the vessel is less than 16 feet in length) or a certificate of inspection from the Fish and Wildlife Conservation Commission and a notarized statement of the builder (if the vessel is 16 feet or more in length).⁴

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

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

In making application for transfer of title from a deceased titled owner, the new owner or surviving co-owner must establish proof of ownership by submitting with the application the original certificate of title and the decedent's probated last will and testament or letters of administration appointing the personal

¹ Department of Highway Safety and Motor Vehicles, *Application for Certificate of Title With/Without Registration*, available at <https://www.flhsmv.gov/dmv/forms/btr/82040.pdf> (last visited January 30, 2019).

² Section 328.01(1)(a), F.S.

³ Section 328.01(2)(a)&(b), F.S.

⁴ Section 328.01(2)(c), F.S.

⁵ Section 328.01(2)(d), F.S.

⁶ Section 328.01(2)(e), F.S.

⁷ Section 328.01(3)(a)&(b), F.S.

representative of the decedent. In lieu of a probated last will and testament or letters of administration, a copy of the decedent's death certificate, a copy of the decedent's last will and testament, and an affidavit by the decedent's surviving spouse or heirs affirming rights of ownership may be accepted by DHSMV.⁸

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

Certificate of Title Required

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

- A vessel operated, used, or stored exclusively on private lakes and ponds;
- A vessel owned by the United States Government;
- A non-motor-powered vessel less than 16 feet in length;
- A federally documented vessel;
- A vessel already covered by a registration number, if the vessel is not located in this state for a period in excess of 90 consecutive days;
- A vessel from a country other than the United States temporarily used, operated, or stored on the waters of this state for a period that is not in excess of 90 days;
- An amphibious vessel for which a vehicle title is issued by DHSMV;
- A vessel used solely for demonstration, testing, or sales promotional purposes by the manufacturer or dealer; or
- A vessel owned and operated by the state.¹⁰

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

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

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

Duplicate Certificate of Title

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

⁸ Section 328.01(3)(c), F.S.

⁹ Section 328.01(3)(d), F.S.

¹⁰ Section 328.03(1), F.S.

¹¹ Section 328.03(2), F.S.

¹² Section 328.03(3), F.S.

¹³ Section 328.03(4), F.S.

¹⁴ Section 328.09, F.S.

¹⁵ Section 328.11(1)-(2), F.S.

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

Notice of Lien on Vessel and Recording

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

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

The lien must be recorded by DHSMV.¹⁷ DHSMV will not record a lien unless the official certificate of title is furnished with the notice of lien. Once the lien is recorded, the certificate of title will be held by the first lien holder until the lien is paid in full.¹⁸

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

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

Once the lien is paid in full, the lienholder must provide the owner with a satisfaction of lien, which will be filed with DHSMV.²¹ DHSMV may promulgate rules to substitute the formal satisfaction of liens.²² DHSMV may collect a fee of \$1 for the recording of each notice of lien, but no fee may be collected for recording the satisfaction of a lien.²³

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

If the original certificate of title cannot be returned to DHSMV by the lienholder, and all liens have been satisfied, upon application by the owner, a duplicate copy of the certificate of title without lien will be

¹⁶ Section 328.11(3)-(4), F.S.

¹⁷ Section 328.15(1), F.S.

¹⁸ Section 328.15(2)(a), F.S.

¹⁹ Section 328.15(2)(b), F.S.

²⁰ Section 328.15(2)(c), F.S.

²¹ Section 328.15(3), F.S.

²² Section 328.15(4), F.S.

²³ Section 328.15(6), F.S.

²⁴ Section 328.15(7), F.S.

²⁵ Section 328.15(9), F.S.

issued to the owner.²⁶ If the original lienholder assigns his or her lien to another person, the new lienholder may have his or her name substituted as lienholder.²⁷

Uniform Law Commission

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

Uniform Certificate of Title for Vessels Act

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

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

Few states currently brand the title of vessels, with the result that vessels with hidden hull damage are often salvaged and resold after cosmetic repairs without disclosure of the damage. The UCOTVA creates two title brands, one that owners are required to place on the title and a second, supervening brand that insurers are required to place on the title. The act encourages compliance with its branding rules by imposing an administrative penalty on owners who fail to comply and by having insurers who fail to comply make a warranty that the hull is merchantable.³² The UCOTVA has been enacted in Virginia (2013), Connecticut (2014), Washington D.C. (2015), and Hawaii (2018).³³

Proposed Changes

Section 1 – Short Title

The bill creates s. 328.001, F.S., citing the short title as the, “Uniform Certificate of Title for Vessels Act”.

²⁶ Section 328.15(8), F.S.

²⁷ Section 328.15(11), F.S.

²⁸ Uniform Law Commission, *About Us*, available at <http://www.uniformlaws.org/aboutulc/overview> (last visited January 29, 2019).

²⁹ *Id.*

³⁰ *Id.*

³¹ Esson McKenzie Miller, Jr., et. al., *Uniform Certificate of Title Act for Vessels*, National Conference of Commissioner on Uniform State Laws, March 9, 2011, available at

file:///C:/Users/Roth.Danielle/Downloads/CaBOgC2RZ629ydfZfJIA_COTAV_%20Post%20March%202011%20Cmte%20Mtg%20Draft_030911.pdf (last visited January 29, 2019).

³² *Id.* at p. 2-3.

³³ Uniform Law Commission, *Certificate of Title for Vessels Act*, available at <https://www.uniformlaws.org/committees/community-home?CommunityKey=61fb3255-092e-4e91-982b-6fa1ae66fd82> (last visited January 29, 2019).

Section 2 - Definitions

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

- "Barge" means a vessel that is not self-propelled or fitted for propulsion by sail, paddle, oar, or similar device.
- "Builder's certificate" means a certificate of the facts of build of a vessel described in 46 C.F.R. s. 67.99.
- "Buyer" means a person who buys or contracts to buy a vessel.
- "Cancel," with respect to a certificate of title, means to make the certificate ineffective.
- "Certificate of origin" means a record created by a manufacturer or importer as the manufacturer's or importer's proof of identity of a vessel. The term includes a manufacturer's certificate or statement of origin and an importer's certificate or statement of origin. The term does not include a builder's certificate.
- "Certificate of title" means a record, created by the department or by a governmental agency of another jurisdiction under the law of that jurisdiction that is designated as a certificate of title by the department or agency and is evidence of ownership of a vessel.
- "Dealer" means a person, including a manufacturer, in the business of selling vessels.
- "Department" means the Department of Highway Safety and Motor Vehicles.
- "Documented vessel" means a vessel covered by a certificate of documentation issued pursuant to 46 U.S.C. s. 12105. The term does not include a foreign-documented vessel.
- "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- "Electronic certificate of title" means a certificate of title consisting of information that is stored solely in an electronic medium and is retrievable in perceivable form.
- "Foreign-documented vessel" means a vessel the ownership of which is recorded in a registry maintained by a country other than the United States which identifies each person who has an ownership interest in a vessel and includes a unique alphanumeric designation for the vessel.
- "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.
- "Hull damaged" means compromised with respect to the integrity of a vessel's hull by a collision, allision, lightning strike, fire, explosion, running aground, or similar occurrence, or the sinking of a vessel in a manner that creates a significant risk to the integrity of the vessel's hull.
- "Hull identification number" means the alphanumeric designation assigned to a vessel pursuant to 33 C.F.R. part 181.
- "Lien creditor," with respect to a vessel, means:
 1. A creditor that has acquired a lien on the vessel by attachment, levy, or the like;
 2. An assignee for benefit of creditors from the time of assignment;
 3. A trustee in bankruptcy from the date of the filing of the petition; or
 4. A receiver in equity from the time of appointment.
- "Owner" means a person who has legal title to a vessel.
- "Owner of record" means the owner indicated in the files of the department or, if the files indicate more than one owner, the one first indicated.
- "Person" means an individual, corporation, business trust, estate, trust, statutory trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- "Purchase" means to take by sale, lease, mortgage, pledge, consensual lien, security interest, gift, or any other voluntary transaction that creates an interest in a vessel.
- "Purchaser" means a person who takes by purchase.
- "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- "Secured party," with respect to a vessel, means a person:
 1. In whose favor a security interest is created or provided for under a security agreement, regardless of whether any obligation to be secured is outstanding;
 2. Who is a consignor as defined under chapter 679; or

3. Who holds a security interest arising under s. 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5).
- "Secured party of record" means the secured party whose name is indicated as the name of the secured party in the files of the department or, if the files indicate more than one secured party, the one first indicated.
 - "Security interest" means an interest in a vessel which secures payment or performance of an obligation if the interest is created by contract or arises under s. 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5). The term includes any interest of a consignor in a vessel in a transaction that is subject to chapter 679. The term does not include the special property interest of a buyer of a vessel on identification of that vessel to a contract for sale under s. 672.501, but a buyer also may acquire a security interest by complying with chapter 679. Except as otherwise provided in s. 672.505, the right of a seller or lessor of a vessel under chapter 672 or chapter 680 to retain or acquire possession of the vessel is not a security interest, but a seller or lessor also may acquire a security interest by complying with chapter 679. The retention or reservation of title by a seller of a vessel notwithstanding shipment or delivery to the buyer under s. 672.401 is limited in effect to a reservation of a security interest. Whether a transaction in the form of a lease creates a security interest is determined as provided in part II of chapter 671.
 - "Sign" means, with present intent to authenticate or adopt a record, to:
 1. Make or adopt a tangible symbol; or
 2. Attach to or logically associate with the record an electronic symbol, sound, or process.
 - "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
 - "State of principal use" means the state on the waters of which a vessel is or will be used, operated, navigated, or employed more than on the waters of any other state during a calendar year.
 - "Title brand" means a designation of previous damage, use, or condition that must be indicated on a certificate of title.
 - "Transfer of ownership" means a voluntary or involuntary conveyance of an interest in a vessel.
 - "Vessel" means a watercraft used or capable of being used as a means of transportation on water, except:
 1. A seaplane;
 2. An amphibious vehicle for which a certificate of title is issued pursuant to chapter 319 or a similar statute of another state;
 3. Watercraft less than 16 feet in length and propelled solely by sail, paddle, oar, or an engine of less than 10 horsepower;
 4. Watercraft that operate only on a permanently fixed, manufactured course and the movement of which is restricted to or guided by means of a mechanical device to which the watercraft is attached or by which the watercraft is controlled;
 5. A stationary floating structure that:
 - a. Does not have and is not designed to have a mode of propulsion of its own;
 - b. Is dependent for utilities upon a continuous utility hookup to a source originating on shore; and
 - c. Has a permanent, continuous hookup to a shoreside sewage system.
 6. Watercraft owned by the United States, a state, or a foreign government or a political subdivision of any of them; and
 7. Watercraft used solely as a lifeboat on another watercraft.
 - "Vessel number" means the alphanumeric designation for a vessel issued pursuant to 46 U.S.C. s. 12301.
 - "Written certificate of title" means a certificate of title consisting of information inscribed on a tangible medium.

Additionally, the bill incorporates numerous terms defined elsewhere in Florida Statutes.

Section 3 – Application for Certificate of Title

The bill amends s. 328.01, F.S., requiring additional information on the application for a certificate of title. The bill requires that an application for certificate of title must be signed by the applicant and contain:

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

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

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

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

Section 4 – Duties and Operation of DHSMV

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

A person who submits a record to DHSMV may request an acknowledgement of the filing by DHSMV. DHSMV must send the person an acknowledgment showing the hull identification number, the information in the filed record, and the date and time the record was received. DHSMV must send additional information to any person who requests it and pays a fee. DHSMV must send the requested information in a record that is self-authenticating.

Section 5 – Applicability of State Law

The bill creates s. 328.02, F.S., providing that state law, rather than federal law governs vessels. The state law of the jurisdiction under whose certificate of title a vessel is covered governs all issues relating to the certificate from the time the vessel becomes covered by the certificate³⁴ until the vessel becomes covered by another certificate or becomes a documented vessel.

Section 6 – Application Submission and Exceptions

The bill amends s. 328.03, F.S., by requiring a vessel owner to deliver an application and fee for certificate of title for the vessel, not later than 30 days from the date of ownership or the date Florida becomes the state of principal use.

The bill revises exceptions for titling vessels in Florida. The bill creates the following new exceptions:

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

The bill also deletes the following current exceptions:

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

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

The bill deletes the provisions providing that a vessel may be operated, used, or stored for up to 180 days after the date of application for a certificate of title while the application is pending. The bill also deletes the provisions providing that when selling, assigning, or transferring a titled vessel, the seller must deliver a valid certificate of title to the purchaser.

³⁴ A vessel becomes covered by a certificate of title when an application for the certificate and the applicable fee are delivered to DHSMV in accordance with this chapter or to the governmental agency that creates a certificate in another jurisdiction in accordance with the law of that jurisdiction.

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

Section 7 – Content of the Certificate of Title

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

- The date the certificate was created;
- The name of the owner of record and, if not all owners are listed, an indication that there are additional owners indicated in DHSMV's files;
- The mailing address of the owner of record;
- The hull identification number;
- A description of the vessel as required in s. 328.01(2)(e);
- The name and mailing address of the secured party of record; and
- All title brands indicated in DHSMV's files.

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

Section 8 – Branded Titles for Hull-Damaged Vessels

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

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

Before an insurer transfers an ownership interest in a hull-damaged vessel that is covered by a certificate of title created by DHSMV, the insurer must deliver an application to DHSMV and include the title brand "Hull Damaged." Once DHSMV receives the above information, DHSMV has 30 days to create a new certificate that indicates that the vessel is branded "Hull Damaged." An owner or insurer who fails to comply with the above disclosures is subject to a noncriminal infraction of \$5,000 for the first offense, \$15,000 for a second offense, and \$25,000 per offense for every subsequent offense.

Section 9 – Maintenance of Access to Vessel Title Files

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

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

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

Section 10 – Notice of Creation of Title

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

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

Section 11 – Limitations on Possession of Title

The bill creates s. 328.065, F.S., specifying that possession of a certificate of title does not by itself provide a right to obtain possession of a vessel.

Section 12 – Duties and Responsibilities in General

The bill amends s. 328.09, F.S., providing DHSMV with duties relating to creation, issuance, refusal to issue, or cancellation of a certificate of title. Unless an application for a certificate of title is rejected, DHSMV must create a certificate for the vessel not later than 30 days after delivery of the application to DHSMV. DHSMV will create an electronic certificate of title unless the owner requests a written certificate.

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

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

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

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

Lastly, the bill provides that DHSMV's decision to reject an application for a certificate of title or cancel a certificate of title is subject to a hearing whereby the owner may present evidence in support of or opposition to cancellation or rejection of a certificate of title.

Section 13 – Effect of Incorrect or Incomplete Information

The bill creates s. 328.101, F.S., specifying that a certificate of title is effective even if it contains unintended or incorrect scrivener's errors or does not contain certain required information that DHSMV determines to be inconsequential to the issuing of a certificate of title.

Section 14 – Duplicate Certificate of Title

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

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

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

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

Section 15 – Requirements for Security Interest in a Vessel

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

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

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

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

DHSMV is not required to provide a receipt providing the name of the assignee of a secured party. A purchaser of a vessel subject to a security interest who obtains a release from the secured party takes free of the security interest and of the rights of a transferee.

The bill provides applicability providing that s. 328.12, F.S, does not apply to a security interest:

- A purchaser of a vessel subject to a security interest who obtains a release from the secured party;
- In a barge for which no application for a certificate of title has been delivered to DHSMV; or
- In a vessel before delivery if the vessel is under construction, or completed, pursuant to contract and for which no application for a certificate has been delivered to DHSMV.

However, s. 328.12, F.S, does apply if a certificate of documentation for a documented vessel is deleted or canceled.

Section 16 – Termination of Security Interest

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

- Twenty days after the secured party receives a signed demand from an owner for a termination statement; or
- If the vessel is consumer goods, 30 days after there is no obligation secured by the vessel.

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

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

Lastly, the bill provides that a secured party that fails to comply with s. 328.125, F.S., is liable for any loss that the secured party had reason to know might result from its lack of compliance.

Section 17 – Rights of Non-Secured Parties

The bill creates s. 328.14, F.S., providing for the rights of a purchaser of a vessel who is not a secured party. A buyer is afforded protection under the Uniform Commercial Code even if an existing certificate of title was not signed and delivered to the buyer.

Section 18 – Rights of Secured Parties

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

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

Section 19 – Repeal of Notice of Lien on Vessel

The bill amends s. 328.15, F.S., by deleting sections 1, 2, and 6 and provides a repeal date of October 1, 2025, for remaining sections (1), (2), and (4) – (8).

Section 22 – Application for Transfer of Ownership and Termination of Security Interest

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

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

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

The bill authorizes DHSMV to require a bond, indemnity, or other security for a vessel title that has a transfer of ownership or security interest and is titled without a signed certificate of title. DHSMV may require the applicant to post a reasonable bond or provide an equal source of indemnity or security. Unless DHSMV receives a claim for indemnity within one year after creation of the certificate of title, DHSMV must release any bond, indemnity, or other security at the request of the applicant. DHSMV is

not liable to any person for creating a certificate of title in good faith based on the information provided by the applicant. Any applicant who intentionally submits erroneous or fraudulent information is subject to a noncriminal infraction of \$5,000 for the first offense, \$15,000 for a second offense, and \$25,000 per offense for every subsequent offense.

Section 23 – Voluntary Transfer of Vessel Title Ownership

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

- If the transferor's interest is noted on the paper certificate, the transferor must hand sign or sign electronically, if available the certificate and deliver it to the transferee. If the transferor does not have possession of the certificate, the person in possession of the certificate has a duty to facilitate the transfer.
- If the certificate of title is an electronic certificate, the transferor must sign and deliver to the transferee a record evidencing the transfer of ownership to the transferee.
- The transferee has a right to enforce, by specific performance, the transfer of the certificate of title from the transferor.

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

Section 24 – Transfer of Ownership by Secured Party

The bill creates s. 328.23, F.S., providing a definition for "secured party's transfer statement". "Secured party's transfer statement" means a record signed by the secured party of record stating:

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

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

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

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

Section 25 – Transfer by Operation of Law

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

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

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

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

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

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

The bill does not apply to defaults under the Uniform Commercial Code.

Section 26 – Principles of Law and Equity

The bill creates s. 328.25, F.S., providing that the principles and law of equity supplement the provisions of this bill.

Section 27 – Rule-Making Authority

The bill creates s. 328.41, F.S., specifying that DHSMV has the authority to adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to implement the provisions of this act.

Section 31 – Grandfather Provision

The bill grandfathers in the rights, duties, and interests flowing from a transaction, certificate of title, or record created on or before the effective date of this act. Except for in certain circumstances below, a security interest that is enforceable immediately before the effective date of this act and would have priority over the rights of a person who becomes a lien creditor at that time is a perfected security interest under this act.

However, a security interest perfected immediately before the effective date of this act remains perfected until the earlier of:

- The time perfection would have ceased under the law under which the security interest was perfected; or
- Three years after the effective date of this act.

Section 32 – Retroactive Application

The bill provides that subject to section 25 (transfer by operation of law), this act applies to any transaction, certificate of title, or record relating to a vessel, even if the transaction, certificate of title, or record was entered into or created before the effective date of this act.

Section 33 – Effective Date

Provides an effective date of July 1, 2022.

Sections 20, 21, 28, 29 and 30 – Conforming Provisions and Cross-References

The bill amends ss. 328.16, 328.165, 409.2575, 705.103, and 721.08, F.S., conforming provisions and cross-references to changes made by the bill.

B. SECTION DIRECTORY:

Section 1: Creates s. 328.001, F.S., relating to short title.

Section 2: Creates s. 328.0015, F.S., relating to definitions.

Section 3: Amends s. 328.01, F.S., relating to application for certificate of title.

Section 4: Creates s. 328.015, F.S., relating to duties and operation of the department.

Section 5: Creates s. 328.02, F.S., relating to law governing vessel covered by certificate of title.

Section 6: Amends s. 328.03, F.S., relating to certificate of title required.

Section 7: Creates s. 328.04, F.S., relating to content of certificate of title.

Section 8: Creates s. 328.045, F.S., relating to title brands.

Section 9: Creates s. 328.055, F.S., relating to maintenance of and access to files.

Section 10: Creates s. 328.06, F.S., relating to action required on creation of certificate of title.

Section 11: Creates s. 328.065, F.S., relating to effect of possession of certificate of title; judicial process.

Section 12: Amends s. 328.09, F.S., relating to refusal to issue and authority to cancel a certificate of title or registration.

Section 13: Creates s. 328.101, F.S., relating to effect of missing or incorrect information.

Section 14: Amends s. 328.11, F.S., relating to duplicate certificate of title.

Section 15: Creates s. 328.12, F.S., relating to perfection of security interest.

Section 16: Creates s. 328.125, F.S., relating to termination statement.

Section 17: Creates s. 328.14, F.S., relating to rights of purchaser other than secured party.

- Section 18:** Creates s. 328.145, F.S., relating to rights of secured party.
- Section 19:** Amends s. 328.15, F.S., relating to notice of lien on vessel; recording.
- Section 20:** Amends s. 328.16, F.S., relating to issuance in duplicate; delivery; liens; and encumbrances.
- Section 21:** Amends s. 328.165, F.S., relating to cancellation of certificates.
- Section 22:** Creates s. 328.215, F.S., relating to application for transfer of ownership or termination of security interest without certificate of title.
- Section 23:** Creates s. 328.22, F.S., relating to transfer of ownership.
- Section 24:** Creates s. 328.23, F.S., relating to transfer of ownership by secured party's transfer statement.
- Section 25:** Creates s. 328.24, F.S., relating to transfer by operation of law.
- Section 26:** Creates s. 328.25, F.S., relating to supplemental principles of law and equity.
- Section 27:** Creates s. 328.41, F.S., relating to rulemaking authority.
- Section 28:** Amends s. 409.2575, F.S., relating to liens on motor vehicles and vessels.
- Section 29:** Amends s. 705.103, F.S., relating to procedure for abandoned or lost property.
- Section 30:** Amends s. 721.08, F.S., relating to escrow accounts; nondisturbance instruments; alternate security arrangements; transfer of legal title.
- Section 31:** Provides grandfather provision for valid certificates of title created on or before the effective date of this act.
- Section 32:** Provides that subject to section 25, this act applies to transfer of title entered into or created before the effective date of this act.
- Section 33:** Provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

DHSMV estimates an insignificant, but negative impact on the Marine Resource Conservation Trust Fund due to the elimination of the \$1 recording of lien fee. In addition, DHSMV also estimates an insignificant, but positive impact in the Marine Resource Conservation Trust Fund due to the potential increase in the number of transactions related to hull-damaged vessel titling. The number of additional title transactions is unknown.

2. Expenditures:

The bill will require DHSMV to implement changes to vessel titling procedures and databases. However, with a delayed effective date of July 1, 2022, DHSMV can incorporate the required changes utilizing existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

To the extent the bill results in additional vessel titling transactions, Tax Collectors could experience an insignificant increase in title application fees. Tax Collectors retain \$3.75 for new and duplicate titles transactions. In addition, Tax Collectors may collect a service charge of \$2.25 per visit. The number of additional title transactions is unknown.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

The bill benefits consumers by requiring the title of a vessel to be branded if the vessel's hull has been damaged, a condition that affects the condition and value of the vessel.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill gives DHSMV rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill is unclear as to which agency will enforce the penalties for failure of a vessel owner or insurer to report hull damage to a vessel.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 6, 2019, the Transportation & Infrastructure Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Clarified that the law of the state under which a vessel's certificate of title is covered governs all issues relating to the certificate.
- Provided a 30-day rather than 20-day time thresholds for DHSMV to perform certain requirements.

- Provided that an applicant for a certificate of title must deliver to DHSMV an application for certificate of title within 30 days rather than 20 days from the date of transfer of ownership or date this state becomes the state of principal use.
- Clarified DHSMV's process to issue, transfer, or renew a federal certificate of title for an undocumented vessel that is registered with the U.S. Coast Guard.
- Provided that a vessel owner who fails to report hull damage is subject to a noncriminal infraction with a penalty of \$5,000 for the first offense, \$15,000 for a second offense, and \$25,000 per offense for any subsequent offenses.
- Provided that DHSMV's decision to reject an application for a certificate of title or cancel a certificate of title is subject to a hearing whereby the owner may present evidence in support of or opposition to cancellation or rejection of a certificate of title.
- Clarified that a certificate of title is still effective if it contains scrivener's errors or does not contain certain required information that DHSMV determines to be inconsequential to the issuing of a certificate of title.
- Removed DHSMV's specific rulemaking authority in s. 328.12, F.S., and created a general grant of rulemaking authority.
- Removed DHSMV's requirement to give valuations of vessels.
- Provided language to protect DHSMV from liability for fraudulently obtained certificates of title and provided penalties for applicants who intentionally mislead DHSMV into issuing a fraudulent certificate of title.
- Removed the word "rules" from the requirements of a voluntary transfer of ownership interest in a vessel.
- Clarified that the transferor of a certificate of title can be hand signed or electronically signed, if the option is available.
- Provided a repeal date of s. 328.15(1), (2), and (4) – (8) on October 1, 2025.
- Provided an effective date of July 1, 2022.

This analysis is written to the committee substitute as reported favorably by the Transportation & Infrastructure Subcommittee.

1 A bill to be entitled
 2 An act relating to vessels; creating s. 327.332, F.S.;
 3 requiring vessel operators to reduce speed in
 4 specified hazardous situations; providing penalties;
 5 amending s. 327.4107, F.S.; revising criteria for
 6 determining that a vessel is at risk of becoming
 7 derelict; requiring that such vessels be moved after
 8 certain notice is delivered to the owner or operator
 9 of the vessel or posted conspicuously on the vessel;
 10 amending s. 328.21, F.S.; providing penalties for
 11 failure to present a certificate of title showing
 12 proper transfer of vessel ownership; amending s.
 13 327.73, F.S.; revising civil penalties relating to
 14 certain at-risk vessels and prohibited anchoring or
 15 mooring; providing civil penalties for vessels which
 16 create special hazards; providing an effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Section 327.332, Florida Statutes, is created
 21 to read:

22 327.332 Special hazards.—
 23 (1) A vessel operator shall reduce speed to slow speed,
 24 minimum wake upon seeing a vessel or person in a hazardous or
 25 vulnerable position, where the wake from the operator's vessel

26 is likely to cause property damage or injury to the vulnerable
27 person or vessel. A vessel is not in a hazardous or vulnerable
28 position under this subsection if it is docked and unattended.

29 (2) A vessel operator shall reduce to slow speed, minimum
30 wake upon approaching within 300 feet of any emergency vessel,
31 including, but not limited to, a law enforcement vessel, United
32 States Coast Guard vessel or auxiliary vessel, fire vessel, or
33 tow vessel, with its emergency lights activated.

34 (3) A vessel operator shall reduce to slow speed, minimum
35 wake upon approaching within 300 feet of any construction vessel
36 or barge actively engaged in operations and displaying an orange
37 flag or yellow flashing light from the tallest portion of the
38 vessel or barge.

39 (4) A vessel operator found in violation of this section
40 is guilty of a noncriminal infraction as provided in s. 327.73.

41 Section 2. Subsections (3), (4), and (5) of section
42 327.4107, Florida Statutes, are renumbered as subsections (4),
43 (5), and (6), respectively, paragraph (e) of subsection (2) of
44 that section is amended, and a new subsection (3) is added to
45 that section to read:

46 327.4107 Vessels at risk of becoming derelict on waters of
47 this state.—

48 (2) An officer of the commission or of a law enforcement
49 agency specified in s. 327.70 may determine that a vessel is at
50 risk of becoming derelict if any of the following conditions

51 exist:

52 (e) The vessel does not have or is unable to demonstrate
53 an effective means of propulsion for safe navigation within 72
54 hours after the vessel owner or operator receives telephonic or
55 written notice, which may be provided by facsimile, electronic
56 mail, or other electronic means, stating such from an officer,
57 does not have a declared destination upon inquiry by a law
58 enforcement officer, and the vessel owner or operator is unable
59 to provide a receipt, proof of purchase, or other documentation
60 of having ordered necessary parts for vessel repair. The
61 commission may adopt rules to implement this paragraph.

62 (3) A vessel at risk of becoming derelict must be moved to
63 a location with a minimum distance of 3 miles from the previous
64 location on or before 90 days after the date of notice pursuant
65 to paragraph (2)(e) is delivered to the owner of the vessel or
66 posted conspicuously on the vessel.

67 Section 3. Subsection (4) of section 328.21, Florida
68 Statutes, is renumbered as subsection (5), subsection (3) of
69 that section is amended, and a new subsection (4) is added to
70 that section, to read:

71 328.21 Transfer without delivery of certificate; operation
72 or use without certificate; failure to surrender; other
73 violations.—A person who:

74 (3) Fails to surrender the certificate of title to the
75 department as provided in this chapter when the vessel has been

76 | destroyed, dismantled, or changed so that it is not the vessel
 77 | described in the certificate of title; ~~or~~

78 | (4) Fails to present the certificate of title to the
 79 | department with the new owner information to ensure proper
 80 | transfer of ownership of the vessel; or

81 |
 82 | is guilty of a misdemeanor of the second degree, punishable as
 83 | provided in s. 775.082 or s. 775.083, for each offense.

84 | Section 4. Paragraphs (aa) and (bb) of subsection (1) of
 85 | section 327.73, Florida Statutes, are amended, and paragraph
 86 | (cc) is added to that subsection, to read:

87 | 327.73 Noncriminal infractions.—

88 | (1) Violations of the following provisions of the vessel
 89 | laws of this state are noncriminal infractions:

90 | (aa) Section 327.4107, relating to vessels at risk of
 91 | becoming derelict on waters of this state, for which the civil
 92 | penalty is:

93 | 1. For a first offense, \$100 ~~\$50~~.

94 | 2. For a second offense occurring 30 days or more after a
 95 | first offense, \$250 ~~\$100~~.

96 | 3. For a third or subsequent offense occurring 30 days or
 97 | more after a previous offense, \$500 ~~\$250~~. A person cited more
 98 | than 3 times within a 12-month period may have their vessel
 99 | impounded by law enforcement.

100 | (bb) Section 327.4109, relating to anchoring or mooring in

101 a prohibited area, for which the penalty is:

- 102 1. For a first offense, up to a maximum of \$100 ~~\$50~~.
- 103 2. For a second offense, up to a maximum of \$250 ~~\$100~~.
- 104 3. For a third or subsequent offense, up to a maximum of
- 105 \$500 ~~\$250~~. A person cited more than 3 times within a 12-month
- 106 period may have their vessel impounded by law enforcement.

107 (cc) Section 327.332, relating to vessels creating special
 108 hazards, for which the penalty is:

- 109 1. For a first offense, \$50.
- 110 2. For a second offense occurring within 12 months after a
- 111 prior conviction, \$250.
- 112 3. For a third offense occurring within 36 months after a
- 113 prior conviction, \$500.
- 114 4. For a fourth or subsequent offense occurring within 72
- 115 months after a prior conviction, \$1,000.

116

117 Any person cited for a violation of any provision of this
 118 subsection shall be deemed to be charged with a noncriminal
 119 infraction, shall be cited for such an infraction, and shall be
 120 cited to appear before the county court. The civil penalty for
 121 any such infraction is \$50, except as otherwise provided in this
 122 section. Any person who fails to appear or otherwise properly
 123 respond to a uniform boating citation shall, in addition to the
 124 charge relating to the violation of the boating laws of this
 125 state, be charged with the offense of failing to respond to such

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126 | citation and, upon conviction, be guilty of a misdemeanor of the
127 | second degree, punishable as provided in s. 775.082 or s.
128 | 775.083. A written warning to this effect shall be provided at
129 | the time such uniform boating citation is issued.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1319 Vessels
SPONSOR(S): Diamond
TIED BILLS: **IDEN./SIM. BILLS:** SB 1530

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Melkun	Shugar
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property. Both state and local law enforcement agencies are authorized and empowered to relocate or remove a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons.

A purchaser of a new or used vessel has 30 days to title and register that vessel.

The bill requires vessel operators to reduce to slow speed, minimum wake upon: seeing a vessel or person in a hazardous or vulnerable position, where the wake of the vessel is likely to cause property damage or injury to the vulnerable person or vessel; approaching within 300 feet of any emergency vessel, including but not limited to, a law enforcement vessel, a United States Coast Guard vessel or auxiliary vessel, fire vessel, or tow vessel, with its emergency lights activated; and approaching within 300 feet of any construction vessel or barge actively engaged in operations and displaying an orange flag or yellow flashing light from the tallest portion of the vessel or barge. The bill provides that a vessel operator found in violation of the above requirements is guilty of a noncriminal infraction and further provides civil penalties.

The bill further provides that a vessel that does not have or is unable to demonstrate an effective means of propulsion, does not have a declared destination upon inquiry by a law enforcement officer, and the owner is unable to provide documentation of vessel repair may be deemed at risk for becoming derelict. The bill requires a vessel at risk of becoming derelict to move to a location at least three miles from the previous location on or before 90 days after the date of notice is delivered to the owner or posted conspicuously on the vessel.

The bill further provides that a person who fails to present the certificate of title with the new owner information to ensure proper transfer of ownership is guilty of a second degree misdemeanor.

The bill increases the civil penalties for a vessel deemed at risk for becoming derelict and for anchoring or mooring in a prohibited area and creates a penalty for a vessel that creates a special hazard. The bill further provides that a person cited more than three times in a 12-month period may have their vessel impounded by law enforcement.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Anchoring or mooring refers to a boater's practice of seeking and using a safe harbor on the public waterway system for an undefined duration. Anchoring is accomplished using an anchor carried on the vessel, while mooring is accomplished through the utilization of tie-ups, or moorings, permanently affixed to the bottom.¹ Anchorages are areas that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not. Mooring fields are areas designated and used for a system of properly spaced moorings.²

Derelict Vessels

A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property.³

It is unlawful to store, leave, or abandon a derelict vessel in Florida.⁴ Those found in violation of this law commit a first degree misdemeanor.⁵ State law further provides that a violation of derelict vessel laws may also be subject to a civil penalty of up to \$50,000 per day.⁶ Each day during any portion of which the violation occurs constitutes a separate offense.⁷

Removal of Derelict Vessels

The Division of Law Enforcement of the Florida Fish and Wildlife Conservation Commission (FWC) and its officers, and the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officer as defined in s. 943.10, F.S., have the responsibility and authority to enforce vessel safety and vessel title certificates, liens, and registration.⁸

Both state and local law enforcement are authorized and empowered to relocate or remove a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons. The costs incurred for relocating or removing a derelict vessel are recoverable against the vessel owner. A vessel owner who neglects or refuses to pay the costs of removal, storage, and destruction of the vessel, less any salvage value

¹ Section 327.02, F.S., defines "vessel" to include every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

² Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida* (Rev. May 2012), 2, available at <http://nsgl.gso.uri.edu/flsgp/flsgpt12001.pdf> (last visited Mar. 15, 2017).

³ Section 823.11(1)(b), F.S.

⁴ Section 823.11(2), F.S.

⁵ A first degree misdemeanor is punishable by a term of imprisonment of no more than one year and a fine of up to \$1,000.

⁶ Section 376.16(1), F.S.

⁷ *Id.*

⁸ Section 943.10(1), F.S., defines "law enforcement officer" as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition also includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

obtained by disposal of the vessel, is not entitled to be issued a certificate of registration for such vessel, or any other vessel or motor vehicle, until the costs are paid.⁹

Removal costs for derelict vessels are approximately \$350 to \$450 per foot of vessel length. However, a floating vessel may be towed to a boat ramp or hoist and pulled from the water at a much lower cost. Relocation may have a minimal cost if a law enforcement officer is able to tow it to a suitable location. Costs for professional towing services are approximately \$200 per hour.¹⁰

FWC may provide grants to local governments for the removal of derelict vessels from waters of the state, if funds are appropriated for the grant program are appropriated.¹¹ Funds for the Derelict Vessel Removal Grant program are appropriated from the Florida Coastal Protection Trust Fund. Grants from this fund are awarded based on a set of criteria outlined in FWC rules.¹² Removal or relocation of the vessel on private property is not eligible for grant funding¹³

At-risk vessels

Neglected vessels or those in deteriorating conditions are prohibited from anchoring, mooring, or occupying the waters of the state.¹⁴ A vessel is at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor; or
- The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, or is listing due to water intrusion, or is sunk or partially sunk.¹⁵

A violation for anchoring, mooring, or occupying a vessel at risk of becoming derelict on the waters of the state is a noncriminal infraction, for which the civil penalty is \$50 for a first offense, \$100 for a second offense occurring 30 days or more after a first offense, and \$250 for a third or subsequent offense occurring 30 days or more after a previous offense.¹⁶

Vessel Titling and Registrations

All motorized vessels operating on Florida's public waterways must be titled and registered. Chapter 328, F.S., designates the Department of Highway Safety and Motor Vehicles (FLHSMV) as responsible for issuing vessel registrations and titles. Applications for titles and registrations must be filed at a county tax collector or license plate agent office. A purchaser of a new or used vessel has 30 days to title and register that vessel.¹⁷

⁹ Section 705.103(4), F.S.

¹⁰ FWC, Agency Bill Analysis of 2016 HB 7025 (Jan.6, 2016), available at <http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=6678&yr=2016> (last visited Mar. 13, 2019).

¹¹ Section 376.15, F.S.

¹² Rule 68-1.003, F.A.C.

¹³ National Oceanic and Atmospheric Association: Marine Debris Program, *Abandoned and Derelict Vessels in Florida*, available at <https://marinedebris.noaa.gov/abandoned-and-derelict-vessels/florida> (last visited Mar. 15, 2019).

¹⁴ Chapter 2016-108, Laws of Fla.; s. 327.4107, F.S.

¹⁵ *Id.*

¹⁶ Section 327.73(aa), F.S.

¹⁷ FLHSMV, *Vessel Titling and Registrations*, available at <https://www.flhsmv.gov/motor-vehicles-tags-titles/vessels/vessel-titling-registrations/> (last visited Mar. 14, 2019).

Effect of Proposed Changes

The bill creates s. 327.332, F.S., to require vessels approaching hazardous conditions to reduce speed. The bill requires vessel operators to reduce to a slow speed with minimum wake¹⁸ upon:

- Seeing a vessel or person in a hazardous or vulnerable position, where the wake of the vessel is likely to cause property damage or injury to the vulnerable person or vessel;
- Approaching within 300 feet of any emergency vessel, including but not limited to, a law enforcement vessel, a United States Coast Guard vessel or auxiliary vessel, fire vessel, or tow vessel, with its emergency lights activated; and
- Approaching within 300 feet of any construction vessel or barge actively engaged in operations and displaying an orange flag or yellow flashing light from the tallest portion of the vessel or barge.

The bill further provides that a vessel operator found in violation of the above requirements is guilty of a noncriminal infraction.

The bill provides that a vessel that does not have or is unable to demonstrate an effective means of propulsion, does not have a declared destination upon inquiry by a law enforcement officer, and the owner is unable to provide documentation of vessel repair may be deemed at risk of becoming derelict.

The bill requires that a vessel at risk of becoming derelict must be moved to a location within a minimum distance of three miles from the previous location on or before 90 days after the date of notice is delivered to the owner or posted conspicuously on the vessel.

The bill provides that a person who fails to present the certificate of title with the new owner information to ensure proper transfer of ownership is guilty of a second degree misdemeanor.

The bill amends s. 327.73, F.S., to increase the civil penalties for a vessel deemed at risk of becoming derelict for a first offense from \$50 to \$100, for a second offense from \$100 to \$250, and for a third offense from \$250 to \$500. The bill also increases the penalties for anchoring or mooring in a prohibited area for a first offense from a maximum of \$50 to \$100 and for a second offense from a maximum of \$100 to \$250. The bill further provides that a person cited more than three times in a 12-month period may have their vessel impounded by law enforcement.

The bill creates penalties for vessels that do not reduce speed in specified hazardous conditions: \$50 for a first offense, \$250 for a second offense occurring within 12 months after a prior conviction, \$500 for a third offense occurring within 36 months after a prior conviction, and \$1000 for a fourth or subsequent offense occurring within 72 months after a prior conviction.

B. SECTION DIRECTORY:

Section 1 creates s. 327.332, F.S., to require vessels to reduce speed when approaching special hazards.

Section 2 amends s. 327.4107, F.S., to specify criteria that render a vessel at risk of becoming derelict.

Section 3 amends s.328.21, F.S., to add a requirement for the proper transfer of ownership of a vessel.

Section 4 amends s.327.73, F.S., to increase civil penalties for vessels at risk of becoming derelict, vessels anchored or moored in prohibited areas, and vessels that do not reduce speed in hazardous conditions.

¹⁸ Any vessel operating at a speed zone posted as “Slow Down – Minimum Wake” must operate fully off plane and completely settled in the water; *see* FWC, *Boating Regulations – Vessel Speed Restrictions*, available at <https://myfwc.com/boating/regulations/> (last visited Mar. 15, 2019).

Section 5 provides an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an indeterminate positive impact on state government revenues because of new and increases in civil penalties that FWC may receive.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate positive fiscal impact on the private sector because the requirement for vessels to reduce speed in certain circumstances may reduce instances of property damage and safety issues for construction vessels engaged in operations.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of sales tax shared with counties or municipalities.

2. Other:

The bill may have issues regarding the requirement of a declared destination and the authority of the state to require movement of a vessel a minimum distance of three miles. See Drafting Issues or Other Comments.

B. RULE-MAKING AUTHORITY:

The bill would require FWC to update their existing rules; however, FWC possesses sufficient rulemaking authority to adopt rules to comply with statutory changes.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In lines 24-25, when referring to special hazards, the bill does not define what is considered a "hazardous or vulnerable position" but requires a vessel to reduce speed. This could be subjective and the term should be defined.

In lines 57-58, the bill requires a vessel owner to declare a destination upon inquiry by a law enforcement officer in order to demonstrate the vessel is not at risk of becoming derelict. The state may not have the authority to require a citizen to declare the intended destination.

In lines 62-66, the bill requires a vessel at risk of becoming derelict to move a minimum distance of three miles. This could cause a problem in areas where the jurisdiction of the state to require the vessel owner to move three miles.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
2 An act relating to towing and immobilizing of vehicles
3 and vessels; amending ss. 125.0103 and 166.043, F.S.;
4 authorizing local governments to enact rates to tow or
5 immobilize vessels on private property and to remove
6 and store vessels under specified circumstances;
7 defining the term "immobilize"; creating ss. 125.01047
8 and 166.04465, F.S.; prohibiting counties or
9 municipalities from enacting certain ordinances or
10 rules that impose fees or charges on authorized
11 wrecker operators, towing businesses, or vehicle
12 immobilization operators; defining the term "towing
13 business"; providing exceptions; amending s. 323.002,
14 F.S.; prohibiting counties or municipalities from
15 imposing charges, costs, expenses, fines, fees, or
16 penalties on registered owners, other legally
17 authorized persons in control, or lienholders of
18 vehicles or vessels under certain conditions;
19 providing an exception; amending s. 713.78, F.S.;
20 authorizing certain persons to place liens on vehicles
21 or vessels to recover specified fees or charges;
22 amending s. 715.07, F.S.; removing a requirement
23 regarding notices and signs concerning the towing or
24 removal of vehicles and vessels; creating s. 715.08,
25 F.S.; defining terms related to vehicle immobilization

26 devices and operators; requiring persons who
27 immobilize vehicles to obtain a license from specified
28 local governments; specifying persons who are
29 prohibited from being an operator; specifying criteria
30 and requirements for providing services as an
31 operator; providing operator name, uniform, and
32 identification requirements; requiring certain
33 information to be displayed on a motor vehicle used to
34 perform vehicle immobilization services; specifying
35 authorized hours of operation; providing notice
36 requirements upon immobilization of a motor vehicle;
37 specifying unauthorized and prohibited activities by a
38 vehicle immobilization service or operator; providing
39 liability for certain damage; providing exceptions;
40 requiring an operator to maintain certain insurance
41 coverage; specifying signage requirements; providing
42 administrative procedures for complaints against
43 operators; authorizing specified penalties;
44 prohibiting an operator whose license is revoked from
45 reapplying for a license for a specified period;
46 specifying maximum fines; providing an effective date.

47
48 Be It Enacted by the Legislature of the State of Florida:

49
50 Section 1. Paragraphs (b) and (c) of subsection (1) of

51 section 125.0103, Florida Statutes, are amended to read:

52 125.0103 Ordinances and rules imposing price controls;
53 findings required; procedures.—

54 (1)

55 (b) The provisions of this section shall not prevent the
56 enactment by local governments of public service rates otherwise
57 authorized by law, including water, sewer, solid waste, public
58 transportation, taxicab, or port rates, rates for towing of
59 vehicles or vessels from or immobilization of vehicles or
60 vessels on private property, or rates for removal and storage of
61 wrecked or disabled vehicles or vessels from an accident scene
62 or the removal and storage of vehicles or vessels in the event
63 the owner or operator is incapacitated, unavailable, leaves the
64 procurement of wrecker service to the law enforcement officer at
65 the scene, or otherwise does not consent to the removal of the
66 vehicle or vessel.

67 (c) Counties must establish maximum rates which may be
68 charged on the towing of vehicles or vessels from or
69 immobilization of vehicles or vessels on private property,
70 removal and storage of wrecked or disabled vehicles or vessels
71 from an accident scene or for the removal and storage of
72 vehicles or vessels, in the event the owner or operator is
73 incapacitated, unavailable, leaves the procurement of wrecker
74 service to the law enforcement officer at the scene, or
75 otherwise does not consent to the removal of the vehicle or

76 vessel. However, if a municipality chooses to enact an ordinance
77 establishing the maximum ~~rates~~ ~~fees~~ for the towing or
78 immobilization of vehicles or vessels as described in paragraph
79 (b), the county's ordinance shall not apply within such
80 municipality. For purposes of this paragraph, the term
81 "immobilize" means the act of rendering a vehicle or vessel
82 inoperable by the use of a device such as a "boot" or "club,"
83 the "Barnacle," or any other such device.

84 Section 2. Section 125.01047, Florida Statutes, is created
85 to read:

86 125.01047 Rules and ordinances relating to towing and
87 immobilization services.—

88 (1) A county may not enact an ordinance or rule that would
89 impose a fee or charge on an authorized wrecker operator, as
90 defined in s. 323.002(1), on a towing business for towing,
91 impounding, or storing a vehicle or vessel, or a vehicle
92 immobilization service as defined in s. 715.08. As used in this
93 section, the term "towing business" means a business that
94 provides towing services for monetary gain.

95 (2) The prohibition set forth in subsection (1) does not
96 affect a county's authority to:

97 (a) Levy a reasonable business tax under s. 205.0315, s.
98 205.033, or s. 205.0535.

99 (b) Impose and collect a reasonable administrative fee or
100 charge on the registered owner or other legally authorized

101 person in control of a vehicle or vessel, or the lienholder of a
102 vehicle or vessel, not to exceed 25 percent of the maximum
103 towing or immobilization rate, to cover the cost of enforcement,
104 including parking enforcement, by the county when the vehicle or
105 vessel is towed or immobilized from public property. However, an
106 authorized wrecker operator, towing business, or vehicle
107 immobilization service may impose and collect the administrative
108 fee or charge on behalf of the county and shall remit such fee
109 or charge to the county only after it is collected.

110 Section 3. Paragraphs (b) and (c) of subsection (1) of
111 section 166.043, Florida Statutes, are amended to read:

112 166.043 Ordinances and rules imposing price controls;
113 findings required; procedures.—

114 (1)

115 (b) The provisions of this section shall not prevent the
116 enactment by local governments of public service rates otherwise
117 authorized by law, including water, sewer, solid waste, public
118 transportation, taxicab, or port rates, rates for towing of
119 vehicles or vessels from or immobilization of vehicles or
120 vessels on private property, or rates for removal and storage of
121 wrecked or disabled vehicles or vessels from an accident scene
122 or the removal and storage of vehicles or vessels in the event
123 the owner or operator is incapacitated, unavailable, leaves the
124 procurement of wrecker service to the law enforcement officer at
125 the scene, or otherwise does not consent to the removal of the

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126 | vehicle or vessel.

127 | (c) Counties must establish maximum rates which may be
128 | charged on the towing of vehicles or vessels from or
129 | immobilization of vehicles or vessels on private property,
130 | removal and storage of wrecked or disabled vehicles or vessels
131 | from an accident scene or for the removal and storage of
132 | vehicles or vessels, in the event the owner or operator is
133 | incapacitated, unavailable, leaves the procurement of wrecker
134 | service to the law enforcement officer at the scene, or
135 | otherwise does not consent to the removal of the vehicle or
136 | vessel. However, if a municipality chooses to enact an ordinance
137 | establishing the maximum rates ~~fees~~ for the towing or
138 | immobilization of vehicles or vessels as described in paragraph
139 | (b), the county's ordinance established under s. 125.0103 shall
140 | not apply within such municipality. For purposes of this
141 | paragraph, the term "immobilize" means the act of rendering a
142 | vehicle or vessel inoperable by the use of a device such as a
143 | "boot" or "club," the "Barnacle," or any other such device.

144 | Section 4. Section 166.04465, Florida Statutes, is created
145 | to read:

146 | 166.04465 Rules and ordinances relating to towing and
147 | immobilization services.-

148 | (1) A municipality may not enact an ordinance or rule that
149 | would impose a fee or charge on an authorized wrecker operator,
150 | as defined in s. 323.002(1), on a towing business for towing,

151 impounding, or storing a vehicle or vessel, or a vehicle
152 immobilization service as defined in s. 715.08. As used in this
153 section, the term "towing business" means a business that
154 provides towing services for monetary gain.

155 (2) The prohibition set forth in subsection (1) does not
156 affect a municipality's authority to:

157 (a) Levy a reasonable business tax under s. 205.0315, s.
158 205.033, or s. 205.0535.

159 (b) Impose and collect a reasonable administrative fee or
160 charge on the registered owner or other legally authorized
161 person in control of a vehicle or vessel, or the lienholder of a
162 vehicle or vessel, not to exceed 25 percent of the maximum
163 towing or immobilization rate, to cover the cost of enforcement,
164 including parking enforcement, by the county when the vehicle or
165 vessel is towed from or immobilized on public property. However,
166 an authorized wrecker operator, towing business, or vehicle
167 immobilization service may impose and collect the administrative
168 fee or charge on behalf of the municipality and shall remit such
169 fee or charge to the municipality only after it is collected.

170 Section 5. Subsection (4) of section 323.002, Florida
171 Statutes, is renumbered as subsection (5), and a new subsection
172 (4) is added to that section to read:

173 323.002 County and municipal wrecker operator systems;
174 penalties for operation outside of system.-

175 (4) (a) Except as provided in paragraph (b), a county or

176 municipality may not adopt or maintain in effect an ordinance or
177 rule that imposes a charge, cost, expense, fine, fee, or penalty
178 on a registered owner or other legally authorized person in
179 control of a vehicle or vessel, or the lienholder of a vehicle
180 or vessel, when the vehicle or vessel is towed by an authorized
181 wrecker operator under this chapter.

182 (b) A county or municipality may adopt or maintain an
183 ordinance or rule that imposes a reasonable administrative fee
184 or charge on the registered owner or other legally authorized
185 person in control of a vehicle or vessel, or the lienholder of a
186 vehicle or vessel, that is towed by an authorized wrecker
187 operator, not to exceed 25 percent of the maximum towing rate,
188 to cover the cost of enforcement, including parking enforcement,
189 by the county or municipality when the vehicle or vessel is
190 towed from public property. However, an authorized wrecker
191 operator or towing business may impose and collect the
192 administrative fee or charge on behalf of the county or
193 municipality and shall remit such fee or charge to the county or
194 municipality only after it is collected.

195 Section 6. Subsection (2) of section 713.78, Florida
196 Statutes, is amended to read:

197 713.78 Liens for recovering, towing, or storing vehicles
198 and vessels.—

199 (2) Whenever a person regularly engaged in the business of
200 transporting vehicles or vessels by wrecker, tow truck, or car

201 carrier recovers, removes, or stores a vehicle or vessel upon
 202 instructions from:

203 (a) The owner thereof;

204 (b) The owner or lessor, or a person authorized by the
 205 owner or lessor, of property on which such vehicle or vessel is
 206 wrongfully parked, and the removal is done in compliance with s.
 207 715.07;

208 (c) The landlord or a person authorized by the landlord,
 209 when such motor vehicle or vessel remained on the premises after
 210 the tenancy terminated and the removal is done in compliance
 211 with s. 83.806 or s. 715.104; or

212 (d) Any law enforcement agency,

213
 214 she or he shall have a lien on the vehicle or vessel for a
 215 reasonable towing fee, for a reasonable administrative fee or
 216 charge imposed by a county or municipality, and for a reasonable
 217 storage fee; except that no storage fee shall be charged if the
 218 vehicle or vessel is stored for less than 6 hours.

219 Section 7. Paragraph (a) of subsection (2) and subsection
 220 (4) of section 715.07, Florida Statutes, are amended to read:

221 715.07 Vehicles or vessels parked on private property;
 222 towing.—

223 (2) The owner or lessee of real property, or any person
 224 authorized by the owner or lessee, which person may be the
 225 designated representative of the condominium association if the

226 | real property is a condominium, may cause any vehicle or vessel
227 | parked on such property without her or his permission to be
228 | removed by a person regularly engaged in the business of towing
229 | vehicles or vessels, without liability for the costs of removal,
230 | transportation, or storage or damages caused by such removal,
231 | transportation, or storage, under any of the following
232 | circumstances:

233 | (a) The towing or removal of any vehicle or vessel from
234 | private property without the consent of the registered owner or
235 | other legally authorized person in control of that vehicle or
236 | vessel is subject to substantial ~~strict~~ compliance with the
237 | following conditions and restrictions:

238 | 1.a. Any towed or removed vehicle or vessel must be stored
239 | at a site within a 10-mile radius of the point of removal in any
240 | county of 500,000 population or more, and within a 15-mile
241 | radius of the point of removal in any county of less than
242 | 500,000 population. That site must be open for the purpose of
243 | redemption of vehicles on any day that the person or firm towing
244 | such vehicle or vessel is open for towing purposes, from 8:00
245 | a.m. to 6:00 p.m., and, when closed, shall have prominently
246 | posted a sign indicating a telephone number where the operator
247 | of the site can be reached at all times. Upon receipt of a
248 | telephoned request to open the site to redeem a vehicle or
249 | vessel, the operator shall return to the site within 1 hour or
250 | she or he will be in violation of this section.

251 b. If no towing business providing such service is located
252 within the area of towing limitations set forth in sub-
253 subparagraph a., the following limitations apply: any towed or
254 removed vehicle or vessel must be stored at a site within a 20-
255 mile radius of the point of removal in any county of 500,000
256 population or more, and within a 30-mile radius of the point of
257 removal in any county of less than 500,000 population.

258 2. The person or firm towing or removing the vehicle or
259 vessel shall, within 30 minutes after completion of such towing
260 or removal, notify the municipal police department or, in an
261 unincorporated area, the sheriff, of such towing or removal, the
262 storage site, the time the vehicle or vessel was towed or
263 removed, and the make, model, color, and license plate number of
264 the vehicle or description and registration number of the vessel
265 and shall obtain the name of the person at that department to
266 whom such information was reported and note that name on the
267 trip record.

268 3. A person in the process of towing or removing a vehicle
269 or vessel from the premises or parking lot in which the vehicle
270 or vessel is not lawfully parked must stop when a person seeks
271 the return of the vehicle or vessel. The vehicle or vessel must
272 be returned upon the payment of a reasonable service fee of not
273 more than one-half of the posted rate for the towing or removal
274 service as provided in subparagraph 6. The vehicle or vessel may
275 be towed or removed if, after a reasonable opportunity, the

276 owner or legally authorized person in control of the vehicle or
277 vessel is unable to pay the service fee. If the vehicle or
278 vessel is redeemed, a detailed signed receipt must be given to
279 the person redeeming the vehicle or vessel.

280 4. A person may not pay or accept money or other valuable
281 consideration for the privilege of towing or removing vehicles
282 or vessels from a particular location.

283 5. Except for property appurtenant to and obviously a part
284 of a single-family residence, and except for instances when
285 notice is personally given to the owner or other legally
286 authorized person in control of the vehicle or vessel that the
287 area in which that vehicle or vessel is parked is reserved or
288 otherwise unavailable for unauthorized vehicles or vessels and
289 that the vehicle or vessel is subject to being removed at the
290 owner's or operator's expense, any property owner or lessee, or
291 person authorized by the property owner or lessee, prior to
292 towing or removing any vehicle or vessel from private property
293 without the consent of the owner or other legally authorized
294 person in control of that vehicle or vessel, must post a notice
295 meeting the following requirements:

296 a. The notice must be prominently placed at each driveway
297 access or curb cut allowing vehicular access to the property,
298 ~~within 5 feet from the public right-of-way line.~~ If there are no
299 curbs or access barriers, the signs must be posted not less than
300 one sign for each 25 feet of lot frontage.

301 b. The notice must ~~clearly~~ indicate, in not less than 2-
302 inch high, light-reflective letters on a contrasting background,
303 that unauthorized vehicles will be towed away at the owner's
304 expense. The words "tow-away zone" must be included on the sign
305 in not less than 4-inch high letters.

306 c. The notice must also provide the name and current
307 telephone number of the person or firm towing or removing the
308 vehicles or vessels.

309 d. The sign structure containing the required notices must
310 be permanently installed with the words "tow-away zone" ~~not less~~
311 ~~than 3 feet and not more than 6 feet above ground level~~ and must
312 be continuously maintained on the property for not less than 24
313 hours prior to the towing or removal of any vehicles or vessels.

314 e. The local government may require permitting and
315 inspection of these signs prior to any towing or removal of
316 vehicles or vessels being authorized.

317 f. A business with 20 or fewer parking spaces satisfies
318 the notice requirements of this subparagraph by prominently
319 displaying a sign stating "Reserved Parking for Customers Only
320 Unauthorized Vehicles or Vessels Will be Towed Away At the
321 Owner's Expense" in not less than 4-inch high, light-reflective
322 letters on a contrasting background.

323 g. A property owner towing or removing vessels from real
324 property must post notice, consistent with the requirements in
325 sub-subparagraphs a.-f., which apply to vehicles, that

326 | unauthorized vehicles or vessels will be towed away at the
327 | owner's expense.

328 |
329 | A business owner or lessee may authorize the removal of a
330 | vehicle or vessel by a towing company when the vehicle or vessel
331 | is parked in such a manner that restricts the normal operation
332 | of business; and if a vehicle or vessel parked on a public
333 | right-of-way obstructs access to a private driveway the owner,
334 | lessee, or agent may have the vehicle or vessel removed by a
335 | towing company upon signing an order that the vehicle or vessel
336 | be removed without a posted tow-away zone sign.

337 | 6. Any person or firm that tows or removes vehicles or
338 | vessels and proposes to require an owner, operator, or person in
339 | control or custody of a vehicle or vessel to pay the costs of
340 | towing and storage prior to redemption of the vehicle or vessel
341 | must file and keep on record with the local law enforcement
342 | agency a complete copy of the current rates to be charged for
343 | such services and post at the storage site an identical rate
344 | schedule and any written contracts with property owners,
345 | lessees, or persons in control of property which authorize such
346 | person or firm to remove vehicles or vessels as provided in this
347 | section.

348 | 7. Any person or firm towing or removing any vehicles or
349 | vessels from private property without the consent of the owner
350 | or other legally authorized person in control or custody of the

351 vehicles or vessels shall, on any trucks, wreckers as defined in
352 s. 713.78(1)(c), or other vehicles used in the towing or
353 removal, have the name, address, and telephone number of the
354 company performing such service clearly printed in contrasting
355 colors on the driver and passenger sides of the vehicle. The
356 name shall be in at least 3-inch permanently affixed letters,
357 and the address and telephone number shall be in at least 1-inch
358 permanently affixed letters.

359 8. Vehicle entry for the purpose of removing the vehicle
360 or vessel shall be allowed with reasonable care on the part of
361 the person or firm towing the vehicle or vessel. Such person or
362 firm shall be liable for any damage occasioned to the vehicle or
363 vessel if such entry is not in accordance with the standard of
364 reasonable care.

365 9. When a vehicle or vessel has been towed or removed
366 pursuant to this section, it must be released to its owner or
367 person in control or custody ~~custodian~~ within one hour after
368 requested. Any vehicle or vessel owner or person in control or
369 custody has ~~agent shall have~~ the right to inspect the vehicle or
370 vessel before accepting its return, and no release or waiver of
371 any kind which would release the person or firm towing the
372 vehicle or vessel from liability for damages noted by the owner
373 or the person in control or custody ~~other legally authorized~~
374 ~~person~~ at the time of the redemption may be required from any
375 vehicle or vessel owner, or person in control or custody

376 ~~eustodian, or agent~~ as a condition of release of the vehicle or
 377 vessel to its owner. A detailed, signed receipt showing the
 378 legal name of the company or person towing or removing the
 379 vehicle or vessel must be given to the person paying towing or
 380 storage charges at the time of payment, whether requested or
 381 not.

382 ~~(4) When a person improperly causes a vehicle or vessel to~~
 383 ~~be removed, such person shall be liable to the owner or lessee~~
 384 ~~of the vehicle or vessel for the cost of removal,~~
 385 ~~transportation, and storage; any damages resulting from the~~
 386 ~~removal, transportation, or storage of the vehicle or vessel;~~
 387 ~~attorney's fees; and court costs.~~

388 Section 8. Section 715.08, Florida Statutes, is created to
 389 read:

390 (1) DEFINITIONS.—As used in this section, the term:

391 (a) "Immobilize" means the act of rendering a vehicle or
 392 vessel inoperable by the use of a vehicle immobilization device.

393 (b) "License" means a license, permit, or other similar
 394 grant of authority to operate issued by a local government to an
 395 operator.

396 (c) "Operator" means any person, as defined in s. 1.01(3),
 397 who has received a license and who offers or operates a vehicle
 398 immobilization service.

399 (d) "Vehicle immobilization device" means any mechanical
 400 device designed or used to be attached to a wheel, tire, or

401 other part of a parked motor vehicle or vessel and known by
402 terms such as a "boot" or "club," or "the "Barnacle".

403 (e) "Vehicle immobilization service" means a service
404 provided by an operator in which vehicles are immobilized using
405 vehicle immobilization devices.

406 (2) VEHICLE IMMOBILIZATION OPERATIONS; REQUIREMENTS.—

407 (a) Vehicle immobilization devices may be used upon motor
408 vehicles as provided in this section.

409 (b) A person may not act as an operator within this state
410 unless the person is licensed by the local government in the
411 jurisdiction where the operator will provides services.

412 (c) An operator may not provide immobilization services on
413 any property or lot in which the operator has an ownership or
414 other valuable interest in, if that property or lot is used for
415 the business of parking, or allowing for the parking of, motor
416 vehicles, or is engaged in the business of parking lot or valet
417 parking operations.

418 (d) Each operator shall conduct vehicle immobilization
419 services using a name that is distinguishable from any other
420 licensed operator.

421 (e) An operator and each individual who works for or on
422 behalf of the operator at all times while performing vehicle
423 immobilization services, must:

424 1. Wear a uniform that clearly identifies the operator
425 name used under paragraph (d).

426 2. Carry an operator-issued photographic identification on
427 his or her person that clearly identifies the operator name used
428 under paragraph (d).

429 (f) Both sides of a motor vehicle used by an operator or
430 an individual under the operator's employment to perform vehicle
431 immobilization services shall have prominently displayed the
432 operator name used under paragraph (d) and that the operator
433 performs vehicle immobilization services, the address from which
434 the operator conducts business, and the telephone number of the
435 operator. The lettering must be in a color that contrasts with
436 the color of the vehicle or, if a vehicle magnet or decal is
437 used, must be in a color that contrasts with the color of the
438 magnet or decal. The lettering must be at least 1.5 inches in
439 height.

440 (g)1. An operator may conduct vehicle immobilization
441 services 24 hours per day, 7 days a week.

442 2. An operator shall maintain a telephone number that is
443 staffed by a live individual 24 hours per day, 7 days a week, to
444 communicate immediately with a driver or owner of an immobilized
445 motor vehicle.

446 (h) An operator who immobilizes a motor vehicle must affix
447 a notice to the driver's side window containing, at a minimum,
448 the following information:

449 1. A warning that any attempt to move the vehicle may
450 damage the vehicle.

- 451 2. The name of the operator;
- 452 3. The telephone number to call to have the immobilization
 453 device removed.
- 454 4. The fee for removing the immobilization device.
- 455 (i) A vehicle immobilization service or operator may not:
- 456 1. Immobilize a motor vehicle on private property without
 457 having previously entered into a valid written contract for
 458 vehicle immobilization services with the private property owner,
 459 lawful lessee, managing agent, or other person in control of the
 460 property or parking lot.
- 461 2. Fail to arrive at the site of an immobilized motor
 462 vehicle within one hour after being contacted by the owner or
 463 person in custody or control of the motor vehicle.
- 464 3. Fail to release an immobilized motor vehicle within one
 465 hour after receiving full payment from the owner, driver, or
 466 person in charge of the motor vehicle.
- 467 4. Fail to provide a receipt after receiving full payment
 468 from the owner, driver, or person in charge of the immobilized
 469 motor vehicle. The receipt must include the name, address, and
 470 telephone number of the operator or the name of the individual
 471 under the operator's employment who removed the immobilization
 472 device, and the operator's license number.
- 473 (j)1. The operator is liable for the cost of repairing a
 474 motor vehicle damaged by a vehicle immobilization device.
- 475 2. The operator is not liable for any damage to a vehicle

476 if the owner, driver, or person in charge of a motor vehicle to
477 which an immobilization device has been installed, attempts to
478 operate the vehicle or to remove the device. If the vehicle
479 immobilization device is damaged in this situation, the owner,
480 driver, or person in charge of the vehicle must pay for the cost
481 of the damage to the device.

482 (k) An operator shall maintain minimum insurance coverage
483 in the amount of \$1 million in commercial general liability, \$1
484 million in commercial automobile liability, \$1 million in garage
485 liability, \$1 million in professional liability, and \$1 million
486 in umbrella coverage and must provide workers' compensation
487 coverage for the employees.

488 (3) PROHIBITED ACTIVITIES.—An operator may not:

489 (a) Procure a license by any fraudulent conduct or false
490 statement of a material fact.

491 (b) Pay any gratuity or other consideration to a person
492 for information concerning illegally parked motor vehicles, if
493 that person does not have an ownership interest in the property
494 or parking lot.

495 (c) Make any payment to a person or agent who has an
496 ownership interest in the property or parking lot, in excess of
497 the reasonable and customary fees ordinarily charged by such
498 person in possession of such property or parking lot;

499 (d) Charge fees in excess of those authorized in this
500 section.

501 (e) Immobilize any motor vehicle located on any portion of
502 a public highway, road, street, or other public way, unless the
503 operator is contracted to do so by a governmental entity.

504 (4) SIGNAGE; REQUIREMENTS.—

505 (a) An operator may not immobilize a motor vehicle without
506 first posting signs meeting the following requirements:

507 1. Signs must be located at each designated entrance to a
508 parking lot or parking area where parking prohibitions are in
509 effect. If there is no designated entrance, a sign shall be
510 erected so as to be clearly visible from each parking space; and

511 2. Signs must be at least 18 inches by 24 inches in size,
512 or if not allowed in such size, the maximum allowable size.

513 (b) The letters on the signs must be at least 1.5 inches
514 in height and in a solid color that contrasts with the
515 background.

516 (c) Signs must clearly state the following, at a minimum:

517 1. WARNING: IMMOBILIZATION ENFORCED 24/7.

518 2. UNAUTHORIZED VEHICLES MAY BE IMMOBILIZED AT OWNER'S
519 RISK AND EXPENSE.

520 3. THE IMMOBILIZATION OPERATOR IS (insert name of vehicle
521 immobilization service).

522 4. THE TELEPHONE NUMBER FOR IMMOBILIZATION REMOVAL IS
523 (insert operator's telephone number).

524 (d) Signs may not contain abbreviations.

525 (5) ADMINISTRATIVE ACTIONS; OPERATOR RIGHTS.—

526 (a) A local government that issued a license to an
527 operator may impose a fine upon such operator and may revoke,
528 suspend, or not renew a license for due cause.

529 (b) Before a local government may take any adverse action
530 against an operator, it must first provide notice to the
531 operator and hold a hearing. Notice of the hearing must be in
532 writing and served on the operator at least 30 days before the
533 hearing date. The notice must state the grounds of the complaint
534 against the operator and must designate the time and place of
535 the hearing. The notice must be served upon the operator via
536 certified mail, signature required, addressed to the operator at
537 the address provided on the operator's current application.

538 (c)1. The local government may not suspend an operator's
539 license for more than 30 days for a first violation.

540 2. The local government may revoke the license of an
541 operator who has had multiple violations. Any person whose
542 license has been revoked pursuant to this section may not
543 reapply to the local government for an operator license for 12
544 months immediately following the revocation.

545 3. The local government may revoke an operator's license
546 if a person with an ownership interest in an immobilization
547 service violates a provision of this section.

548 (d) The maximum fine for a violation of this section is
549 \$1,000.

550 Section 9. This act shall take effect July 1, 2019.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1237 Towing and Immobilizing of Vehicles and Vessels
SPONSOR(S): McClain and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 1792

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Darden	Miller
2) Business & Professions Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

County and municipal governments may contract with wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites within their jurisdiction. Counties and municipalities may establish a wrecker operator system to apportion towing services across multiple wrecker operators. Wrecker operators who participate in the wrecker operator system are known as authorized wrecker operators. Counties and municipalities are authorized to establish maximum rates for the towing and storage of vehicles pursuant to an ordinance or rule adopted pursuant to s. 125.0103, F.S., or s. 166.043, F.S.

Some municipalities impose an administrative fee on vehicles towed by an authorized wrecker operator if the vehicle is seized or towed in connection with certain misdemeanors or felonies. The administrative fee is collected by the towing company on behalf of the municipal government and, in addition to towing and storage fees, must be paid before the vehicle is released to the registered owner or lienholder.

Vehicles or vessels parked without permission on private property may be towed at the direction of the owner or lessee of the property. The towing or removal must be conducted by a person regularly engaged in the business of towing vehicles or vessels and is subject to strict compliance with certain conditions and restrictions placed on the towing company. If the property is not a single-family residence, towing may only occur if notice is given via signage that must meet certain conditions.

The bill requires a county or municipality to establish maximum rates for the towing and storage of vessels, as well as to place a cap on the maximum rate for immobilizing a vehicle or vessel.

The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators. The bill provides that an authorized wrecker operator may impose and collect the administrative fee and is only required to remit the fee to the county or municipality after it has been collected. The bill prohibits counties and municipalities from adopting or enforcing ordinances or rules that impose fees on the registered owner or lienholder of a vehicle or vessel removed and impounded by an authorized wrecker operator. The bill provides that a wrecker operator who recovers, removes, or stores a vehicle or vessel shall have a lien on the vehicle or vessel that includes the value of the reasonable administrative fee or charge imposed by a county or municipality.

The bill establishes requirements for businesses engaged in vehicle immobilization operations. The bill requires vehicle immobilization operations to be licensed by the local government in the area the business operates and to meet certain insurance requirements. The bill establishes notice requirements for areas when an improperly parked vehicle may be subject to immobilization.

The bill may have an indeterminate fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

County and Municipal Wrecker Operator Systems

A county or municipal government may contract with one or more wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites.¹ After the establishment of such contract(s), the county or municipality must create a “wrecker operator system” to apportion towing assignments between the contracted wrecker services. This apportionment may occur through the creation of geographic zones, a rotation schedule, or a combination of those methods.² Any wrecker operator that is included in the wrecker operator system is an “authorized wrecker operator” in the jurisdiction, while any wrecker operation not included is an “unauthorized wrecker operator.”³

Unauthorized wrecker operators are not permitted to initiate contact with the owner or operator of a wrecked or disabled vehicle.⁴ If the owner or operator initiates contact, the unauthorized wrecker operator must disclose in writing, before the vehicle is connected to the towing apparatus:

- His or her full name;
- Driver license number;
- That he or she is not a member of the wrecker operator system;
- That the vehicle is not being towed for the owner’s or operator’s insurance company or lienholder;
- Whether he or she has an insurance policy providing \$300,000 in liability coverage and \$50,000 in on-hook cargo coverage; and
- The maximum charges for towing and storage.⁵

The unauthorized wrecker operator must disclose this information to the owner or operator in the presence of a law enforcement officer if an officer is present at the scene of the accident.⁶

It is a second degree misdemeanor for an unauthorized wrecker operator to initiate contact or to fail to provide required information after contact has been initiated.⁷ An unauthorized wrecker operator misrepresenting his or her status as an authorized wrecker operator commits a first degree misdemeanor.⁸ In either instance, the unauthorized wrecker operator’s wrecker, tow truck, or other motor vehicle used during the offense may be immediately removed and impounded.⁹

Unauthorized wrecker operators also are prohibited from monitoring police radios to determine the location of wrecked or disabled vehicles.¹⁰

¹ S. 323.002(1)(c), F.S. The definition of “vehicle” does not include a vessel or trailer intended for the transport on land of a vessel. *See* s. 320.01, F.S. (defining “motor vehicle” for the purpose of issuance of motor vehicle licenses and separately defining a “marine boat trailer dealer” as a person engaged in “business of buying ... trailers specifically designed to be drawn by another vehicle and used for the transportation on land of vessels.”)

² *Id.*

³ S. 323.002(1)(a)-(b), F.S.

⁴ S. 323.002(2)(b), F.S.

⁵ S. 323.002(2)(c), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ S. 323.002(2)(d), F.S.

⁹ S. 323.002(2)(c) and (d), F.S.

¹⁰ S. 323.002(2)(a), F.S.

Counties must establish maximum rates for the towing of vehicles removed from private property, as well as the towing and storage of vehicles removed from the scene of an accident or where the vehicle is towed at the request of a law enforcement officer. Municipalities are also authorized to adopt maximum rate ordinances. If a municipality enacts an ordinance to establish towing fees, the county ordinance will not apply within the municipality.¹¹ A county or municipality may not establish rates, including a maximum rate, for the towing of vessels.¹²

Vehicle Holds, Wrecker Operator Storage Facilities, and Liens

An investigating agency may place a hold on a motor vehicle stored within a wrecker operator's storage facility for up to five business days.¹³ A hold may be applied when the officer has probable cause to believe the vehicle:

- Should be seized under the Florida Contraband Forfeiture Act or Ch. 379, F.S.;
- Was used as the means of committing a crime;
- Is evidence that tends to show a crime has been committed; or
- Was involved in a traffic accident resulting in death or personal injury.¹⁴

An officer may also apply a hold when the vehicle is impounded pursuant to ss. 316.193 or 322.34, F.S., and when the officer is complying with a court order.¹⁵ The hold must be in writing and include the name and agency of the law enforcement officer placing the hold, the date and time the hold is placed on the vehicle, a general description of the vehicle, the specific reason for the hold, the condition of the vehicle, the location where the vehicle is being held, and the name and contact information for the wrecker operator and storage facility.¹⁶

The investigating agency must inform the wrecker operator within the five-day holding period if the agency intends to hold the vehicle for a longer period of time.¹⁷ The vehicle owner is liable for towing and storage charges for the first five days. If the vehicle will be held beyond five days, the investigating agency may choose to have the vehicle stored at a designated impound lot or to pay for storage at the wrecker operator's storage facility.¹⁸

A wrecker operator or other person engaged in the business of transporting vehicles or vessels who recovers, removes, or stores a vehicle or vessel, possesses a lien on the vehicle or vessel for a reasonable towing fee and storage fee if the vehicle or vessel is removed upon instructions from:

- The owner of the vehicle or vessel;
- The owner, lessor, or authorized person acting on behalf of the owner/lessor of property on which the vehicle or vessel is wrongly parked (as long as the removal is performed pursuant to s. 715.07, F.S.);
- The landlord or authorized person acting on behalf of a landlord, when the vehicle or vessel remains on the property after the expiration of tenancy and the removal is performed pursuant to s. 83.806, F.S., or s. 715.104, F.S.; or
- Any law enforcement agency.¹⁹

¹¹ S. 125.0103(1)(c) and 166.043(1)(c), F.S.

¹² Compare s. 125.0103(1)(c), F.S. (requiring a county to establish maximum rates for towing of vehicles) with s. 715.07, F.S. (towing of vehicles or vessels parked on private property).

¹³ S. 323.001(1), F.S.

¹⁴ S. 323.001(4)(a)-(e), F.S.

¹⁵ S. 323.001(4)(f)-(g), F.S.

¹⁶ S. 323.001(5), F.S.

¹⁷ S. 323.001(2), F.S.

¹⁸ S. 323.001(2)(a)-(b), F.S.

¹⁹ S. 713.78(2), F.S.

Authority for Local Governments to Charge Fees

Counties and municipalities do not have authority to levy taxes, other than ad valorem taxes, except as provided by general law.²⁰ However, local governments possess the authority to impose user fees or assessments by local ordinance as such authority is within the constitutional and statutory home rule powers of local governments.²¹ The key distinction between a tax and a fee is that fees are voluntary and benefit particular individuals in a manner not shared by others in the public.²² On the other hand, a tax is a “forced charge or imposition, operating whether we like it or not and in no sense depends on the will or contract of the one on whom it is imposed.”²³ Usually a fee is charged for the use of a service and is tied directly to the cost of maintaining the service. Money collected from a fee is not applied to uses other than to provide the service for which the fee is applied. An administrative fee for towing and storage services may be permissible to the extent the fee provides a specific benefit to vehicle owners.²⁴

Administrative Fees Related to Towing and Storage

Some municipalities charge administrative fees when a vehicle is towed in connection with certain misdemeanors or felonies.

The City of Sarasota seizes the vehicle of those arrested for crimes related to drugs or prostitution.²⁵ The registered owner of the vehicle is then given two options:

- The registered owner may request a hearing where the city must show by a preponderance of the evidence that the vehicle was used to facilitate the commission of an act of prostitution or any violation of ch. 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act. The owner may post a bond equal to the civil penalty (\$500.00), hearing costs (\$50.00), and towing and storage fees (\$125.00 plus \$25.00 per day) to receive the vehicle back pending the outcome of the hearing, or the owner may leave the vehicle in impound, incurring additional fees.
- The registered owner may waive the right to a hearing and pay the civil penalty (\$500.00).

If the registered owner of the vehicle is unable to pay the administrative penalty within 35 days, the city disposes of the vehicle. The City of Bradenton uses the same process and rate structure.²⁶

Other municipalities have enacted ordinances charging an administrative fee for any vehicle impoundment associated with an arrest. For example, the City of Sweetwater imposes an “impoundment administrative fee” on all vehicles seized incident to an arrest. The fee is \$500 if the impoundment stems from a felony arrest and \$250 if the impoundment stems from a misdemeanor.²⁷

The City of Winter Springs imposes an administrative fee for impoundment arising from 12 offenses enumerated in the authorizing ordinance, ranging from prostitution to dumping litter weighing more than 15 pounds.²⁸ The registered owner may request a hearing, either accruing additional storage fees pending the hearing or posting a bond equal to the amount of the administrative fee (\$550.00). If the registered owner waives the right to hearing, the administrative fee is reduced to \$250.00. These fees are payable to the city but are collected by towing companies.²⁹

²⁰ Art. VII, s. 1(a), Fla. Const.

²¹ *City of Boca Raton v. State*, 595 So. 2d 25, 30 (Fla. 1992).

²² *City of Miami v. Quik Cash Jewelry & Pawn, Inc.*, 811 So.2d 756, 758 (Fla. 3rd DCA 2002).

²³ *Id.* at 758-59.

²⁴ *See Jasinski v. City of Miami*, 269 F. Supp. 2d 1341, 1348 (S.D. Fla. 2003).

²⁵ Sarasota Police Department, *Vehicle Seizure Program*, <https://www.sarasotapd.org/about-us/vehicle-seizure-program> (last visited Mar. 11, 2019).

²⁶ Bradenton, Fla. Code of Ordinances, ch. 54, art. IV (2019).

²⁷ Sweetwater, Fla. Code of Ordinances, ch. 42-1, s. 42.1(c) (2019).

²⁸ Winter Springs, Fla. Code of Ordinances ch. 12, s. 12-100 (2019).

²⁹ Winter Springs, Fla. Notice of Right to Hearing Form. A copy of this form is attached as Appendix A.

By contract, some municipalities require wrecker services to pay a monthly fee for serving as authorized wrecker operators. For example, the contract between the City of Sarasota and a wrecker operator requires the operator to pay the city \$10,151 per month for “the opportunity to provide” wrecker services, as well as \$500 for each impounded vehicle sold by the wrecker service.³⁰

Towing from Private Property

Section 715.07, F.S., regulates the towing of vehicles or vessels parked on private property.³¹ A vehicle or vessel may be towed at the direction of an owner or lessee of real property, or their designee, if the vehicle or vessel is parked on the property without permission.³² A person regularly engaged in the business of towing vehicles or vessels must conduct the tow. The towing or removal of any vehicle or vessel from private property without the consent of the registered owner or other legally authorized person in control of that vehicle or vessel is subject to strict compliance with certain conditions and restrictions. These conditions and restrictions include:³³

- Any towed or removed vehicle or vessel must be stored at a site within a specified distance of the point of removal.³⁴
- The towing company must notify local law enforcement within 30 minutes of completing the tow of the storage site; the time the vehicle or vessel was towed; and the make, model, color, and license plate number of the vehicle or description and registration number of the vessel. The towing truck operation is required to record the name of the law enforcement officer who received the information in the trip record.
- The owner of a vehicle or vessel must be allowed to redeem the vehicle or vessel from the towing company if the owner seeks return before the tow has occurred. The towing company may charge a reasonable service fee of up to one-half of the posted towing rate for the return of the vehicle or vessel and may tow the vehicle or vessel if the owner is unable to pay the fee after a reasonable opportunity.
- A towing company may not pay or accept money in exchange for the privilege of towing or removing vehicles or vessels from a particular location.
- If the towing company requires the owner of a vehicle to pay the costs of towing and storage prior to redemption, the towing company must file and keep on record its rate schedule with the local law enforcement agency and post the rate schedule at the storage site.
- Trucks and wreckers used by the towing company must have the name, address, and telephone number of the company printed on both sides of the vehicle in contrasting letters. The name of the towing company must be in 3-inch or taller permanently affixed letters, while the address and telephone number must be in 1-inch or taller permanently affixed letters.
- The towing company must exercise reasonable care when entering a vehicle or vessel for the purpose of removing it. The towing company is liable for any damage to the vehicle caused by failure to exercise reasonable care.
- The vehicle or vessel must be released to its owner within one hour after request. The owner maintains a right to inspect the vehicle or vessel and the towing company operation may not require a release or waiver of damages to be signed a condition of returning the vehicle. The

³⁰ Agreement for Wrecker Towing and Storage Services, City of Sarasota and J&G WFR, Inc. dba Direct Towing. A copy of the relevant portions of the contract is attached as Appendix B.

³¹ S. 715.07, F.S. A “vehicle” is defined as any mobile item which normally uses wheels, whether motorized or not. S. 715.07(1)(a), F.S. A “vessel” is defined as every description of watercraft, barge, and airboat used or capable of being used as a means of transportation on water, other than a seaplane or a “documented vessel” as defined in s. 327.02, F.S. S. 715.07(1)(b), F.S.

³² S. 715.07(2), F.S.

³³ S. 715.07(2)(a), F.S.

³⁴ S. 715.07(2)(a)1.a., F.S. The vehicle or vessel must be stored within a 10-mile radius of the removal point in a county with a population of at least 500,000 and within a 15-mile radius of the removal point in a county with a population of fewer than 500,000. If no towing business operated within the given area, these radiuses are extended to 20 miles (for a county with a population of at least 500,000) and 30 miles (for a county with a population of fewer than 500,000). The site must be open from 8 am to 6 pm on the towing business is in operation and must post a telephone number where the operator of the site can be reached when the site is closed. The operator must return to the site within one hour.

towing company operator must issue a detailed, single receipt to the owner of the vehicle or vessel.

Additionally, a vehicle or vessel may not be towed without consent of its owner, except from property appurtenant to a single-family residence, unless a notice is posted which states the area in which that vehicle or vessel is parked is reserved or otherwise unavailable for unauthorized vehicles or that the vehicle or vessel is subject to being removed at the owner's or operator's expense and the notice meets the following requirements:³⁵

- The notice is placed prominently at each driveway access or curb cut, within five feet from the public right-of-way line. If the property has no curbs or access barriers, signs must be posted at least once every 25 feet of lot frontage.
- The notice must clearly indicate, in not less than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense and contain the words "tow-away zone" in letter not less than 4 inches high.
- The notice must provide the name and telephone number of the towing company.
- The sign containing the notices must be permanently installed in such a way that the words "tow-away zone" are between 3 and 6 feet above ground level and the sign must have been continuously maintained on the property for not less than 24 hours prior to the towing of any vehicle or vessel.
- Local governments may also require permitting and inspection of signage before any towing is authorized.
- A business with 20 or fewer parking spaces may satisfy the requirement by prominently displaying a sign stating "Reserved Parking for Customers Only Unauthorized Vehicles or Vessels Will be Towed Away At the Owner's Expense" in not less than 4-inch high, light-reflective letters on a contrasting background.
- A property owner towing or removing vessels from real property must post notice, consistent with the requirements in the statute which apply to vehicles,³⁶ that unauthorized vehicles or vessels will be towed away at the owner's expense.

A vehicle or vessel may be towed even in the absence of a tow-away zone sign if the vehicle or vessel is parked in such a way that it restricts the normal operation of business or restricts access to a private driveway and the tow is requested by the business owner or lessee.³⁷

A county or municipal may adopt additional standards, including regulation of the rates charged when a vehicle or vessel is towed from private property.³⁸

If a person causes a vehicle or vessel to be removed improperly, that person is liable to the owner or lessee for the cost of removal, transportation, and storage; any damages resulting from the removal, transportation, or storage of the vehicle or vessel; attorney's fees; and court costs.³⁹

Violations of these provisions may constitute a first-degree misdemeanor⁴⁰ or a third-degree felony.⁴¹

Effect of Proposed Changes

The bill authorizes a county or municipality to regulate the rates for the towing or immobilization of vehicles or vessels. A county or municipality is required to establish a maximum rate that may be

³⁵ S. 715.07(2)(a)5, F.S.

³⁶ These requirements are contained in s. 715.07(2)(a)5.a.-f., F.S.

³⁷ S. 715.07(2)(a)5, F.S.

³⁸ S. 715.07(2)(b), F.S.

³⁹ S. 715.07(4), F.S.

⁴⁰ For subparagraphs (2)(a)2. and (2)(a)6. S. 715.07(5)(a), F.S.

⁴¹ For subparagraphs (2)(a)1., (2)(a)3., (2)(a)4., (2)(a)7., and (2)(a)9. S. 715.07(5)(b), F.S.

charged for the towing or immobilization⁴² of a vessel. The bill provides that the maximum rate to immobilize a vehicle or vessel may not exceed 20 percent of the maximum rate allowed by the county or municipality for towing a vehicle or vessel from private property. The bill defines immobilization as the act of rendering a vehicle or vessel inoperable by the use of a device such as a “boot,” “club,” “Barnacle,” or any other device that renders the vehicle or vessel inoperable.

The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators. The prohibition would not impact the ability of the county or municipality to levy a business tax under ss. 205.0315, 205.033, or 205.0535, F.S. It also would not impact the ability of the county to impose a reasonable administrative fee or charge by ordinance on the legal owner of a vehicle if a county or municipal law enforcement officer has caused the owner’s vehicle to be towed to and impounded at a facility owned by the county or municipality. The administrative fee imposed under this section may not exceed 25 percent of the maximum towing rate.

The bill authorizes an authorized wrecker operator or towing business to impose and collect the administrative fee and provides that the authorized wrecker operator or towing business is not required to remit the fee to the county or municipality until it is actually collected. The bill requires the administrative fee to be included as part of the lien on the vehicle or vessel held by the towing operator.

The bill also prohibits a county or municipality from adopting or enforcing an ordinance that imposes any charge, cost, expense, fine, fee, or penalty on the registered owner or lienholder of a vehicle removed and impounded by an authorized wrecker operator. This prohibition does not apply to a reasonable administrative fee or charge, limited to 25 percent of the maximum towing rate, to cover the cost of enforcement.

The bill establishes requirements for businesses engaged in vehicle immobilization operations. A business engaged in vehicle immobilization operations must be licensed by the local government where the operator will provide services. The operator may not provide immobilization services on any property or lot in which the operator has an ownership or other interest of value if that property or lot is used for the business of parking, including as a parking lot or valet parking operation, or if the parking of motor vehicles has otherwise been allowed.

Each operator is required to maintain insurance coverage with at least \$1 million of coverage for commercial general liability, commercial automobile liability, garage liability, professional liability and umbrella coverage. The operator must also provide workers compensation coverage for all of the company’s employees.

Each operator must conduct business under a name that is distinguishable from other license operators. At all times while performing vehicle immobilization services, the operator and operator’s employees must wear a uniform that clearly identifies the operator name and carry an operator-issued photo ID that clearly identifies the operator. The operator name must also appear on both side of a motor vehicle used by the operator to perform vehicle immobilization services and the vehicle must contain the address and phone number of the operator. The name, address, and phone number of the operator must appear in lettering of a contrasting color with the color of the vehicle and must be at least 1.5 inches in height.

The bill requires each operator to maintain a telephone number staffed by a live individual at all times to communicate immediately with the driver or owner of an immobilized vehicle. An operator who immobilizes a vehicle must affix a notice to the vehicle’s driver side window containing:

- A warning that attempting to move the vehicle may damage the vehicle;
- The name of the operator;
- The telephone number to call to have the immobilization device removed; and

⁴² The bill defines “immobilization” as the act of rendering a vehicle or vessel inoperable by the use of a device such as a “boot,” “club,” “Barnacle,” or any similar device.

- The fee for removing the immobilization device.

Operators are prohibited from:

- Immobilizing a vehicle on private property without having previously entered into a valid written contract for vehicle immobilization services with the private property owner, lessee, managing agent, or other person in control of the property or parking lot;
- Failing to arrive at the site of an immobilized motor vehicle within one hour of being contacted by the owner or person in custody or control of the motor vehicle;
- Failing to release an immobilized motor vehicle within one hour after receiving full payment;
- Failing to provide a receipt, including the name, address, and phone number of the operator, after receiving full payment;
- Procuring a license by fraud;
- Paying an gratuity or other consideration to a person for information about illegally parked vehicles, if that the person does not have an ownership interest in the property or parking lot;
- Making a payment to a person or agent who has an ownership interest in a property or parking lot that is in excess of reasonable and customary fees ordinarily charged by a person in possession of a property or parking lot;
- Charging fees in excess of those authorized; and
- Immobilizing any motor vehicle located in a public highway, road, street, or other public way, unless the operator is contracted with a government entity to do so.

An operator is liable for the cost of repairing damages to a vehicle caused by an immobilization device, but is not liable for any damages resulting from a the vehicle owner attempting to operate the vehicle with the device attached or remove the device. If the owner of a vehicle attempts to operate the vehicle with the device attached or remove the device, the vehicle owner is liable for damages to device.

Operators may not immobilize a vehicle unless a sign is clearly posted at each designated entrance to the parking lot or area. If there is no designated entrance, the sign must be clearly visible from each parking space. The sign must be at least 18 inches by 24 inches in size or the maximum allowable size (if local ordinances restrict signs to a smaller size). The letters on the sign must be at least 1.5 inches in height and in a solid color that contrasts with the background of the sign. The sign must clearly state:

- WARNING: IMMOBILIZATION ENFORCED 24/7
- UNAUTHORIZED VEHICLES MAY BE IMMOBILIZED AT OWNER'S RISK AND EXPENSE
- THE IMMOBILIZATION OPERATOR IS (insert name of vehicle immobilization service); and
- THE TELEPHONE NUMBER FOR IMMOBILIZATION REMOVAL IS (insert operator's telephone number).

The sign may not contain abbreviations.

Local governments are authorized to fine operators and revoke, suspend, or not renew a license for due cause. A local government intending to take adverse action against an operator must first provide notice and conduct a hearing. The hearing notice must be in writing, served on the operator at least 30 days before the hearing date, state the grounds of the complaint, and designate a time and place for the hearing. The notice must be served by certified mail, signature required, at the address on the operator's current license application.

An operator's license may not be suspended for more than 30 days for a first violation. A license may only be revoked if the operator has had multiple violations. If an operator's license is revoked, the operator may not reapply for a license for 12 months. The maximum fine for a violation is \$1,000.

The bill authorizes the towing or removal of a vehicle or vessel from private property without the consent of the registered owner as long as the towing company is in substantial compliance with the conditions and restrictions established in s. 715.07, F.S.

The bill removes the requirement that the tow-away zone notice placed prominently at each driveway access or curb cut allowing vehicular access to the property be placed within five feet from the public right-of-way line.

The bill removes the requirement that a “tow-away zone” sign must be permanently installed at between 3 and 6 feet above ground level.

The bill revises several provisions that currently apply to a person in control of a vehicle or vessel to also apply to those in custody of the vehicle.

The bill removes liability for any person causing a vehicle or vessel to be removed improperly for the cost of removal, transportation, and storage; any damages resulting from the removal, transportation, or storage of the vehicle or vessel; attorney’s fees; and court costs.

B. SECTION DIRECTORY:

- Section 1: Amends s. 125.0103, F.S., requiring counties to establish maximum rates for the towing of vessels and placing a cap on the maximum rate for immobilizing a vehicle or vessel.
- Section 2: Creates s. 125.01047, F.S., prohibiting counties from enacting ordinances imposing specific fees and charges on authorized wrecker operators.
- Section 3: Amends s. 166.043, F.S., requiring municipalities to establish maximum rates for the towing of vessels and placing a cap on the maximum rate for immobilizing a vehicle or vessel.
- Section 4: Creates s. 166.04465, F.S., prohibiting municipalities from enacting ordinances imposing specific fees and charges on authorized wrecker operators.
- Section 5: Amends s. 323.002, F.S., prohibiting counties and municipalities from imposing fees and charges on the registered owner or lienholder of a vehicle removed and impounded pursuant to ch. 323, F.S.
- Section 6: Amends s. 713.78, F.S., providing that a wrecker operation has a lien for a reasonable administrative fee or charge imposed by a county or municipality.
- Section 7: Amends s. 715.07, F.S., concerning requirements for towing a vehicle from private property.
- Section 8: Creates s. 715.08, F.S., governing vehicle immobilization operations.
- Section 9: Provides that the bill takes effect July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill will have an indeterminate impact on local government revenue. The bill prohibits counties and municipalities from charging certain fees to authorized wrecker operators and towing companies that are currently charged by some jurisdictions, while authorizing the collection of administrative fees for the cost of enforcement.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will reduce expenses for towing companies that are located in counties or municipalities currently charging a fee.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

The Florida Constitution prohibits the passage of any law that would impair the obligation of contracts.⁴³ The bill does not appear to implicate this provision, as the bill does not address the enforcement of current contracts. The retroactive application of a statutory provision generally only occurs upon an express statement of intent by the Legislature and is limited to the extent retroactive application would impair a vested right, create a new obligation, or impose a new penalty.⁴⁴

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill prohibits the operator of a vehicle immobilization service from charging fees in excess of those authorized by the new section created by the bill, but the section does not otherwise contain any language concerning fees charged to the operators of immobilized vehicles or vessels.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

⁴³ Art. I, s. 10, Fla. Const.

⁴⁴ *Menendez v. Progressive Exp. Ins. Co., Inc.*, 35 So. 3d 873, 877 (Fla. 2010).

APPENDIX A



NOTICE OF RIGHT TO HEARING

Case#: []
Dated this [] day of [], 20 []

HAND DELIVERED TO:

NAME: [] DOB []
ADDRESS: []
D/L # [] Sex: [] Race: []

SECTION 1:

The following property was taken on the [] day of [], 20 [], on or about [] hours by members of the Winter Springs Police in the vicinity of [] because the undersigned police officer has probable cause to believe that the vehicle:

- Was used to facilitate the commission or attempted commission of an act of prostitution, assignation or lewdness as defined in §796.07, F.S. or the exposure of sexual organs as set forth in section 800.03 F.S.
- Was knowingly used in the commission of any misdemeanor act of possession or attempted possession of any controlled substance as defined in section 893.02 F.S.
- Was used, intended or attempted to be used, to facilitate the commission of any misdemeanor violation of Chapter 893 F.S.
- Was used, intended or attempted to be used, to facilitate the commission of any misdemeanor violation of section 316.061 F.S.
- Was used, intended or attempted to be used, to facilitate the commission of any misdemeanor violation of section 322.34 F.S.
- Was operated by a person driving under the influence defined in section 316.193 F.S. when such violation is a misdemeanor.
- Was used in the commission of the offense of driving without a valid license or permit in violation of 322.03 F.S.
- Was being operated on a public street and is not covered by liability insurance as required by Chapter 324 F.S.
- Was used in the commission of the misdemeanor offense of criminal mischief in violation section 806.13 F.S.
- Was used to dump litter in any manner prohibited by section 403.413(4) F.S. exceeding 15 lbs. or 27 cu. ft. in volume not exceeding 500 lbs. or 100 cu. ft. and not for commercial purposes.
- Was being operated by a person presenting proof of insurance in violation of section 316.646(4) F.S. knowingly not in force.
- Was parked in a way impeding traffic, creating a hazard, obstructing a street or city utility or left unattended because the driver was taken into custody by law enforcement.

Such property is being held pending civil proceedings under Winter Springs Code, Section 12 and is described as: YEAR [] MAKE [] MODEL [] COLOR [] TAG [] VIN/HIN [] STATE []

Other []

And is currently being held at:

Tri-County Towing
1155 Belle Ave.
Winter Springs, FL 32708
(407) 695-4400

Winter Springs Police Department
300 N. Moss Rd.
Winter Springs, FL 32708
(407) 327-1000

Received By (Operator/Owner) *Signed* _____

Received By (Operator/Owner) *Print* _____

Delivered By (Officer/Clerk) *Signed* _____

Delivered By (Officer/Clerk) *Print* _____

SECTION 2:

Pursuant to City Code, Section 12-100 the owner has the right to request a hearing in the following manner:

Within seven (7) business days of receipt of this notice, the owner, co-owner or lienholder may request a hearing by delivering to the Police Department, at 300 N. Moss Rd., Seminole County, Winter Springs, Florida 32708, a written request for a hearing.

Such request for a hearing shall include a valid telephone number and correct address where the owner, co-owner, or lienholder may be contacted.

The written notice must be received by the Police Department within the allotted time or the right to a hearing shall be deemed to be waived.

SECTION 3:

In order to retrieve the above described vehicle, the owner has the below options:

Owner, Co-Owner, or Lienholder Requesting a Hearing:

The Owner, Co-Owner, or Lienholder may secure release of the vehicle by posting a bond (cash, money order, or certified check payable to the City of Winter Springs) in the amount of \$550.00 submitted to the towing company. The Owner, Co-Owner, or Lienholder may then take possession of the vehicle from the towing company after payment of towing and storage charges payable to the towing company.

The Owner, Co-Owner, or Lienholder may leave the vehicle impounded and request a hearing directly from the police department Support Services Bureau.

Owner, Co-Owner, or Lienholder Waiving a Hearing and Submitting Civil Penalty:

The Owner, Co-Owner, or Lienholder may secure release of the vehicle by submitting a civil penalty (cash, money order, or certified check payable to the City of Winter Springs) in the amount of \$250.00 and submitted to the towing company during business hours.

The Owner, Co-Owner, or Lienholder then may receive the vehicle from the towing company after payment of towing and storage charges payable to the the towing company.

An executed written waiver shall bind both the owner and co-owner except as otherwise provided herein.

APPENDIX B

AGREEMENT FOR WRECKER TOWING AND STORAGE SERVICES

THIS AGREEMENT FOR WRECKER TOWING AND STORAGE SERVICES, made and entered into this 5 day of MAY, 2010 by and between the CITY OF SARASOTA, FLORIDA, a municipal corporation, hereinafter referred to as "CITY," and J & G WFR, INC. DBA DIRECT TOWING, a Florida corporation, hereinafter referred to as "DIRECT".

WITNESSETH:

WHEREAS, CITY has publicly announced an Invitation to Bid to obtain annual wrecker towing and storage services on an as needed basis pursuant to Invitation to Bid No. 10-08MK; and

WHEREAS, DIRECT has submitted a responsive bid which has been accepted by CITY to provide the CITY with the annual wrecker towing and storage services on an as needed basis; and

WHEREAS, CITY and DIRECT desire to formalize the terms and conditions of DIRECT's performance of such services as set forth herein; and

WHEREAS, the City Manager, pursuant to Sarasota City Code Section 2-5 (3) v. is authorized to administratively approve and execute this Agreement on behalf of CITY so long as the total compensation paid to DIRECT during the entire term of this Agreement, as may be extended, does not exceed Two Hundred Thousand Dollars (\$200,000.00).

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING AND THE MUTUAL COVENANTS CONTAINED HEREIN, IT IS AGREED AS FOLLOWS:

1. Definitions: The following terms shall have the meanings herein ascribed to them:

A. *City Manager* shall mean the City manager of the City of Sarasota, Florida, or his designee.

B. *Police Chief* shall mean the Chief of Police of the City of Sarasota, Florida, or his designee.

C. *Project* shall mean the Scope of Services to be performed by DIRECT in furtherance of this Agreement. The Scope of Services shall include all labor, materials, tools, equipment, insurance and the like required to perform vehicle and vessel towing and storage services within the boundaries of the towing area on an as needed basis for CITY. A more detailed description of the Scope of Services is set forth in the City of Sarasota Police Department Vehicle and Vessel Towing and Storage Services section found on pages 13 through 20, inclusive, of Invitation to Bid No. 10-08MK. A copy of Invitation to Bid No. 10-08MK, as well as the Bid Form submitted by DIRECT in response thereto, are on file in the offices of

the Financial Administration Purchasing Division of CITY. Invitation to Bid No. 10-08MK, as well as DIRECT's Bid Form submitted in response thereto are deemed incorporated by reference into this Agreement. DIRECT covenants to strictly comply with all of the terms and conditions of Bid No. 10-08MK as well as DIRECT's Bid Form submitted in response thereto. In the event of any conflict between the terms set forth in the main body of this Agreement and Invitation to Bid No. 10-08MK, the terms and conditions set forth in the main body of this Agreement shall control.

2. Scope of Services: DIRECT shall diligently and timely provide all labor, material and equipment required for the Scope of Services for the Project in strict conformance with Bid No. 10-08MK as well as DIRECT's Bid Form submitted in response thereto and in strict conformance with all the terms and conditions of this Agreement. The parties hereby agree to be bound by the terms and conditions set forth in Bid No. 10-08MK as well as DIRECT's Bid Form submitted in response thereto. The Police Chief will notify DIRECT when an assignment within the Project Scope of Services may be available. DIRECT covenants to provide the Project Scope of Services within the time limits set forth in Invitation to Bid No. 10-08MK.

3. Payment: In consideration for CITY providing DIRECT the opportunity to provide the Scope of Services, DIRECT agrees to pay CITY a fee in the amount of Ten Thousand One Hundred Fifty One and 00/100 Dollars (\$10,151.00) per month. Said payment shall be submitted to the CITY prior to the 10th day of each month. This monthly payment shall be due and payable by DIRECT to CITY in advance for each month during the term of this Agreement. Furthermore, in consideration of the CITY not placing, attempting to foreclose or foreclosing a vehicle impoundment lien upon a vehicle impounded pursuant to Section 33-271 of the Sarasota City Code, DIRECT agrees to waive any and all storage charges to which the CITY would be obligated to pay as a result of the operation of any provision of Chapter 323, Florida Statutes, on any vehicles impounded by the City and stored by DIRECT. As further

consideration, DIRECT shall pay CITY Five Hundred Dollars (\$500.00) for each sale by DIRECT of a vehicle that was sold subsequent to a seizure initiated by the police department of CITY. Said payment shall be made to CITY within thirty (30) days of DIRECT'S sale of a vehicle which had been seized.

4. Term: This Agreement shall be effective upon complete execution by each of the parties hereto. The initial term of this Agreement shall expire one year thereafter. This Agreement may be extended upon mutual agreement of the parties for up to two additional one year periods under the same terms and conditions pursuant to an amendment to this Agreement.

5. Public Records: DIRECT acknowledges that it shall be responsible to totally and fully comply with the Florida Public Records Law as set forth in Chapter 119, Florida Statutes and all other relevant laws, rules and regulations regarding public records.

6. Termination Without Default: The City Manager shall have the right at any time upon fifteen (15) days written notice to DIRECT to terminate the services of DIRECT hereunder for any reason whatsoever. If the City Manager terminates this Agreement pursuant to this Section 6, DIRECT shall be entitled to a pro-rated refund of the monthly payment required by Section 3 above. The amount of the refund shall be pro-rated based upon the number of days remaining in the calendar month starting with the day after the effective date of termination.

7. Termination With Default: DIRECT acknowledges that the conditions, covenants and requirements on its part to be kept, as set forth herein, are material inducements to CITY entering into this Agreement. Should DIRECT fail to perform any of the conditions, covenants and requirements on its part to be kept, the City Manager shall give written notice thereof to DIRECT specifying those acts or things which must occur in order to cure said default, including the time within which such cure shall occur. DIRECT shall have seventy two (72) hours measured from the date and time of the written notice within which to cure the default.

1 A bill to be entitled
 2 An act relating to anchored vessels; amending s.
 3 327.4109, F.S.; providing a definition; directing the
 4 Fish and Wildlife Conservation Commission to conduct,
 5 contingent on appropriation, a specified study of the
 6 impacts of long-term stored vessels on local
 7 communities and the state and to submit a report to
 8 the Governor and Legislature by a specified date;
 9 providing for expiration of the study; amending s.
 10 328.72, F.S.; revising the distribution of vessel
 11 registration fees to provide grants for derelict
 12 vessel removal; amending s. 376.15, F.S.; authorizing
 13 the commission to use certain funds to remove, or to
 14 pay private contractors to remove, derelict vessels;
 15 amending s. 823.11, F.S.; prohibiting persons from
 16 residing or dwelling on certain derelict vessels until
 17 certain conditions are met; providing an effective
 18 date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Subsection (6) is added to section 327.4109,
 23 Florida Statutes, to read:

24 327.4109 Anchoring or mooring prohibited; exceptions;
 25 penalties.—

26 (6) (a) As used in this subsection, the term "long-term
27 stored vessel" means a vessel on the waters of the state that
28 has remained anchored outside of a public mooring field for at
29 least 21 days out of a 60-day period.

30 (b) Contingent upon appropriation by the Legislature, the
31 commission may conduct, or contract with a private vendor to
32 conduct, a study of the impacts of long-term stored vessels on
33 local communities and the state.

34 (c) The study shall:

35 1. Investigate if and to what extent long-term stored
36 vessels contribute to the number of derelict and abandoned
37 vessels on the waters of the state.

38 2. Investigate the impacts of long-term stored vessels and
39 vessels anchored within public mooring fields on the local and
40 state economies, public safety, and the environment during and
41 after significant tropical storm and hurricane events.

42 3. Provide recommendations for appropriate management
43 options for long-term stored vessels to mitigate any identified
44 negative impacts to local communities and the state.

45 (d) The commission shall submit a report of its findings
46 and recommendations to the Governor, the President of the
47 Senate, and the Speaker of the House of Representatives by
48 January 1, 2025.

49 (e) This subsection expires January 1, 2025.

50 Section 2. Subsection (15) of section 328.72, Florida

51 Statutes, is amended to read:

52 328.72 Classification; registration; fees and charges;
 53 surcharge; disposition of fees; fines; marine turtle stickers.-

54 (15) DISTRIBUTION OF FEES.-Except as provided in this
 55 subsection ~~for the first \$2, \$1 of which shall be remitted to~~
 56 ~~the state for deposit into the Save the Manatee Trust Fund~~
 57 ~~created within the Fish and Wildlife Conservation Commission and~~
 58 ~~\$1 of which shall be remitted to the state for deposit into the~~
 59 ~~Marine Resources Conservation Trust Fund to fund a grant program~~
 60 ~~for public launching facilities pursuant to s. 206.606, giving~~
 61 ~~priority consideration to counties with more than 35,000~~
 62 ~~registered vessels, moneys designated for the use of the~~
 63 counties, as specified in subsection (1), shall be distributed
 64 by the tax collector to the board of county commissioners for
 65 use only as provided in this section. Such moneys to be returned
 66 to the counties are for the sole purposes of providing,
 67 maintaining, or operating recreational channel marking and other
 68 uniform waterway markers, public boat ramps, lifts, and hoists,
 69 marine railways, boat piers, docks, mooring buoys, and other
 70 public launching facilities; and removing derelict vessels,
 71 debris that specifically impede boat access, not including the
 72 dredging of channels, and vessels and floating structures deemed
 73 a hazard to public safety and health for failure to comply with
 74 s. 327.53. Counties shall demonstrate through an annual detailed
 75 accounting report of vessel registration revenues that the

76 registration fees were spent as provided in this subsection.
 77 This report shall be provided to the Fish and Wildlife
 78 Conservation Commission no later than November 1 of each year.
 79 If, before January 1 of each calendar year, the accounting
 80 report meeting the prescribed criteria has still not been
 81 provided to the commission, the tax collector of that county may
 82 not distribute the moneys designated for the use of counties, as
 83 specified in subsection (1), to the board of county
 84 commissioners but shall, for the next calendar year, remit such
 85 moneys to the state for deposit into the Marine Resources
 86 Conservation Trust Fund. The commission shall return those
 87 moneys to the county if the county fully complies with this
 88 section within that calendar year. If the county does not fully
 89 comply with this section within that calendar year, the moneys
 90 shall remain within the Marine Resources Trust Fund and may be
 91 appropriated for the purposes specified in this subsection.

92 (a) From the vessel registration fees designated for use
 93 by the counties in subsection (1), \$1 shall be remitted to the
 94 state for deposit into the Save the Manatee Trust Fund.

95 (b) From the vessel registration fees designated for use
 96 by the counties in subsection (1), \$1 shall be remitted to the
 97 state for deposit into the Marine Resources Conservation Trust
 98 Fund to fund a grant program for public launching facilities
 99 pursuant to s. 206.606, giving priority consideration to
 100 counties with more than 35,000 registered vessels.

101 (c) From the vessel registration fees designated for use
 102 by the counties in subsection (1), the following amounts shall
 103 be remitted to the state for deposit into the Marine Resources
 104 Conservation Trust Fund to fund derelict vessel removal grants
 105 pursuant to s. 376.15:

- 106 1. Class A-2: \$0.25 for each 12-month period registered.
- 107 2. Class 1: \$2.06 for each 12-month period registered.
- 108 3. Class 2: \$9.26 for each 12-month period registered.
- 109 4. Class 3: \$16.45 for each 12-month period registered.
- 110 5. Class 4: \$20.06 for each 12-month period registered.
- 111 6. Class 5: 25.46 for each 12-month period registered.

112 Section 3. Paragraph (d) of subsection (3) of section
 113 376.15, Florida Statutes, is amended to read:

114 376.15 Derelict vessels; relocation or removal from public
 115 waters.—

116 (3)

117 (d) The commission may establish a program to provide
 118 grants to local governments for the removal of derelict vessels
 119 from the public waters of the state. The program shall be funded
 120 from the Marine Resources Conservation Trust Fund or the Florida
 121 Coastal Protection Trust Fund. Notwithstanding the provisions in
 122 s. 216.181(11), funds available for grants may only be
 123 authorized by appropriations acts of the Legislature. In a given
 124 fiscal year if all funds appropriated pursuant to this paragraph
 125 are not requested by and granted to local governments for the

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2019

126 removal of derelict vessels by the end of the third quarter, the
127 Fish and Wildlife Conservation Commission may use the remainder
128 of the funds to remove, or to pay private contractors to remove,
129 derelict vessels.

130 Section 4. Subsection (6) is added to section 823.11,
131 Florida Statutes, to read:

132 823.11 Derelict vessels; relocation or removal; penalty.—

133 (6) If an owner or responsible party of a derelict vessel
134 has been charged by an officer of the commission or any law
135 enforcement agency or officer specified in s. 327.70 for a
136 violation of subsection (2) or a violation of s. 376.15(2), a
137 person may not reside or dwell on such vessel until the vessel
138 is removed from the waters of the state permanently or returned
139 to the waters of the state in a condition that is no longer
140 derelict.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1221 Anchored Vessels
SPONSOR(S): Polsky and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Melkun	Shugar
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property. Both state and local law enforcement are authorized and empowered to relocate or remove a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons.

The bill defines "long-term stored vessel" as a vessel on the waters of the state that has remained anchored outside of a public mooring field for at least 21 days out of a 60-day period and requires the Florida Fish and Wildlife Conservation Commission (FWC) to conduct a study of the impacts of long-term stored vessels on local communities and the state. The study must investigate if and how long-term stored vessels contribute to the number of derelict and abandoned vessels on the waters of the state; investigate the impacts of long-term stored vessels and vessels anchored within public mooring fields on the local and state economies, public safety, and the environment during and after a significant tropical storm or hurricane event; and provide recommendations for appropriate management options for long-term stored vessels to mitigate any identified negative impacts. The bill further requires FWC to submit a report of its findings to the Governor and the Legislature by January 1, 2025.

The bill requires certain amounts from vessel registration fees designated for use by the counties be deposited into the Marine Resources Conservation Trust Fund to fund a grant program for derelict vessel removal. The bill specifies that the funding for the local government grant program for the removal of derelict vessels must come from the Marine Resources Conservation Trust Fund or the Florida Coastal Protection Trust Fund.

The bill allows FWC to use funds from the local government grant program to remove, or pay private contractors to remove, derelict vessels if, in a given year, all funds appropriated are not requested by and granted to local governments for the removal of derelict vessels by the end of the third quarter.

The bill prohibits a person from residing or dwelling on a vessel that has been charged by an officer of FWC or any law enforcement agency as derelict until the vessel is removed from the waters of the state permanently or returned to the waters of the state in a condition that is no longer derelict.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Anchoring or mooring refers to a boater's practice of seeking and using a safe harbor on the public waterway system for an undefined duration. Anchoring is accomplished using an anchor carried on the vessel, while mooring is accomplished through the utilization of tie-ups, or moorings, permanently affixed to the bottom.¹ Anchorages are areas that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not. Mooring fields are areas designated and used for a system of properly spaced moorings.²

The anchoring of vessels has created conflicts in some areas of the state related to the use and enjoyment of waters. These issues include, but are not limited to:

- The locations where anchored vessels accumulate;
- Unattended vessels;
- Anchored vessels that are dragging anchor or not showing proper lighting;
- Vessels that are not maintained properly;
- Vessels that become derelict;
- Interpretation of state laws leading to inconsistent regulation of anchoring on state waters and confusion among the boating community; and
- Questions about local governmental authority to regulate anchoring.³

Local Regulation of the Anchoring or Mooring of Vessels

Local governments are authorized by general permit to construct, operate, and maintain public mooring fields, each for up to 100 vessels.⁴ Mooring fields are required to be located where navigational access already exists between the mooring field and the nearest customarily used access channel or navigable waters which the mooring field is designed to serve. Each mooring field must be associated with a land-based support facility that provides amenities and conveniences, such as parking, bathrooms, showers, and laundry facilities. Major boat repairs and maintenance, fueling activities other than from the land-based support facility, and boat hull scraping and painting are not authorized within mooring fields.⁵

Local governments are further authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures⁶ or live-aboard vessels⁷ within their jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.⁸ However, they are prohibited from enacting, continuing in effect, or enforcing any ordinance or local regulation that regulates the

¹ Section 327.02, F.S., defines "vessel" to include every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

² Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida* (Rev. May 2012), 2, available at <http://nsgl.gso.uri.edu/flsgp/flsgpt12001.pdf> (last visited Mar. 15, 2017).

³ Fish and Wildlife Conservation Commission (FWC), *Anchoring and Mooring Pilot Program Report of Findings and Recommendations* (Dec. 21, 2016), 6, available at <http://myfwc.com/media/4126646/anchoringandmooringpilotprogramreport122116.pdf> (last visited Mar. 15, 2017).

⁴ See s. 373.118, F.S.; r. 62-330.420(1), F.A.C.

⁵ See r. 62-330.420, F.A.C.

⁶ Section 327.02, F.S., defines "floating structure" as a floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes an entity used as a residence, place of business, or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or a mining platform, dredge, dragline, or similar facility or entity represented as such.

⁷ Section 327.02, F.S., defines "live-aboard vessel" as a vessel used solely as a residence and not for navigation; a vessel represented as a place of business or a professional or other commercial enterprise; or a vessel for which a declaration of domicile has been filed. The definition expressly excludes commercial fishing boats.

⁸ Section 327.602(3), F.S.

anchoring of vessels, other than live-aboard vessels, outside the marked boundaries of permitted mooring fields.⁹

Derelict Vessels

A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property.¹⁰

It is unlawful to store, leave, or abandon a derelict vessel in Florida.¹¹ Those found in violation of this law commit a first degree misdemeanor.¹² State law further provides that a violation of derelict vessel laws may also be subject to a civil penalty of up to \$50,000 per day.¹³ Each day during any portion of which the violation occurs constitutes a separate offense.¹⁴

Removal of Derelict Vessels

The Division of Law Enforcement of the Florida Fish and Wildlife Conservation Commission (FWC) and its officers, and the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officer as defined in s. 943.10, F.S., have the responsibility and authority to enforce vessel safety and vessel title certificates, liens, and registration.¹⁵

Both state and local law enforcement are authorized and empowered to relocate or remove a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons. The costs incurred for relocating or removing a derelict vessel are recoverable against the vessel owner. A vessel owner who neglects or refuses to pay the costs of removal, storage, and destruction of the vessel, less any salvage value obtained by disposal of the vessel, is not entitled to be issued a certificate of registration for such vessel, or any other vessel or motor vehicle, until the costs are paid.¹⁶

Removal costs for derelict vessels are approximately \$350 to \$450 per foot of vessel length. However, a floating vessel may be towed to a boat ramp or hoist and pulled from the water at a much lower cost. Relocation may have a minimal cost if a law enforcement officer is able to tow it to a suitable location. Costs for professional towing services are approximately \$200 per hour.¹⁷

FWC may provide grants to local governments for the removal of derelict vessels from waters of the state, if funds are appropriated for the grant program are appropriated.¹⁸ Funds for the Derelict Vessel Removal Grant program are appropriated from the Florida Coastal Protection Trust Fund. Grants from

⁹ Section 327.60(2)(f), F.S.

¹⁰ Section 823.11(1)(b), F.S.

¹¹ Section 823.11(2), F.S.

¹² A first degree misdemeanor is punishable by a term of imprisonment of no more than one year and a fine of up to \$1,000.

¹³ Section 376.16(1), F.S.

¹⁴ *Id.*

¹⁵ Section 943.10(1), F.S., defines “law enforcement officer” as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition also includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

¹⁶ Section 705.103(4), F.S.

¹⁷ FWC, Agency Bill Analysis of 2016 HB 7025 (Jan.6, 2016), available at

<http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=6678&yr=2016> (last visited Mar. 13, 2019).

¹⁸ Section 376.15, F.S.

this fund are awarded based on a set of criteria outlined in FWC rules.¹⁹ Removal or relocation of the vessel on private property is not eligible for grant funding²⁰

At-risk vessels

In 2016, the legislature passed ch. 2016-108, Laws of Fla., to prohibit neglected vessels or those in deteriorating conditions from anchoring, mooring, or occupying the waters of the state.²¹ A vessel is at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor; or
- The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, or is listing due to water intrusion, or is sunk or partially sunk.²²

A violation for anchoring, mooring, or occupying a vessel at risk of becoming derelict on the waters of the state is a noncriminal infraction, for which the civil penalty is \$50 for a first offense, \$100 for a second offense occurring 30 days or more after a first offense, and \$250 for a third or subsequent offense occurring 30 days or more after a previous offense.²³

Vessel Titling and Registrations

All motorized vessels operating on Florida's public waterways must be titled and registered. Chapter 328, F.S., designates the Department of Highway Safety and Motor Vehicles (FLHSMV) as responsible for issuing vessel registrations and titles. Applications for titles and registrations must be filed at a county tax collector or license plate agent office. Owners have the option of registering their vessel for either one year or two years.²⁴

A purchaser of a new or used vessel has 30 days to title and register that vessel. During this 30 day period, the owner must have proof of the date of purchase aboard the vessel. Operating an unregistered vessel after 30 days is a second-degree misdemeanor. Vessel registration fees are charged according to the chart²⁵ below:

Vessel Classification	Length	Registration Fee
Class A-1	Less than 12 ft. in length	\$5.50
Class A-2	12 to less than 16 ft.	\$16.25
Class 1	16 to less than 26 ft.	\$28.75
Class 2	26 to less than 40 ft.	\$78.25
Class 3	40 to less than 65 ft.	\$127.75
Class 4	65 to less than 110 ft.	\$152.75
Class 5	110 ft. or more in length	\$189.75

¹⁹ Rule 68-1.003, F.A.C.

²⁰ National Oceanic and Atmospheric Association: Marine Debris Program, *Abandoned and Derelict Vessels in Florida*, available at <https://marinedebris.noaa.gov/abandoned-and-derelict-vessels/florida> (last visited Mar. 15, 2019).

²¹ Chapter 2016-108, Laws of Fla.; s. 327.4107, F.S.

²² Section 327.4107, F.S.

²³ Section 327.73(aa), F.S.

²⁴ FLHSMV, *Vessel Titling and Registrations*, available at <https://www.flhsmv.gov/motor-vehicles-tags-titles/vessels/vessel-titling-registrations/> (last visited Mar. 14, 2019).

²⁵ *Id.*

Effect of Proposed Changes

The bill defines “long-term stored vessel” as a vessel on the waters of the state that has remained anchored outside of a public mooring field for at least 21 days out of a 60-day period.

The bill requires FWC, contingent upon appropriation, to conduct a study of the impacts of long-term stored vessels on local communities and the state. The study must:

- investigate if, and to what extent, long-term stored vessels contribute to the number of derelict and abandoned vessels on the waters of the state;
- investigate the impacts of long-term stored vessels and vessels anchored within public mooring fields on the local and state economies, public safety, and the environment during and after a significant tropical storm or hurricane event; and
- provide recommendations for appropriate management options for long-term stored vessels to mitigate any identified negative impacts.

The bill further requires FWC to submit a report of its findings to the Governor and the Legislature by January 1, 2025.

The bill amends s. 328.72, F.S., to designate the following amounts from vessel registration fees designated for use by the counties to the state for deposit in the Marine Resources Conservation Trust Fund to fund a grant program for derelict vessel removal:

- Class A-2: \$0.25 for each 12-month period registered.
- Class 1: \$2.06 for each 12-month period registered.
- Class 2: \$9.26 for each 12-month period registered.
- Class 3: \$16.45 for each 12-month period registered.
- Class 4: \$20.06 for each 12-month period registered.
- Class 5: \$25.46 for each 12-month period registered.

The bill specifies that the funding for the grant program for the removal of derelict vessels must come from the Marine Resources Conservation Trust Fund or the Florida Coastal Protection Trust Fund. The bill further specifies that if, in a given year, all funds appropriated for the local government grant program are not requested by and granted to local governments for the removal of derelict vessels by the end of the third quarter, FWC may use the remainder to remove, or pay private contractors to remove, derelict vessels.

The bill amends s. 823.11, F.S., to prohibit a person from residing or dwelling on a vessel that has been charged by an officer of FWC or any law enforcement agency as derelict until the vessel is removed from the waters of the state permanently or returned to the waters of the state in a condition that is no longer derelict.

B. SECTION DIRECTORY:

Section 1 amends s. 327.4109, F.S., to define “long-term stored vessel” and require FWC to conduct a study.

Section 2 amends s. 328.72, F.S., to designate a portion of vessel registration fees for derelict vessel removal.

Section 3 amends s. 376.15, F.S., to include the Marine Resources Conservation Trust Fund as a funding source for local government grants for the removal of derelict vessels.

Section 4 amends s.823.11, F.S., to prohibit a person from residing or dwelling on a vessel that has been charged as derelict until it is no longer considered derelict.

Section 5 provides an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an indeterminate positive impact on state government revenues because the redistribution of the vessel registration fees generates revenue for the derelict vessel removal grants administered by FWC.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have an indeterminate negative fiscal impact on county revenues because the counties will receive a smaller portion of the vessel registration fees collected. The bill may have an indeterminate positive fiscal impact on counties that receive grant funding from FWC for derelict vessel removal.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate positive fiscal impact on the private sector because more funding may be available to private companies for derelict boat removal. The bill may also have an indeterminate negative fiscal impact on boat owners or occupants residing on a vessel that has been deemed derelict.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of sales tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill would require FWC to update their existing rules; however, FWC possesses sufficient rulemaking authority to adopt rules to comply with statutory changes.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

By Senator Mayfield

17-00538-19

2019446__

1 A bill to be entitled
2 An act relating to coastal management; amending s.
3 161.101, F.S.; revising the criteria the Department of
4 Environmental Protection must consider in determining
5 and assigning annual funding priorities for beach
6 management and erosion control projects; specifying
7 tiers for such criteria; requiring tiers to be given
8 certain weight; requiring the department to update
9 active project lists on its website; redefining the
10 term "significant change"; revising the department's
11 reporting requirements; specifying allowable uses for
12 certain surplus funds; revising the requirements for a
13 specified summary; requiring that funding for certain
14 projects remain available for a specified period;
15 amending s. 161.143, F.S.; specifying the scope of
16 certain projects; revising the list of projects
17 included as inlet management projects; requiring that
18 certain projects be considered separate and apart from
19 other specified projects; revising the ranking
20 criteria to be used by the department to establish
21 certain funding priorities for certain inlet-caused
22 beach erosion projects; revising provisions
23 authorizing the department to spend certain
24 appropriated funds for the management of inlets;
25 deleting a provision authorizing the department to
26 spend certain appropriated funds for specified inlet
27 studies; revising the required elements of the
28 department's report of prioritized inlet management
29 projects; revising the funds that the department must

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30 make available to certain inlet management projects;
31 requiring the department to include specified
32 activities on the inlet management project list;
33 deleting provisions requiring the department to make
34 available funding for specified projects; deleting a
35 requirement that the Legislature designate a project
36 as an Inlet of the Year; requiring the department to
37 update and maintain a report regarding the progress of
38 certain inlet management projects; deleting certain
39 temporary provisions relating to specified
40 appropriations; revising the requirements for the
41 report; amending s. 161.161, F.S.; revising
42 requirements for the comprehensive long-term
43 management plan; requiring the plan to include a
44 strategic beach management plan, a critically eroded
45 beaches report, and a statewide long-range budget
46 plan; providing for the development and maintenance of
47 such plans; deleting a requirement that the department
48 submit a certain beach management plan on a certain
49 date each year; requiring the department to hold a
50 public meeting before finalization of the strategic
51 beach management plan; requiring the department to
52 submit a 3-year work plan and a related forecast for
53 the availability of funding to the Legislature;
54 providing effective dates.

55
56 Be It Enacted by the Legislature of the State of Florida:

57
58 Section 1. Effective July 1, 2020, subsection (14) of

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59 section 161.101, Florida Statutes, is amended to read:

60 161.101 State and local participation in authorized
61 projects and studies relating to beach management and erosion
62 control.—

63 (14) The intent of the Legislature in preserving and
64 protecting Florida's sandy beaches pursuant to this act is to
65 direct beach erosion control appropriations to the state's most
66 severely eroded beaches, and to prevent further adverse impact
67 caused by improved, modified, or altered inlets, coastal
68 armoring, or existing upland development. In establishing annual
69 project funding priorities, the department shall seek formal
70 input from local coastal governments, beach and general
71 government interest groups, and university experts. The
72 department shall adopt by rule a scoring system to determine
73 annual project funding priorities. The scoring system must
74 consist of the following criteria equally weighted within the
75 following specified tiers ~~criteria to be considered by the~~
76 ~~department in determining annual funding priorities shall~~
77 ~~include:~~

78 (a) Tier 1 must account for 20 percent of the total score
79 and consist of the tourism-related return on investment and the
80 economic impact of the project. The return on investment of the
81 project is the ratio of the tourism-related tax revenues for the
82 most recent year to the amount of state funding requested for
83 the proposed project. The economic impact of the project is the
84 ratio of the tourism-related tax revenues for the most recent
85 year to all county tax revenues for the most recent year. The
86 department must calculate these ratios using state sales tax and
87 tourism development tax data of the county having jurisdiction

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88 over the project area. If multiple counties have jurisdiction
89 over the project area, the department must assess each county
90 individually using these ratios. The department shall calculate
91 the mean average of these ratios to determine the final overall
92 assessment for the multicounty project ~~the severity of erosion~~
93 conditions, ~~the threat to existing upland development, and~~
94 recreational and/or economic benefits.

95 (b) Tier 2 must account for 45 percent of the total score
96 and consist of all of the following criteria:

97 1. The availability of federal matching dollars,
98 considering federal authorization, the federal cost-share
99 percentage, and the status of the funding award.

100 2. The storm damage reduction benefits of the project based
101 on the following considerations:

102 a. The current conditions of the project area, including
103 any recent storm damage impact, as a percentage of volume of
104 sand lost since the most recent beach nourishment event or most
105 recent beach surveys. If the project area has not been
106 previously restored, the department must use the historical
107 background erosion rate;

108 b. The overall potential threat to existing upland
109 development, including public and private structures and
110 infrastructure, based on the percentage of vulnerable shoreline
111 within the project boundaries; and

112 c. The value of upland property benefiting from the
113 protection provided by the project and its subsequent
114 maintenance. A property must be within one-quarter mile of the
115 project boundaries to be considered under the criterion
116 specified in this sub-subparagraph.

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117 3. The cost-effectiveness of the project based on the
118 yearly cost per volume per mile of proposed beach fill
119 placement. The department shall also consider the following when
120 assessing cost-effectiveness pursuant to this subparagraph:

121 a. The existence of projects with proposed structural or
122 design components to extend the beach nourishment interval;

123 b. Existing beach nourishment projects that reduce upland
124 storm damage costs by incorporating new or enhanced dune
125 structures or new or existing dune restoration and revegetation
126 projects;

127 c. Proposed innovative technologies designed to reduce
128 project costs; and

129 d. Regional sediment management strategies and coordination
130 to conserve sand source resources and reduce project costs.

131 (c) Tier 3 must account for 20 percent of the total score
132 and consist of all of the following criteria: ~~The extent of~~
133 ~~local government sponsor financial and administrative commitment~~
134 ~~to the project, including a long-term financial plan with a~~
135 ~~designated funding source or sources for initial construction~~
136 ~~and periodic maintenance.~~

137 1.(d) Previous state commitment and involvement in the
138 project, considering previously funded phases, the total amount
139 of previous state funding, and previous partial appropriations
140 for the proposed project.

141 2. The recreational benefits of the project based on:

142 a. The accessible beach area added by the project; and

143 b. The percentage of linear footage within the project
144 boundaries which is zoned:

145 (I) As recreational or open space;

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146 (II) For commercial use; or

147 (III) To otherwise allow for public lodging establishments.

148 ~~(e) The anticipated physical performance of the proposed~~
149 ~~project, including the frequency of periodic planned~~
150 ~~nourishment.~~

151 3.-(f) The extent to which the proposed project mitigates
152 the adverse impact of improved, modified, or altered inlets on
153 adjacent beaches.

154 ~~(g) Innovative, cost effective, and environmentally~~
155 ~~sensitive applications to reduce erosion.~~

156 ~~(h) Projects that provide enhanced habitat within or~~
157 ~~adjacent to designated refuges of nesting sea turtles.~~

158 ~~(i) The extent to which local or regional sponsors of beach~~
159 ~~erosion control projects agree to coordinate the planning,~~
160 ~~design, and construction of their projects to take advantage of~~
161 ~~identifiable cost savings.~~

162 4.-(j) The degree to which the project addresses the state's
163 most significant beach erosion problems as a function of the
164 linear footage of the project shoreline and the cubic yards of
165 sand placed per mile per year.

166 (d) Tier 4 must account for 15 percent of the total score
167 and consist of all of the following criteria:

168 1. Increased prioritization of projects that have been on
169 the department's ranked project list for successive years and
170 that have not previously secured state funding for project
171 implementation.

172 2. Environmental habitat enhancement, recognizing state or
173 federal critical habitat areas for threatened or endangered
174 species which may be subject to extensive shoreline armoring, or

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175 recognizing areas where extensive shoreline armoring threatens
176 the availability or quality of habitat for such species. Turtle-
177 friendly designs, dune and vegetation projects for areas with
178 redesigned or reduced fill templates, proposed incorporation of
179 best management practices and adaptive management strategies to
180 protect resources, and innovative technologies designed to
181 benefit critical habitat preservation may also be considered.

182 3. The overall readiness of the project to proceed in a
183 timely manner, considering the project's readiness for the
184 construction phase of development, the status of required
185 permits, the status of any needed easement acquisition, the
186 availability of local funding sources, and the establishment of
187 an erosion control line. If the department identifies specific
188 reasonable and documented concerns that the project will not
189 proceed in a timely manner, the department may choose not to
190 include the project in the annual funding priorities submitted
191 to the Legislature.

192
193 If ~~In the event that~~ more than one project qualifies equally
194 under the provisions of this subsection, the department shall
195 assign funding priority to those projects shown to be most ~~that~~
196 ~~are~~ ready to proceed.

197 Section 2. Subsection (20) of section 161.101, Florida
198 Statutes, is amended to read:

199 161.101 State and local participation in authorized
200 projects and studies relating to beach management and erosion
201 control.-

202 (20) The department shall maintain active project lists,
203 updated at least quarterly, ~~listings~~ on its website by fiscal

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204 year in order to provide transparency regarding those projects
205 receiving funding and the funding amounts, and to facilitate
206 legislative reporting and oversight. In consideration of this
207 intent:

208 (a) The department shall notify the Executive Office of the
209 Governor and the Legislature regarding any significant changes
210 in the funding levels of a given project as initially requested
211 in the department's budget submission and subsequently included
212 in approved annual funding allocations. The term "significant
213 change" means a project-specific change or cumulative changes
214 that exceed the project's original allocation by \$500,000 or
215 that exceed ~~those changes exceeding~~ 25 percent of the a
216 project's original allocation.

217 1. Except as provided in subparagraph 2., if there is
218 surplus funding, the department must provide a notification and
219 supporting justification ~~shall be provided~~ to the Executive
220 Office of the Governor and the Legislature to indicate whether
221 surplus ~~additional~~ dollars are intended to be used for inlet
222 management projects pursuant to s. 161.143 or for beach
223 restoration and beach nourishment projects, offered for
224 reversion as part of the next appropriations process, or used
225 for other specified priority projects on active project lists.

226 2. For surplus funds for projects that do not have a
227 significant change, the department may use such funds for the
228 same purposes identified in subparagraph 1. The department must
229 post the uses of such funds on the project listing web page of
230 its website. No other notice or supporting justification is
231 required before the use of surplus funds for a project that does
232 not have a significant change.

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233 (b) The department shall prepare a summary of ~~specific~~
234 project activities ~~for the current fiscal year,~~ their funding
235 status, and changes to annual project lists for the current and
236 preceding fiscal year. ~~shall be prepared by~~ The department shall
237 include the summary and included with the department's
238 submission of its annual legislative budget request.

239 (c) Funding for specific projects on annual project lists
240 approved by the Legislature must remain available for such
241 projects for 18 months. A local project sponsor may at any time
242 release, in whole or in part, appropriated project dollars by
243 formal notification to the department. The department, ~~which~~
244 shall notify the Executive Office of the Governor and the
245 Legislature of such release and. ~~Notification must~~ indicate in
246 the notification how the project dollars are recommended
247 intended to be used after such release.

248 Section 3. Subsections (2) through (5) of section 161.143,
249 Florida Statutes, are amended to read:

250 161.143 Inlet management; planning, prioritizing, funding,
251 approving, and implementing projects.-

252 (2) The department shall establish annual funding
253 priorities for studies, activities, or other projects concerning
254 inlet management. Such inlet management projects constitute the
255 intended scope of this section and s. 161.142 and consist of
256 include, but are not limited to, inlet sand bypassing,
257 improvement of infrastructure to facilitate sand bypassing,
258 modifications to channel dredging, jetty redesign, jetty repair,
259 disposal of spoil material, and the development, revision,
260 adoption, or implementation of an inlet management plan.
261 Projects considered for funding pursuant to this section must be

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262 considered separate and apart from projects reviewed and
263 prioritized in s. 161.101(14). The funding priorities
264 established by the department under this section must be
265 consistent with the requirements and legislative declaration in
266 ss. 161.101(14), 161.142, and 161.161(1)(b). In establishing
267 funding priorities under this subsection and before transmitting
268 the annual inlet project list to the Legislature under
269 subsection (4) ~~(5)~~, the department shall seek formal input from
270 local coastal governments, beach and general government
271 associations and other coastal interest groups, and university
272 experts concerning annual funding priorities for inlet
273 management projects. In order to maximize the benefits of
274 efforts to address the inlet-caused beach erosion problems of
275 this state, the ranking criteria used by the department to
276 establish funding priorities for studies, activities, or other
277 projects concerning inlet management must include equal
278 consideration of:

279 (a) An estimate of the annual quantity of beach-quality
280 sand reaching the updrift boundary of the improved jetty or
281 inlet channel.

282 (b) The severity of the erosion to the adjacent beaches
283 caused by the inlet ~~and the extent to which the proposed project~~
284 ~~mitigates the erosive effects of the inlet.~~

285 (c) The overall significance and anticipated success of the
286 proposed project in mitigating the erosive effects of the inlet,
287 balancing the sediment budget of the inlet and adjacent beaches,
288 and addressing the sand deficit along the inlet-affected
289 shorelines.

290 (d) The extent to which ~~existing~~ bypassing activities at an

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291 inlet would benefit from modest, cost-effective improvements
292 when considering the volumetric increases from the proposed
293 project, the availability of beach-quality sand currently not
294 being bypassed to adjacent eroding beaches, and the ease with
295 which such beach-quality sand may be obtained.

296 (e) The cost-effectiveness of sand made available by a
297 proposed inlet management project or activity relative to other
298 sand source opportunities that would be used to address inlet-
299 caused beach erosion ~~The interest and commitment of local~~
300 ~~governments as demonstrated by their willingness to coordinate~~
301 ~~the planning, design, construction, and maintenance of an inlet~~
302 ~~management project and their financial plan for funding the~~
303 ~~local cost share for initial construction, ongoing sand~~
304 ~~bypassing, channel dredging, and maintenance.~~

305 (f) The existence of a proposed or recently updated ~~The~~
306 ~~previous completion or approval of a state-sponsored inlet~~
307 ~~management plan or a local-government-sponsored inlet study~~
308 addressing concerning the inlet addressed by the proposed
309 ~~project, the ease of updating and revising any such plan or~~
310 ~~study, and the adequacy and specificity of the plan's or study's~~
311 ~~recommendations concerning the mitigation of an inlet's erosive~~
312 ~~effects on adjacent beaches.~~

313 (g) The degree to which the proposed project will enhance
314 the performance and longevity of proximate beach nourishment
315 projects, thereby reducing the frequency of such periodic
316 nourishment projects.

317 (h) The project-ranking criteria in s. 161.101(14) to the
318 extent such criteria are applicable to inlet management studies,
319 projects, and activities and are distinct from, and not

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320 duplicative of, the criteria listed in paragraphs (a)-(g).

321 (3) The department may pay from legislative appropriations
322 up to 75 percent of the construction costs of an initial major
323 inlet management project component for the purpose of mitigating
324 the erosive effects of the inlet to the shoreline and balancing
325 the sediment budget. The remaining balance of such construction
326 costs must be paid from other funding sources, such as local
327 sponsors. All project costs not associated with an initial major
328 inlet management project component must be shared equally by
329 state and local sponsors in accordance with, ~~pursuant to s.~~
330 ~~161.101 and notwithstanding s. 161.101(15), pay from legislative~~
331 ~~appropriations provided for these purposes 75 percent of the~~
332 ~~total costs, or, if applicable, the nonfederal costs, of a~~
333 ~~study, activity, or other project concerning the management of~~
334 ~~an inlet. The balance must be paid by the local governments or~~
335 ~~special districts having jurisdiction over the property where~~
336 ~~the inlet is located.~~

337 ~~(4) Using the legislative appropriation to the statewide~~
338 ~~beach management support category of the department's fixed~~
339 ~~capital outlay funding request, the department may employ~~
340 ~~university based or other contractual sources and pay 100~~
341 ~~percent of the costs of studies that are consistent with the~~
342 ~~legislative declaration in s. 161.142 and that:~~

343 ~~(a) Determine, calculate, refine, and achieve general~~
344 ~~consensus regarding net annual sediment transport volumes to be~~
345 ~~used for the purpose of planning and prioritizing inlet~~
346 ~~management projects; and~~

347 ~~(b) Appropriate, assign, and apportion responsibilities~~
348 ~~between inlet beneficiaries for the erosion caused by a~~

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349 ~~particular inlet on adjacent beaches.~~

350 ~~(4)(5)~~ The department shall annually provide an inlet
351 management project list, in priority order, to the Legislature
352 as part of the department's budget request. ~~The list must~~
353 ~~include studies, projects, or other activities that address the~~
354 ~~management of at least 10 separate inlets and that are ranked~~
355 ~~according to the criteria established under subsection (2).~~

356 (a) The department shall designate for ~~make available at~~
357 ~~least 10 percent of the total amount that the Legislature~~
358 ~~appropriates in each fiscal year for statewide beach management~~
359 ~~for the three highest-ranked projects on the current year's~~
360 ~~inlet management project list, in priority order, an amount that~~
361 ~~is at least equal to the greater of:~~

362 1. Ten percent of the total amount that the Legislature
363 appropriates in the fiscal year for statewide beach management;
364 or

365 2. The percentage of inlet management funding requests from
366 local sponsors as a proportion of the total amount of statewide
367 beach management dollars requested in a given year.

368 (b) The department shall include inlet monitoring
369 activities ranked on the inlet management project list as one
370 aggregated subcategory on the overall inlet management project
371 list ~~make available at least 50 percent of the funds~~
372 ~~appropriated for the feasibility and design category in the~~
373 ~~department's fixed capital outlay funding request for projects~~
374 ~~on the current year's inlet management project list which~~
375 ~~involve the study for, or design or development of, an inlet~~
376 ~~management project.~~

377 ~~(c) The department shall make available all statewide beach~~

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378 ~~management funds that remain unencumbered or are allocated to~~
379 ~~non-project-specific activities for projects on legislatively~~
380 ~~approved inlet management project lists. Funding for local-~~
381 ~~government specific projects on annual project lists approved by~~
382 ~~the Legislature must remain available for such purposes for a~~
383 ~~period of 18 months pursuant to s. 216.301(2)(a). Based on an~~
384 ~~assessment and the department's determination that a project~~
385 ~~will not be ready to proceed during this 18-month period, such~~
386 ~~funds shall be used for inlet management projects on~~
387 ~~legislatively approved lists.~~

388 (5)(d) ~~The Legislature shall designate one of the three~~
389 ~~highest projects on the inlet management project list in any~~
390 ~~year as the Inlet of the Year. The department shall update and~~
391 ~~maintain an annual annually report on its website to the~~
392 ~~Legislature concerning the extent to which each inlet project~~
393 ~~designated by the Legislature as Inlet of the Year has succeeded~~
394 ~~in balancing the sediment budget of the inlet and adjacent~~
395 ~~beaches and in, mitigating the inlet's erosive effects on~~
396 ~~adjacent beaches. The report must provide an estimate of the~~
397 ~~quantity of sediment bypassed, transferred, and transferring or~~
398 ~~otherwise placed ~~placing~~ beach-quality sand on adjacent eroding~~
399 ~~beaches, or in such beaches' nearshore area, for the purpose of~~
400 ~~offsetting the erosive effects of inlets on the beaches of this~~
401 ~~state.~~

402 Section 4. Effective July 1, 2020, subsection (1) and
403 present subsection (2) of section 161.161, Florida Statutes, are
404 amended, a new subsection (2) is added to that section, and
405 present subsections (2) through (7) are redesignated as
406 subsections (3) through (8), respectively, to read:

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407 161.161 Procedure for approval of projects.-

408 (1) The department shall develop and maintain a
409 comprehensive long-term beach management plan for the
410 restoration and maintenance of the state's critically eroded
411 beaches fronting the Atlantic Ocean, Gulf of Mexico, and Straits
412 of Florida. In developing and maintaining this ~~the beach~~
413 ~~management plan, the department~~ shall:

414 (a) Address long-term solutions to the problem of
415 critically eroded beaches in this state.

416 (b) Evaluate each improved, modified, or altered inlet and
417 determine whether the inlet is a significant cause of beach
418 erosion. With respect to each inlet determined to be a
419 significant cause of beach erosion, the plan shall include:

420 ~~1.~~ the extent to which such inlet causes beach erosion and
421 recommendations to mitigate the erosive impact of the inlet,
422 including, but not limited to, ~~recommendations regarding~~ inlet
423 sediment bypassing; improvement of infrastructure to facilitate
424 sand bypassing; modifications to channel dredging, jetty design,
425 and disposal of spoil material; establishment of feeder beaches;
426 and beach restoration and beach nourishment; ~~and~~

427 ~~2. Cost estimates necessary to take inlet corrective~~
428 ~~measures and recommendations regarding cost sharing among the~~
429 ~~beneficiaries of such inlet.~~

430 (c) Evaluate ~~Design~~ criteria for beach restoration and
431 beach nourishment projects, including, but not limited to, ~~1.~~

432 ~~1.~~ dune elevation and width and revegetation and
433 stabilization requirements, ~~1.~~ and

434 ~~2.~~ beach profiles ~~profile~~.

435 (d) Consider ~~Evaluate~~ the establishment of regional

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436 sediment management alternatives for one or more individual
437 beach and inlet sand bypassing projects ~~feeder beaches~~ as an
438 alternative to ~~direct~~ beach restoration when appropriate and
439 cost-effective, and recommend the location of such regional
440 sediment management alternatives ~~feeder beaches~~ and the source
441 of beach-compatible sand.

442 (e) Identify causes of shoreline erosion and change,
443 determine ~~calculate~~ erosion rates, and maintain an updated list
444 of critically eroded sandy beaches based on data, analyses, and
445 investigations of shoreline conditions ~~and project long-term~~
446 ~~erosion for all major beach and dune systems by surveys and~~
447 ~~profiles.~~

448 (f) ~~Identify shoreline development and degree of density~~
449 ~~and~~ Assess impacts of development and coastal protection
450 ~~shoreline protective~~ structures on shoreline change and erosion.

451 (g) Identify short-term and long-term economic costs and
452 benefits of beaches to the state of Florida and individual beach
453 communities, ~~including recreational value to user groups, tax~~
454 ~~base, revenues generated, and beach acquisition and maintenance~~
455 ~~costs.~~

456 (h) Study dune and vegetation conditions, identify existing
457 beach projects without dune features or with dunes without
458 adequate elevations, and encourage dune restoration and
459 revegetation to be incorporated as part of storm damage recovery
460 projects or future dune maintenance events.

461 (i) Identify beach areas used by marine turtles and develop
462 strategies for protection of the turtles and their nests and
463 nesting locations.

464 (j) Identify alternative management responses to preserve

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465 undeveloped beach and dune systems and, to restore damaged beach
466 and dune systems. In identifying such management responses, the
467 department shall consider, at a minimum, and to prevent
468 ~~inappropriate development and redevelopment on migrating~~
469 ~~beaches, and consider~~ beach restoration and nourishment,
470 armoring, relocation ~~and abandonment~~, dune and vegetation
471 restoration, and acquisition.

472 (k) Document procedures and policies for preparing post-
473 storm damage assessments and corresponding recovery plans,
474 including repair cost estimates ~~Establish criteria, including~~
475 ~~costs and specific implementation actions, for alternative~~
476 ~~management techniques.~~

477 (l) Identify and assess ~~Select and recommend~~ appropriate
478 management measures for all of the state's critically eroded
479 ~~sandy beaches in a beach management program.~~

480 ~~(m) Establish a list of beach restoration and beach~~
481 ~~nourishment projects, arranged in order of priority, and the~~
482 ~~funding levels needed for such projects.~~

483 (2) The comprehensive long-term management plan developed
484 and maintained by the department pursuant to subsection (1) must
485 include, at a minimum, a strategic beach management plan, a
486 critically eroded beaches report, and a statewide long-range
487 budget plan. The long-range budget plan must include a 3-year
488 work plan for beach restoration, beach nourishment, and inlet
489 management projects that lists planned projects for each of the
490 3 fiscal years addressed in the work plan.

491 (a) The strategic beach management plan must identify and
492 recommend appropriate measures for all of the state's critically
493 eroded sandy beaches and may incorporate plans ~~be~~ prepared at

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494 the regional level, taking into account ~~based upon~~ areas of
495 greatest need and probable federal and local funding. Upon
496 approval in accordance with this section, such regional plans,
497 along with the 3-year work plan identified in subparagraph
498 (c)1., must ~~shall be components of the statewide beach~~
499 ~~management plan and shall serve as the basis for state funding~~
500 ~~decisions upon approval in accordance with chapter 86-138, Laws~~
501 ~~of Florida. Before finalizing the strategic beach management~~
502 plan ~~In accordance with a schedule established for the~~
503 ~~submission of regional plans by the department, any completed~~
504 ~~plan must be submitted to the secretary of the department for~~
505 ~~approval no later than March 1 of each year. These regional~~
506 ~~plans shall include, but shall not be limited to,~~
507 ~~recommendations of appropriate funding mechanisms for~~
508 ~~implementing projects in the beach management plan, giving~~
509 ~~consideration to the use of single-county and multicounty taxing~~
510 ~~districts or other revenue generation measures by state and~~
511 ~~local governments and the private sector. Prior to presenting~~
512 ~~the plan to the secretary of the department, the department~~
513 ~~shall hold a public meeting in the region areas for which the~~
514 ~~plan is prepared or hold a publicly noticed webinar. The plan~~
515 ~~submission schedule shall be submitted to the secretary for~~
516 ~~approval. Any revisions to such schedule must be approved in~~
517 ~~like manner.~~

518 (b) The critically eroded beaches report must be developed
519 and maintained based primarily on the requirements specified in
520 paragraph (1) (e).

521 (c) The statewide long-range budget plan must include at
522 least 5 years of planned beach restoration, beach nourishment,

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523 and inlet management project funding needs as identified, and
524 subsequently refined, by local government sponsors. This plan
525 must consist of two components:

526 1. A 3-year work plan that identifies beach restoration,
527 beach nourishment, and inlet management projects viable for
528 implementation during the next 3 fiscal years, as determined by
529 available cost-sharing, local sponsor support, regulatory
530 considerations, and the ability of the project to proceed as
531 scheduled. The 3-year work plan must, for each fiscal year,
532 identify proposed projects and their current development status,
533 listing them in priority order based on the applicable criteria
534 established in ss. 161.101(14) and 161.143(2). Specific funding
535 requests and criteria ranking, pursuant to ss. 161.101(14) and
536 161.143(2), may be modified as warranted in each successive
537 fiscal year, and such modifications must be documented and
538 submitted to the Legislature with each 3-year work plan. Year
539 one projects shall consist of those projects identified for
540 funding consideration in the ensuing fiscal year.

541 2. A long-range plan that identifies projects for inclusion
542 in the fourth and fifth ensuing fiscal years. These projects may
543 be presented by region and do not need to be presented in
544 priority order; however, the department should identify issues
545 that may prevent successful completion of such projects and
546 recommend solutions that would allow the projects to progress
547 into the 3-year work plan.

548 (3) ~~(2)~~ Annually, The secretary shall annually present the
549 3-year work plan to the Legislature. The work plan must be
550 accompanied by a 3-year financial forecast for the availability
551 of funding for the projects ~~recommendations for funding beach~~

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552 ~~erosion control projects prioritized according to the criteria~~
553 ~~established in s. 161.101(14).~~

554 Section 5. Except as otherwise expressly provided in this
555 act, this act shall take effect July 1, 2019.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: SB 446

INTRODUCER: Senators Mayfield, Hutson, Wright, and others

SUBJECT: Coastal Management

DATE: March 12, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schreiber</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 446 revises the criteria the Department of Environmental Protection uses to determine annual funding priorities for beach erosion control projects and inlet management projects. The bill also revises related requirements for the Department of Environmental Protection regarding reporting and oversight, and the use of surplus funds for beach erosion control projects or inlet management projects. The bill revises requirements regarding funding and reporting on inlet management projects.

The bill revises the requirements for the Department of Environmental Protection to develop and submit the components of the comprehensive long-term management plan for the restoration and maintenance of Florida's critically eroded beaches.

The bill has an indeterminate fiscal impact. The DEP can absorb any costs within existing resources. Funding for beach erosion projects and inlet management projects is subject to legislative appropriations.

The bill takes effect July 1, 2019, except for changes to the scoring system for beach erosion control projects amended in s. 161.101, F.S., and changes to the comprehensive long-term beach management plan amended in s. 161.161, F.S., which will both take effect July 1, 2020.

II. Present Situation:

Florida has 825 miles of sandy coastline.¹ Beaches are one of Florida's most valuable resources as they serve multiple important functions including providing habitat and protection for many plant and animal species, attracting millions of tourists to the state each year, and providing a

¹ DEP, *Beaches*, <https://floridadep.gov/water/beaches> (last visited Feb. 26, 2019).

line of defense against major storms.² Beaches are the most important feature of Florida's brand, accounting for 25.5 percent of the state's attractiveness to visitors.³

The American Society of Civil Engineers rated Florida's coastal areas infrastructure as a D+ in its 2016 report card, due to the fact that in the ten preceding years the average difference between requested and state appropriated funds exceeded \$40 million per year.⁴ An evaluation by the Office of Economic and Demographic Research determined that the state's investment in beach management and restoration generated a positive rate of return on investment of 5.4.⁵ A return greater than one means that the tax revenues generated by tourists visiting the state more than cover the state's expenditures on beaches.⁶

Beach Erosion and Beach Nourishment

Coastal erosion is the loss of coastal lands due to the net removal of sediment, and it causes beaches to become narrower and lower in elevation.⁷ This erosion is both natural and human-caused. Sand naturally drifts along the shore due to waves, currents, and tides.⁸ Storms can cause dramatic changes in a beach, including significant loss of sand.⁹ An "inlet" is a coastal waterway separating two stretches of beach, and is defined as "a coastal barrier waterway connecting a bay, lagoon, or similar body of water with" the ocean.¹⁰ There are 66 coastal barrier inlets in Florida, and many of them are used for navigating vessels.¹¹ Human-induced erosion is often caused by the creation and maintenance of inlets, where sand has historically been removed from the shore by dredging, and the natural drift of the sand is blocked by jetties, trapped in channels, or moved

² *Id.*

³ Office of Economic & Demographic Research, *Economic Evaluation of Florida's Investment in Beaches: Identifying the State's Brand, Calculating the Return on Investment of Beach Restoration and Assessing the Risk of Disasters*, 1 (Jan. 2015), available at <http://edr.state.fl.us/Content/returnoninvestment/BeachReport.pdf> (last visited Feb. 26, 2019).

⁴ American Society of Civil Engineers, *2016 Report Card for Florida's Infrastructure*, 2 (2016), available at http://www.infrastructurereportcard.org/wp-content/uploads/2017/01/2016_RC_Final_screen.pdf (last visited Feb. 24, 2019).

⁵ Office of Economic & Demographic Research, *Economic Evaluation of Florida's Investment in Beaches: Identifying the State's Brand, Calculating the Return on Investment of Beach Restoration and Assessing the Risk of Disasters*, 1 (Jan. 2015), available at <http://edr.state.fl.us/Content/returnoninvestment/BeachReport.pdf> (last visited Feb. 26, 2019).

⁶ *Id.*

⁷ U.S. Geological Survey, Coastal Change Hazards: Hurricanes and Extreme Storms, *Beach Erosion*, <https://coastal.er.usgs.gov/hurricanes/coastal-change/beach-erosion.php> (last visited Feb. 26, 2019); Australian Government, Geoscience Australia, *Coastal Erosion*, <http://www.ga.gov.au/scientific-topics/hazards/coastalerosion> (last visited Feb. 25, 2019).

⁸ DEP, *Strategic Beach Management Plan: Introduction*, 1 (May 2018), available at https://floridadep.gov/sites/default/files/SBMP-Introduction_0.pdf (last visited Feb. 25, 2019); see U.S. Geological Survey, *Longshore Current*, <https://pubs.usgs.gov/circ/c1075/longshore.html> (last visited Feb. 27, 2019); see University of South Florida, Florida Center for Instructional Technology, *Changing Coastlines*, <https://fcit.usf.edu/florida/teacher/science/mod2/changing.coastlines.html> (last visited Feb. 28, 2019). Longshore transport is the movement of sand along the shore, parallel to the coast, caused by longshore currents.

⁹ DEP, *Strategic Beach Management Plan: Introduction*, 1 (May 2018).

¹⁰ Fla. Admin. Code R. 62B-36.002(7). The complete definition of "inlet" is "a coastal barrier waterway connecting a bay, lagoon, or similar body of water with the Gulf of Mexico, the Straits of Florida, or the Atlantic Ocean and all related flood and ebb tidal shoals and the inlet shorelines. Improved, altered or modified inlets are those where stabilizing rigid coastal structures have been constructed, or where inlet related structures or features such as channels have been constructed or are actively maintained and the channel depth is greater than the inlet system would support in a natural state."

¹¹ DEP, *Strategic Beach Management Plan: Introduction*, 10 (May 2018).

into shallow tidal areas.¹² Developing and placing infrastructure near the shore can also contribute to coastal erosion by limiting the amount of sand stored in dunes.¹³

“Beach nourishment” is the practice of maintaining a beach by the replacement of sand.¹⁴ In a typical beach nourishment project, sand is collected from an offshore location by a dredge and piped onto the beach.¹⁵ Bulldozers are then used to move the new sand on the beach until the beach matches the project design profile.¹⁶ The DEP is authorized to review innovative technologies for beach nourishment and, on a limited basis, authorize alternatives to traditional dredge and fill projects to determine the most cost-effective techniques for beach nourishment.¹⁷

The Legislature has recognized that beach-quality sand for the nourishment of the state's critically eroded beaches is an exhaustible resource, in ever-decreasing supply, which must be carefully managed for the benefit of Florida's beaches.¹⁸ The Legislature has also recognized that inlets interrupt or alter the natural drift of beach-quality sand resources, which often results in these sand resources being deposited in nearshore areas or in the inlet channel, or in the inland waterway adjacent to the inlet, instead of providing natural nourishment to the adjacent eroding beaches.¹⁹

The DEP is required to determine which beaches are critically eroded and in need of restoration and nourishment.²⁰ According to the DEP, as of 2017, there are 420.9 miles of critically eroded beach, 8.7 miles of critically eroded inlet shoreline, 92.2 miles of non-critically eroded beach, and 3.2 miles of non-critically eroded inlet shoreline statewide.²¹ Erosion is termed “critical” if there is a threat to or loss of one of four specific interests: upland development, recreation, wildlife habitat, or important cultural resources.²²

¹² *Id.* at 1.

¹³ *Id.*

¹⁴ Section 161.021(3), (4), F.S.; see DEP, *Strategic Beach Management Plan: Introduction*, 14 (May 2018). The first time sand is added to a beach it is called “beach restoration,” and any subsequent project adding sand to the beach after the beach restoration is called “beach nourishment.”

¹⁵ DEP, *Why Beach Restoration: Why Restore Eroded Beaches?*, <https://floridadep.gov/water/beaches-funding-program/content/why-beach-restoration> (last visited Feb. 25, 2019).

¹⁶ *Id.*

¹⁷ Section 161.082, F.S.

¹⁸ Section 161.144, F.S.

¹⁹ Section 161.142, F.S.

²⁰ Section 161.101(1), F.S.

²¹ DEP, Division of Water Resource Management, *Critically Eroded Beaches in Florida*, 5, 20 (June 2018), available at <https://floridadep.gov/sites/default/files/CriticallyErodedBeaches.pdf> (last visited Feb. 25, 2019); Fla. Admin. Code R. 62B-36.002(5). The term “critically eroded shoreline” is defined as “a segment of shoreline where natural processes or human activities have caused, or contributed to, erosion and recession of the beach and dune system to such a degree that upland development, recreational interests, wildlife habitat or important cultural resources are threatened or lost. Critically eroded shoreline may also include adjacent segments or gaps between identified critical erosion areas which, although they may be stable or slightly erosional now, their inclusion is necessary for continuity of management of the coastal system or for the design integrity of adjacent beach management projects.”

²² Fla. Admin. Code R. 62B-36.002(5).

Beach and Shore Preservation

Beach and inlet management in Florida are governed by Chapter 161, F.S., Beach and Shore Preservation. The DEP is the beach and shore preservation authority for the state.²³ The DEP's programs for beach and shore preservation are implemented through its Division of Water Resource Management.²⁴ Under the Beaches, Inlets and Ports Program, the DEP updates and maintains the components of the Strategic Beach Management Plan (SBMP).²⁵ The SBMP consists of multiple plans developed at the regional level, identifies Florida's critically eroded beaches, and discusses strategies for beach and inlet management.²⁶ Under the Beach Management Funding Assistance Program, the DEP receives funding requests from local governments for cost sharing of beach and inlet management projects.²⁷ The DEP applies certain criteria to these projects to determine funding priorities, creates lists that numerically rank the projects based on the criteria, and then submits the ranked lists of projects to the Legislature in annual funding requests.²⁸

Strategic Beach Management Plan

The DEP is required to develop and maintain a comprehensive long-term management plan for the restoration and maintenance of the state's critically eroded beaches.²⁹ The beach management plan is required, in part, to accomplish the following:

- Address long-term solutions to the problem of critically eroded beaches.
- Evaluate each improved, modified, or altered inlet and determine whether the inlet is a significant cause of beach erosion.
- Design criteria for beach restoration and beach nourishment projects.
- Identify causes of shoreline erosion and change, calculate erosion rates, and project long-term erosion for all major beach and dune systems by surveys and profiles.
- Study dune and vegetation conditions.
- Establish a list of beach restoration and beach nourishment projects, arranged in order of priority, and the funding levels needed for such projects.³⁰

The SBMP is a set of beach management plans and a key component of the DEP's comprehensive long-term management plan.³¹ It is a dynamic management tool for use by

²³ Section 161.101(2), F.S.

²⁴ DEP, *Division of Water Resource Management*, <https://floridadep.gov/Water> (last visited Feb. 25, 2019).

²⁵ Section 161.161(1), F.S.; DEP, *Strategic Planning and Coordination*, <https://floridadep.gov/water/beaches-inlets-ports/content/strategic-planning-and-coordination#IMP> (last visited Feb. 25, 2019).

²⁶ DEP also creates separate Inlet Management Plans.

²⁷ Sections 161.101 and 161.143, F.S.; Fla. Admin. Code R. 62B-36; DEP, *Beaches Funding Program*, <https://floridadep.gov/water/beaches-funding-program> (last visited Feb. 25, 2019).

²⁸ Sections 161.101(14) and 161.161(2), F.S.; DEP, Division of Water Resource Management, *Beach Management Funding Assistance Program Fixed Capital Outlay Local Government Funding Request, Fiscal Year 2019-2020* (Feb. 2019), available at https://floridadep.gov/sites/default/files/FY%2019-20%20LGFR_2.pdf (last visited Feb. 25, 2019). The funding request document states: “[t]he prioritized list of beach erosion control projects is organized in two sections: (1) Beach Restoration and Nourishment Projects (Beach Projects); and (2) Inlet Sand Bypassing/Inlet Management Plan Implementation Projects (Inlet Projects).”

²⁹ Section 161.161(1), F.S.

³⁰ *Id.*

³¹ DEP, *Strategic Planning and Coordination*, <https://floridadep.gov/water/beaches-inlets-ports/content/strategic-planning-and-coordination#Strategic%20Beach%20Management%20Plan%20-%20SBMP> (last visited Feb. 25, 2019); Fla. Admin.

private individuals and local, state, and federal government officials.³² The SBMP is updated periodically as specific strategies are implemented, new resources and opportunities are identified, and proposed strategies are developed by the DEP and federal or local government sponsors.³³ The DEP prepares the SBMP at the regional level.³⁴ The regional plans include recommendations of appropriate funding mechanisms for implementing projects in the beach management plan that describe historical and present beach restoration activities.³⁵

Long Range Budget Plan

The statewide long range budget plan projects the ten-year planning needs for federal, state, and local governments necessary to implement the SBMP.³⁶ The budget plan is subdivided by the same seven regions as the SBMP and provides a statewide survey of many individual project efforts.³⁷ The plan is developed in coordination with local sponsors, and submitted to the Legislature annually as a companion document to the funding requests.³⁸

Beach Management Funding Assistance Program

The DEP established the Beach Management Funding Assistance Program for the purpose of working together with local sponsors to achieve the protection, preservation, and restoration of Florida's sandy beaches, and the management of inlets to replicate the natural drift of sand.³⁹ Pursuant to state public policy, the Legislature is required to fund beach restoration and nourishment projects, including inlet management projects that cost-effectively provide beach-quality material for adjacent critically eroded beaches.⁴⁰ To be eligible for funding under the program, a project must: be in an area designated as critically eroded shoreline, or benefit an adjacent critically eroded shoreline; have a clearly identifiable beach management benefit consistent with the state's beach management plan; and be designed to reduce potential upland damage or mitigate adverse impacts caused by improved, modified, or altered inlets, coastal armoring, or existing upland development.⁴¹

The state is authorized to pay up to 75 percent of the actual costs for restoring and nourishing critically eroded beaches, recognizing that local beach communities derive the primary benefits from the presence of adequate beaches.⁴² The local government in which the beach is located is

Code R. 62B-36.002(1), (18). Only projects consistent with the SBMP will be considered for funding under the Beach Management Funding Assistance Program.

³² DEP, *Strategic Beach Management Plan: Introduction*, 3 (May 2018), available at https://floridadep.gov/sites/default/files/SBMP-Introduction_0.pdf (last visited Feb. 26, 2019).

³³ *Id.*

³⁴ DEP, *Strategic Planning and Coordination*, <https://floridadep.gov/water/beaches-inlets-ports/content/strategic-planning-and-coordination#Strategic%20Beach%20Management%20Plan%20-%20SBMP> (last visited Feb. 25, 2019). This page shows all of the regional plans that are components of the SBMP.

³⁵ Section 161.161(1), F.S.

³⁶ DEP, *Florida Beach Management Program, Long Range Budget Plan for 2019-2029*, 1 (Feb. 2019), available at https://floridadep.gov/sites/default/files/FY%201929%20LRBP%20Report_0.pdf (last visited Feb. 25, 2019).

³⁷ *Id.* at 2.

³⁸ Fla. Admin. Code R. 62B-36.002(17).

³⁹ Fla. Admin. Code R. 62B-36.001.

⁴⁰ Section 161.088, F.S.

⁴¹ *Id.*

⁴² Section 161.101(1), F.S.

responsible for funding the balance of such costs.⁴³ However, the law states that “until the unmet demand for repairing Florida’s damaged beaches and dunes is satisfied, it is the further intent of the Legislature to cost-share such projects equally between state and local sponsors.”⁴⁴

The Beach Management Funding Assistance Program accepts funding requests from local governments in Florida each year.⁴⁵ Local Government Funding Request Applications are available for both beach projects and inlet projects.⁴⁶

For a beach erosion control project to receive state funding, the project must: provide adequate public access, protect natural resources, and protect endangered and threatened species.⁴⁷ The DEP is required to consider the following criteria in determining annual funding priorities:

- The severity of erosion conditions, the threat to existing upland development, and recreational or economic benefits.
- The availability of federal matching dollars.
- The extent of the local government sponsor’s financial and administrative commitment to the project, including its long-term financial plan with a designated funding source for initial construction and periodic maintenance.
- Previous state commitment and involvement in the project.
- The anticipated physical performance of the project, including the frequency of periodic planned nourishment.
- The extent to which the project mitigates the adverse impact of improved, modified, or altered inlets on adjacent beaches.
- Innovative, cost-effective, and environmentally sensitive applications to reduce erosion.
- Projects that provide enhanced habitat within or adjacent to designated refuges of nesting sea turtles.
- The extent to which local or regional sponsors of beach erosion control projects agree to coordinate the planning, design, and construction of their projects to take advantage of identifiable cost savings.
- The degree to which the project addresses the state’s most significant beach erosion problems.⁴⁸

The DEP uses other ranking criteria, in addition to the criteria for all beach erosion control projects (when applicable), to establish funding priorities for inlet management projects.⁴⁹ Those criteria are required to include consideration of the following:

- An estimate of the annual quantity of beach-quality sand reaching the updrift boundary of the improved jetty or inlet channel.
- The severity of the erosion to the adjacent beaches caused by the inlet and the extent to which the proposed project mitigates the erosive effects of the inlet.

⁴³ *Id.*

⁴⁴ Section 161.101(15), F.S.

⁴⁵ DEP, Beaches Funding Assistance Information, *How To Apply*, <https://floridadep.gov/water/beaches-funding-program/content/beaches-funding-assistance-information> (last visited Feb. 26, 2019).

⁴⁶ *Id.*

⁴⁷ Section 161.101(12), F.S.

⁴⁸ Section 161.101(14), F.S. If multiple projects qualify equally under the criteria, DEP assigns priority to projects that are ready to proceed.

⁴⁹ Section 161.143(2), F.S.

- The overall significance and anticipated success of the proposed project in balancing the sediment budget of the inlet and adjacent beaches and addressing the sand deficit along the inlet-affected shorelines.
- The extent to which existing bypassing activities at an inlet would benefit from modest, cost-effective improvements when considering the volumetric increases from the proposed project, the availability of beach-quality sand currently not being bypassed to adjacent eroding beaches, and the ease with which such beach-quality sand may be obtained.
- The interest and commitment of local governments as demonstrated by their willingness to coordinate the planning, design, construction, and maintenance of an inlet management project and their financial plan for funding the local cost share for initial construction, ongoing sand bypassing, channel dredging, and maintenance.
- The previous completion or approval of a state-sponsored inlet management plan or local-government-sponsored inlet study concerning the inlet addressed by the proposed project, the ease of updating and revising any such plan or study, and the adequacy and specificity of the plan's or study's recommendations concerning the mitigation of an inlet's erosive effects on adjacent beaches.
- The degree to which the proposed project will enhance the performance and longevity of proximate beach nourishment projects, thereby reducing the frequency of such periodic nourishment projects.
- The project-ranking criteria in s. 161.101(14), F.S., to the extent such criteria are applicable to inlet management studies, projects, and activities.⁵⁰

The DEP established a point-based priority ranking system in order to implement the statutory criteria for beach and inlet management projects for funding assistance.⁵¹ Under the system, a project receives a total point score based on the established project ranking criteria. The total amount of points available for beach management projects is 115 points and the total for inlet management projects is 90 points.⁵² The charts below indicate the number of component criteria under each statutory criteria as developed by the DEP.⁵³

⁵⁰ Section 161.143(2)(a)-(h), F.S.; see DEP, *Strategic Beach Management Plan: Introduction*, 10, 14 (May 2018), available at https://floridadep.gov/sites/default/files/SBMP-Introduction_0.pdf (last visited Feb. 26, 2019). Inlet bypassing projects take sand from one side of the inlet, or from within the inlet, and place it along the shorelines adjacent to the inlet, to mitigate the erosive effects of the inlet. Beach restoration, beach nourishment, and inlet bypassing are collectively referred to as “active management.” As of 2017, 229.1 miles of Florida’s critically eroded sandy beaches are under active management.

⁵¹ Fla. Admin. Code R. 62B-36.006.

⁵² Office of Program Policy Analysis & Government Accountability (OPPAGA), *The Beach Management Funding Assistance Program Was Recently Improved, but Some Stakeholder Concerns Persist*, 4 (Dec. 2014), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1412rpt.pdf> (last visited Feb. 25, 2019).

⁵³ *Id.*

Statutory Criteria	Number of Component Criteria	Available Points
Beach Management		
Significance	6	20
Local Sponsor Financial and Administrative Commitment	6	10
Previous State Commitment	4	10
Availability of Federal Funds	3	10
Project Performance	2	10
Recreational and Economic Benefits	1	10
Severity of Erosion	1	10
Mitigation of Inlet Effects	1	10
Threat to Upland Structures	1	10
Innovative Technologies	2	5
Regionalization	1	5
Enhance Refuges of Nesting Sea Turtle	1	5
Total	29	115

Statutory Criteria	Number of Component Criteria	Available Points
Inlet Management		
Balancing the Sediment Budget	1	20
Inlet Management Plan	3	15
Local Sponsor Financial and Administrative Commitment	6	10
Previous State Commitment	4	10
Availability of Federal Funding	3	10
Sand Reaching the Inlet	1	10
Cost Effectiveness	1	10
Enhanced Project Performance	1	5
Total	20	90

The DEP is prohibited from funding projects that provide only recreational benefits.⁵⁴ All funded projects are required to have an identifiable beach erosion control or beach preservation benefit directed toward maintaining or enhancing the sand in the system.⁵⁵ The following is a list of activities that are ineligible for cost sharing:

- Recreational structures, such as piers, decks, and boardwalks.
- Park activities and facilities, except for erosion control.
- Aesthetic vegetation.
- Water quality components of stormwater management systems.
- Experimental or demonstration projects, unless favorably peer-reviewed or scientifically documented.
- Hard structures, unless designed for erosion control or to enhance beach nourishment project longevity or bypassing performance.
- Operations and maintenance, with the exception of nourishment.
- Maintenance and repair of over-walks.
- Navigation construction, operation, and maintenance activities, except those elements whose purpose is to place or keep sand on adjacent beaches.⁵⁶

In December 2014, the Office of Program Policy Analysis and Government Accountability (OPPAGA) released a report evaluating the DEP’s process for selecting and prioritizing beach

⁵⁴ Section 161.101(13), F.S.

⁵⁵ *Id.*

⁵⁶ *Id.*

management and inlet management projects.⁵⁷ The review considered the current statutory criteria and related administrative rules, as well as the funding request application process, information requirements, and timeline.⁵⁸ The OPPAGA also reviewed how the DEP uses each ranking criteria for establishing the annual priority order for beach management and restoration projects.⁵⁹

The report made several findings, including, but not limited to, finding that:

- A limited number of factors account for a majority of the points awarded.
- The criteria do not account for statewide differences in beach conditions, such as regional differences in erosion patterns and variations in project costs.
- The criteria do not adequately take into account the economic impact of beach projects, particularly the value of tourism.
- The criteria do not adequately account for a project's cost effectiveness or performance.
- The criteria do not take into account the impacts of recent storms or the current conditions of the shoreline.
- Stakeholders found the application requirements for funding to be too complicated and time consuming.
- Stakeholders perceived a bias for projects that received federal funding.
- Stakeholders found that the criteria do not adequately provide for endangered and threatened species.⁶⁰

III. Effect of Proposed Changes:

Beach Erosion Control Projects

Section 1 amends s. 161.101, F.S., to require the Department of Environmental Protection (DEP) to adopt by rule a scoring system to use when determining the annual funding priorities for beach erosion control projects. The scoring system must consist of four tiers, and use equally weighted criteria within each tier. If multiple projects qualify equally under the scoring system, priority will be assigned to the projects shown to be most ready to proceed. The new scoring system will go into effect on July 1, 2020.

Tier 1 (20 percent of the total project score)

Under Tier 1, the DEP will consider the tourism-related return on investment and the economic impact of the project, using county tax data to individually assess each county with jurisdiction over the project area. The return on investment is the ratio of the tourism-related tax revenues in the most recent year to the state funding requested for the project. The economic impact is the ratio of the tourism-related tax revenues in the most recent year to all the county's tax revenues in the most recent year.

⁵⁷ OPPAGA, *The Beach Management Funding Assistance Program Was Recently Improved, but Some Stakeholder Concerns Persist* (Dec. 2014), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1412rpt.pdf> (last visited Feb. 26, 2019).

⁵⁸ *Id.* at 1.

⁵⁹ *Id.*

⁶⁰ *Id.* at 6-12.

Tier 2 (45 percent of the total project score)

Under Tier 2, the DEP will consider all of the following criteria relating to federal funding, storm damage reduction, and cost-effectiveness:

- The availability of federal matching dollars, considering federal authorization, the federal cost-share percentage, and the status of the funding award.
- The storm damage reduction benefits of the project based on the following considerations:
 - The current conditions of the project area, including any recent storm damage impact, as a percentage of volume of sand lost since the most recent beach nourishment event or most recent beach surveys. If the project area has not been previously restored, the DEP must use the historical background erosion rate;
 - The overall potential threat to existing upland development, including public and private structures and infrastructure, based on the percentage of vulnerable shoreline within the project boundaries; and
 - The value of upland property benefiting from the protection provided by the project and its subsequent maintenance. A property must be within one-quarter mile of the project boundaries to be considered.
- The cost-effectiveness of the project based on the yearly cost per volume per mile of proposed beach fill placement. Cost-effectiveness is also assessed using the following criteria:
 - The existence of projects with proposed structural or design components to extend the beach nourishment interval;
 - Existing beach nourishment projects that reduce upland storm damage costs by incorporating new or enhanced dune structures or new or existing dune restoration and revegetation projects;
 - Proposed innovative technologies designed to reduce project costs; and
 - Regional sediment management strategies and coordination to conserve sand source resources and reduce project costs.

Tier 3 (20 percent of the total project score)

Under Tier 3, the DEP will consider all of the following criteria relating to previous state involvement in the project, recreational benefits, mitigation of the impact of inlets, and the state's most significant beach erosion problems:

- Previous state commitment and involvement in the project, considering previously funded phases, the total amount of previous state funding, and previous partial appropriations for the proposed project.
- The recreational benefits of the projects based on:
 - The accessible beach area added by the project; and
 - The percentage of linear footage within the project boundaries which is zoned:
 - As recreational or open space;
 - For commercial use; or
 - To otherwise allow for public lodging establishments.
- The extent to which the project mitigates the adverse impact of improved, modified, or altered inlets on adjacent beaches.
- The degree to which the project addresses the state's most significant beach erosion problems as a function of the linear footage of the project shoreline and the cubic yards of sand placed per mile per year.

Tier 4 (15 percent of the total project score)

Under Tier 4, the DEP will consider all of the following criteria relating to projects that have not received funding after successive years, habitat enhancement, and a project's overall readiness:

- Increased prioritization of projects that have been on the DEP's ranked project list for successive years and have not previously secured state funding for project implementation.
- Environmental habitat enhancement, recognizing state or federal critical habitat areas for threatened or endangered species which may be subject to extensive shoreline armoring, or recognizing areas where extensive shoreline armoring threatens the availability or quality of habitat for such species. Turtle-friendly designs, dune and vegetation projects for areas with redesigned or reduced fill templates, proposed incorporation of best management practices and adaptive management strategies to protect resources, and innovative technologies designed to benefit critical habitat preservation may also be considered.
- The overall readiness of the project to proceed in a timely manner, considering the project's readiness for the construction phase of development, the status of required permits, the status of any needed easement acquisition, the availability of local funding sources, and the establishment of an erosion control line. If the DEP identifies specific reasonable and documented concerns that the project will not proceed in a timely manner, the DEP may choose not to include the project in the annual funding priorities submitted to the Legislature.

Section 2 amends s. 161.101(20), F.S., to revise provisions relating to project lists, reporting requirements, and surplus funding.

Project Lists, Notification, and Summary Reports

The bill requires the DEP to update the active project lists quarterly. The DEP is already required to maintain the lists on its website organized by fiscal year.

The bill redefines the term "significant change" to mean a project-specific change or cumulative changes that either: exceed the project's original allocation by \$500,000 or exceed 25 percent of the project's original allocation. The DEP is required to notify the Governor and the Legislature when a significant change occurs in the funding levels of a given project, as compared to the originally approved allocation.

The bill requires the DEP to provide a summary of project activities, funding statuses, and changes to annual project lists for both the current and preceding year. Currently, the DEP is not required to include information for the preceding fiscal year in its summary. The DEP submits the summary along with its annual legislative budget request.

The bill requires that funding approved by the Legislature for specific projects on the annual project lists must remain available for such projects for 18 months. The bill requires that, when a local project sponsor releases appropriated project dollars, the DEP will notify the Governor and the Legislature of such release and indicate in the notification how the project dollars are recommended to be used following the release.

Surplus Funding

The bill requires the DEP to provide supporting justification when notifying the Governor and Legislature to indicate whether the DEP intends to use surplus dollars. The bill adds beach restoration and beach nourishment projects to the various project types the DEP is authorized to use surplus funds for.

The bill authorizes the DEP to use surplus funds for projects that do not have a significant change. The DEP will be authorized to use surplus funds for the following purposes, as long as they do not have a significant change: inlet management projects or beach restoration and beach nourishment projects; to be offered for reversion for the next appropriations process; or to be used for other priority projects on active project lists. The DEP must post such uses of surplus funds on its website, on the project listing web page. The bill states that no other notice or supporting justification is required before using surplus funds for a project that does not have a significant change.

Inlet Management Projects

Section 3 amends s. 161.143, F.S., to revise the required considerations for the ranking criteria used to establish funding priorities for inlet management projects.

The bill states that inlet management projects are the intended scope of the section, and of s. 161.142, F.S., which establishes policies for inlet management. The scope of inlet management projects considered for annual funding priority is expanded to include the “improvement of infrastructure to facilitate sand bypassing.”

The bill requires the inlet management projects considered for funding under s. 161.143, F.S., to be considered separate and apart from the beach erosion control projects reviewed and prioritized under s. 161.101, F.S.

The bill requires the DEP to give equal consideration to the ranking criteria in s. 161.143(2)(a)-(h), F.S., and revises such criteria by:

- Removing the term “existing” from the provision requiring the DEP to consider the extent to which bypassing activities at an inlet would benefit from modest, cost-effective improvements.
- Requiring the DEP to consider the cost-effectiveness of sand made available by a proposed inlet management project or activity relative to other sand source opportunities that could be used to address inlet-caused beach erosion.
- Removing the requirement that the DEP consider the interest and commitment of local governments as demonstrated by their willingness to coordinate the planning, design, construction, and maintenance of an inlet management project and their financial plan for funding the local cost share for initial construction, ongoing sand bypassing, channel dredging, and maintenance.
- Requiring the DEP to consider the existence of a proposed or recently updated inlet management plan or a local-government-sponsored inlet study addressing the mitigation of an inlet’s erosive effects on adjacent beaches.

- Clarifying that the DEP is to consider the criteria in s. 161.101(14), F.S., when establishing funding priorities for inlet management projects, but only to the extent the beach erosion control project criteria are distinct from and not duplicative of the inlet management project criteria.

The bill authorizes the DEP to pay from legislative appropriations up to 75 percent of the construction costs of an initial major inlet management project and requires that the remaining balance be paid from other funding sources, such as local sponsors. The bill requires that costs not associated with the initial major inlet management project be shared equally by state and local sponsors.

The bill deletes authorization for the DEP to use a legislative appropriation to contract for studies on sediment transport volumes and responsibilities of inlet beneficiaries for beach erosion. In the subsection requiring the DEP to annually provide an inlet management project list, the bill deletes the requirement for the DEP to include information on the management of ten separate inlets.

The bill deletes the current requirement that at least ten percent of annual legislative appropriations for statewide beach management be made available for the three highest-ranked projects on the current year's inlet management project list. Instead, the bill requires the DEP to designate for projects on the current year's inlet management project list an amount that is at least equal to the greater of:

- Ten percent of the total amount of legislative appropriations for statewide beach management in a given year; or
- The percentage of inlet management funding requests from local sponsors as a proportion of the total amount of statewide beach management dollars requested in a given year.

The bill deletes a requirement that the DEP make certain funds available for the study, design, or development of inlet management projects, and adds a requirement that the DEP include inlet monitoring activities as an aggregated subcategory on the overall project list. The bill deletes a requirement that the DEP make available all statewide beach management funds which are unencumbered or are allocated to non-project-specific activities for projects on legislatively approved lists of inlet management projects.

The bill requires the DEP to update and maintain an annual report on its website concerning the extent to which each inlet project has succeeded in balancing the local sediment budget and inlet's erosive effects on adjacent beaches. The report must provide an estimate of the quantity of sediment bypassed, transferred, or otherwise placed on adjacent eroding beaches, or in such beaches' nearshore area, for the purpose of offsetting the erosive effects of inlets.

Comprehensive Long-Term Beach Management Plan

Section 4 amends s. 161.161, F.S., which establishes requirements for the DEP's comprehensive long-term beach management plan. The changes in section 4 will go into effect on July 1, 2020.

In developing and maintaining the comprehensive long-term beach management plan, the bill requires the DEP to do the following:

- Include recommendations for improvement of infrastructure to facilitate sand bypassing to mitigate the erosive impact of an inlet that is a significant cause of beach erosion.
- Consider the establishment of regional sediment management alternatives for one or more individual beach and inlet sand bypassing projects as an alternative to beach restoration when appropriate and cost-effective, and recommend the location of such regional sediment management alternatives and the source of beach-compatible sand.
- Maintain an updated list of critically eroded sandy beaches based on data, analyses, and investigations of shoreline conditions.
- Identify existing beach projects without dune features or with dunes without adequate elevations, and encourage dune restoration and revegetation to be incorporated as part of storm damage recovery projects or future dune maintenance.
- Document procedures and policies for preparing post-storm damage assessments and corresponding recovery plans, including repair cost estimates.
- Identify and assess appropriate management measures for all of the state's critically eroded beaches.

The bill also deletes the following requirements for the DEP in developing and maintaining the comprehensive long-term beach management plan:

- Include cost estimates necessary to take inlet corrective measures and recommendations regarding cost sharing among the beneficiaries of such inlet.
- Evaluate the establishment of feeder beaches as an alternative to direct beach restoration and recommend the location of such feeder beaches.
- Project long-term erosion for all major beach and dune systems by surveys and profiles;
- Identify shoreline development and degree of density.
- In identifying short-and long-term economic costs and benefits of beaches, include recreational value to user groups, tax base, revenues generated, and beach acquisition and maintenance costs.
- Identify alternative management responses in order to prevent inappropriate development and redevelopment on migrating beaches.
- Consider abandonment as an alternative management response.
- Establish criteria, including costs and specific implementation actions, for alternative management techniques.
- Establish a list of restoration and beach nourishment projects arranged in order of priority, and the funding levels needed for such projects.
- Submit regional plans on a set schedule and in accordance with specified requirements.

The bill requires that the comprehensive long-term beach management plan, at a minimum, include: a strategic beach management plan; a critically eroded beaches report; and a statewide long-range budget plan.

Strategic Beach Management Plan

The bill requires the strategic beach management plan (SBMP) to identify and recommend appropriate measures for the state's critically eroded sandy beaches. The DEP is authorized to incorporate regional plans and take into account areas of greatest need and probable federal or local funding when creating the SBMP. The bill requires that, before finalizing a SBMP, the

DEP must hold a public meeting or a public webinar in the region for which the plan is prepared. The bill's revisions to the requirements for the comprehensive long-term beach management plan may significantly change what the DEP includes in the SBMP.

Critically Eroded Beaches Report

The bill requires that the DEP develop and maintain the critically eroded beaches report based primarily on data, analyses, and investigations of shoreline conditions.

Long-Range Budget Plan

The bill requires the long range budget plan to include at least five years of planned beach restoration, beach nourishment, and inlet management project funding needs, as identified and refined by local governments. The plan must consist of two components:

- A “three-year work plan” identifying and prioritizing beach restoration, beach nourishment, and inlet management projects viable for implementation during the next three fiscal years. In developing and submitting the three year work plan, the bill requires the DEP to:
 - Use the following criteria for determining the viability of projects:
 - Available cost-sharing,
 - Local sponsor support,
 - Regulatory considerations, and
 - The ability for the project to proceed as scheduled;
 - Identify, for each of the three fiscal years, proposed projects and their current development status, and list the projects in priority order based on the criteria in ss. 161.101(14) and 161.143(2), F.S.; and
 - Submit the three-year work plan to the Legislature annually, accompanied by a three-year financial forecast of available funding for the projects, and any modifications of specific funding requests or criteria ranking that are warranted in each successive fiscal year.
- A “long-range plan” identifying projects for inclusion into the three-year work plan in the fourth and fifth ensuing fiscal years, which includes issues that may prevent successful completion and recommended solutions that will allow projects to progress into the three-year work plan.

Upon approval of the plans, the bill requires the DEP to use regional plans and three-year work plans to serve as the basis for state funding decisions.

Section 5 states that, unless otherwise expressly provided in the act, the bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill includes tourism-related return on investment in the criteria considered when establishing funding priorities for beach erosion control projects. Increased tourism could result in economic benefits to businesses and residents in beach communities. Therefore, the bill may have an indeterminate, positive fiscal impact on the private sector.

C. Government Sector Impact:

The bill may have a positive, indeterminate impact on local governments that receive funding for beach erosion control projects or inlet management projects.

The bill may have a positive, indeterminate impact on local governments that receive increased tax revenues due to increasing rates of tourism at or around their beaches.

The bill may have a negative, indeterminate impact on the DEP, because the DEP may incur additional costs by implementing the bill. Implementation may require adopting new rules, developing new agency procedures, and producing new deliverables on an ongoing basis. The DEP can absorb these costs within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 161.101, 161.143, and 161.161.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

1 A bill to be entitled
2 An act relating to coastal management; amending s.
3 161.101, F.S.; revising the criteria the Department of
4 Environmental Protection must consider in determining
5 and assigning annual funding priorities for beach
6 management and erosion control projects; specifying
7 tiers for such criteria; requiring tiers to be given
8 certain weight; requiring the department to update
9 active project lists on its website; redefining the
10 term "significant change"; revising the department's
11 reporting requirements; specifying allowable uses for
12 certain surplus funds; revising the requirements for a
13 specified summary; requiring that funding for certain
14 projects remain available for a specified period;
15 amending s. 161.143, F.S.; specifying the scope of
16 certain projects; revising the list of projects
17 included as inlet management projects; requiring that
18 certain projects be considered separate and apart from
19 other specified projects; revising the ranking
20 criteria to be used by the department to establish
21 certain funding priorities for certain inlet-caused
22 beach erosion projects; revising provisions
23 authorizing the department to spend certain
24 appropriated funds for the management of inlets;
25 deleting a provision authorizing the department to

26 | spend certain appropriated funds for specified inlet
27 | studies; revising the required elements of the
28 | department's report of prioritized inlet management
29 | projects; revising the funds that the department must
30 | make available to certain inlet management projects;
31 | requiring the department to include specified
32 | activities on the inlet management project list;
33 | deleting provisions requiring the department to make
34 | available funding for specified projects; deleting a
35 | requirement that the Legislature designate a project
36 | as an Inlet of the Year; requiring the department to
37 | update and maintain a report regarding the progress of
38 | certain inlet management projects; deleting certain
39 | temporary provisions relating to specified
40 | appropriations; revising the requirements for the
41 | report; amending s. 161.161, F.S.; revising
42 | requirements for the comprehensive long-term
43 | management plan; requiring the plan to include a
44 | strategic beach management plan, a critically eroded
45 | beaches report, and a statewide long-range budget
46 | plan; providing for the development and maintenance of
47 | such plans; deleting a requirement that the department
48 | submit a certain beach management plan on a certain
49 | date each year; requiring the department to hold a
50 | public meeting before finalization of the strategic

51 beach management plan; requiring the department to
 52 submit a 3-year work plan and a related forecast for
 53 the availability of funding to the Legislature;
 54 providing effective dates.

55
 56 Be It Enacted by the Legislature of the State of Florida:

57
 58 Section 1. Effective July 1, 2020, subsection (14) of
 59 section 161.101, Florida Statutes, is amended to read:

60 161.101 State and local participation in authorized
 61 projects and studies relating to beach management and erosion
 62 control.—

63 (14) The intent of the Legislature in preserving and
 64 protecting Florida's sandy beaches pursuant to this act is to
 65 direct beach erosion control appropriations to the state's most
 66 severely eroded beaches, and to prevent further adverse impact
 67 caused by improved, modified, or altered inlets, coastal
 68 armoring, or existing upland development. In establishing annual
 69 project funding priorities, the department shall seek formal
 70 input from local coastal governments, beach and general
 71 government interest groups, and university experts. The
 72 department shall implement a scoring system for annual project
 73 funding priorities that consists of criteria equally weighted
 74 within the following specified tiers ~~criteria to be considered~~
 75 ~~by the department in determining annual funding priorities shall~~

76 include:

77 (a) Tier 1 must account for 20 percent of the total score
78 and consist of the tourism-related return on investment and the
79 economic impact of the project. The return on investment of the
80 project is the ratio of the tourism-related tax revenues for the
81 most recent year to the amount of state funding requested for
82 the proposed project. The economic impact of the project is the
83 ratio of the tourism-related tax revenues for the most recent
84 year to all county tax revenues for the most recent year. The
85 department must calculate these ratios using state sales tax and
86 tourism development tax data of the county having jurisdiction
87 over the project area. If multiple counties have jurisdiction
88 over the project area, the department must assess each county
89 individually using these ratios. The department shall calculate
90 the mean average of these ratios to determine the final overall
91 assessment for the multicounty project ~~the severity of erosion~~
92 ~~conditions, the threat to existing upland development, and~~
93 ~~recreational and/or economic benefits.~~

94 (b) Tier 2 must account for 45 percent of the total score
95 and consist of all of the following criteria:

96 1. The availability of federal matching dollars,
97 considering federal authorization, the federal cost-share
98 percentage, and the status of the funding award.

99 2. The storm damage reduction benefits of the project
100 based on the following considerations:

101 a. The current condition of the project area, including
102 any recent storm damage impact, as a percentage of volume of
103 sand lost since the most recent beach nourishment event or most
104 recent beach surveys. If the project area has not been
105 previously restored, the department must use the historical
106 background erosion rate;

107 b. The overall potential threat to existing upland
108 development, including public and private structures and
109 infrastructure, based on the percentage of vulnerable shoreline
110 that exists within the project boundaries; and

111 c. The value of upland property benefiting from the
112 protection provided by the project and its subsequent
113 maintenance. A property must be within one-quarter mile of the
114 project boundaries to be considered under the criterion
115 specified in this sub-subparagraph.

116 3. The cost-effectiveness of the project based on the
117 yearly cost per volume per mile of proposed beach fill
118 placement. The department shall also consider the following when
119 assessing cost-effectiveness pursuant to this subparagraph:

120 a. The existence of projects with proposed structural or
121 design components that could extend the beach nourishment
122 interval;

123 b. Existing beach nourishment projects that reduce upland
124 storm damage costs by incorporating new or enhanced dune
125 structures or new or existing dune restoration and revegetation

126 projects;

127 c. Proposed innovative technologies designed to reduce
128 project costs; and

129 d. Regional sediment management strategies and
130 coordination to conserve sand source resources and reduce
131 project costs.

132 (c) Tier 3 must account for 20 percent of the total score
133 and consist of all of the following criteria: ~~The extent of~~
134 ~~local government sponsor financial and administrative commitment~~
135 ~~to the project, including a long-term financial plan with a~~
136 ~~designated funding source or sources for initial construction~~
137 ~~and periodic maintenance.~~

138 1.(d) Previous state commitment and involvement in the
139 project, considering previously funded phases, the total amount
140 of previous state funding, and previous partial appropriations
141 for the proposed project.

142 2. The recreational benefits of the project based on:

143 a. The accessible beach area added by the project; and

144 b. The percentage of linear footage within the project
145 boundaries which is zoned:

146 (I) As recreational or open space;

147 (II) For commercial use; or

148 (III) To otherwise allow for public lodging

149 establishments.

150 ~~(c) The anticipated physical performance of the proposed~~

151 ~~project, including the frequency of periodic planned~~
152 ~~nourishment.~~

153 3.(f) The extent to which the ~~proposed~~ project mitigates
154 the adverse impact of improved, modified, or altered inlets on
155 adjacent beaches.

156 ~~(g) Innovative, cost-effective, and environmentally~~
157 ~~sensitive applications to reduce erosion.~~

158 ~~(h) Projects that provide enhanced habitat within or~~
159 ~~adjacent to designated refuges of nesting sea turtles.~~

160 ~~(i) The extent to which local or regional sponsors of~~
161 ~~beach erosion control projects agree to coordinate the planning,~~
162 ~~design, and construction of their projects to take advantage of~~
163 ~~identifiable cost savings.~~

164 4.(j) The degree to which the project addresses the
165 state's most significant beach erosion problems as a function of
166 the linear footage of the project shoreline and the cubic yards
167 of sand placed per mile per year.

168 (d) Tier 4 must account for 15 percent of the total score
169 and consist of all of the following criteria:

170 1. Increased prioritization of projects that have been on
171 the department's ranked project list for successive years and
172 that have not previously secured state funding for project
173 implementation.

174 2. Environmental habitat enhancement, recognizing state or
175 federal critical habitat areas for threatened or endangered

176 species which may be subject to extensive shoreline armoring, or
177 recognizing areas where extensive shoreline armoring threatens
178 the availability or quality of habitat for such species. Turtle-
179 friendly designs, dune and vegetation projects for areas with
180 redesigned or reduced fill templates, proposed incorporation of
181 best management practices and adaptive management strategies to
182 protect resources, and innovative technologies designed to
183 benefit critical habitat preservation may also be considered.

184 3. The overall readiness of the project to proceed in a
185 timely manner, considering the project's readiness for the
186 construction phase of development, the status of required
187 permits, the status of any needed easement acquisition, the
188 availability of local funding sources, and the establishment of
189 an erosion control line. If the department identifies specific
190 reasonable and documented concerns that the project will not
191 proceed in a timely manner, the department may choose not to
192 include the project in the annual funding priorities submitted
193 to the Legislature.

194
195 If ~~In the event that~~ more than one project qualifies equally
196 under the provisions of this subsection, the department shall
197 assign funding priority to those projects shown to be most ~~that~~
198 ~~are~~ ready to proceed.

199 Section 2. Subsection (20) of section 161.101, Florida
200 Statutes, is amended to read:

201 161.101 State and local participation in authorized
 202 projects and studies relating to beach management and erosion
 203 control.—

204 (20) The department shall maintain active project lists,
 205 updated at least quarterly, ~~listings~~ on its website by fiscal
 206 year in order to provide transparency regarding those projects
 207 receiving funding and the funding amounts, and to facilitate
 208 legislative reporting and oversight. In consideration of this
 209 intent:

210 (a) The department shall notify the Executive Office of
 211 the Governor and the Legislature regarding any significant
 212 changes in the funding levels of a given project as initially
 213 requested in the department's budget submission and subsequently
 214 included in approved annual funding allocations. The term
 215 "significant change" means a project-specific change or
 216 cumulative changes that exceed the project's original allocation
 217 by \$500,000 or that exceed ~~those changes exceeding~~ 25 percent of
 218 the a project's original allocation.

219 1. Except as provided in subparagraph 2., if there is
 220 surplus funding, the department must notify and provide
 221 supporting justification ~~notification shall be provided~~ to the
 222 Executive Office of the Governor and the Legislature to indicate
 223 whether surplus ~~additional~~ dollars are intended to be used for
 224 inlet management projects pursuant to s. 161.143 or for beach
 225 restoration and beach nourishment projects, offered for

226 reversion as part of the next appropriations process, or used
 227 for other specified priority projects on active project lists.

228 2. The department may use surplus funds for projects
 229 identified in subparagraph 1. that do not have a significant
 230 change. The department must post the uses of such funds on the
 231 project listing web page of its website. The department is not
 232 required to post any other notice or supporting justification
 233 before it uses the surplus funds for a project that does not
 234 have a significant change.

235 (b) The department shall prepare a summary of specific
 236 project activities for the current fiscal year, their funding
 237 status, and changes to annual project lists for the current and
 238 preceding fiscal year. ~~shall be prepared by~~ The department shall
 239 include the summary and included with the department's
 240 submission of its annual legislative budget request.

241 (c) Funding for specific projects on annual project lists
 242 approved by the Legislature must remain available for such
 243 projects for 18 months. A local project sponsor may at any time
 244 release, in whole or in part, appropriated project dollars by
 245 formal notification to the department. The department, which
 246 shall notify the Executive Office of the Governor and the
 247 Legislature of such release and. ~~Notification must indicate in~~
 248 the notification how the project dollars are recommended
 249 ~~intended~~ to be used after such release.

250 Section 3. Subsections (2) through (5) of section 161.143,

251 Florida Statutes, are amended to read:

252 161.143 Inlet management; planning, prioritizing, funding,
253 approving, and implementing projects.-

254 (2) The department shall establish annual funding
255 priorities for studies, activities, or other projects concerning
256 inlet management. Such inlet management projects constitute the
257 intended scope of this section and s. 161.142 and consist of
258 ~~include, but are not limited to,~~ inlet sand bypassing,
259 improvement of infrastructure to facilitate sand bypassing,
260 modifications to channel dredging, jetty redesign, jetty repair,
261 disposal of spoil material, and the development, revision,
262 adoption, or implementation of an inlet management plan.
263 Projects considered for funding pursuant to this section must be
264 considered separate and apart from projects reviewed and
265 prioritized in s. 161.101(14). The funding priorities
266 established by the department under this section must be
267 consistent with the requirements and legislative declaration in
268 ss. 161.101(14), 161.142, and 161.161(1)(b). In establishing
269 funding priorities under this subsection and before transmitting
270 the annual inlet project list to the Legislature under
271 subsection (4) ~~(5)~~, the department shall seek formal input from
272 local coastal governments, beach and general government
273 associations and other coastal interest groups, and university
274 experts concerning annual funding priorities for inlet
275 management projects. In order to maximize the benefits of

276 efforts to address the inlet-caused beach erosion problems of
277 this state, the ranking criteria used by the department to
278 establish funding priorities for studies, activities, or other
279 projects concerning inlet management must include equal
280 consideration of:

281 (a) An estimate of the annual quantity of beach-quality
282 sand reaching the updrift boundary of the improved jetty or
283 inlet channel.

284 (b) The severity of the erosion to the adjacent beaches
285 caused by the inlet ~~and the extent to which the proposed project~~
286 ~~mitigates the erosive effects of the inlet.~~

287 (c) The overall significance and anticipated success of
288 the proposed project in mitigating the erosive effects of the
289 inlet, balancing the sediment budget of the inlet and adjacent
290 beaches, and addressing the sand deficit along the inlet-
291 affected shorelines.

292 (d) The extent to which ~~existing~~ bypassing activities at
293 an inlet would benefit from modest, cost-effective improvements
294 when considering the volumetric increases from the proposed
295 project, the availability of beach-quality sand currently not
296 being bypassed to adjacent eroding beaches, and the ease with
297 which such beach-quality sand may be obtained.

298 (e) The cost-effectiveness of sand made available by a
299 proposed inlet management project or activity relative to other
300 sand source opportunities that would be used to address inlet-

301 caused beach erosion ~~The interest and commitment of local~~
302 ~~governments as demonstrated by their willingness to coordinate~~
303 ~~the planning, design, construction, and maintenance of an inlet~~
304 ~~management project and their financial plan for funding the~~
305 ~~local cost share for initial construction, ongoing sand~~
306 ~~bypassing, channel dredging, and maintenance.~~

307 (f) The existence of a proposed or recently updated ~~The~~
308 ~~previous completion or approval of a state-sponsored inlet~~
309 ~~management plan or a local-government-sponsored inlet study~~
310 addressing ~~concerning the inlet addressed by the proposed~~
311 ~~project, the ease of updating and revising any such plan or~~
312 ~~study, and the adequacy and specificity of the plan's or study's~~
313 ~~recommendations concerning the mitigation of an inlet's erosive~~
314 ~~effects on adjacent beaches.~~

315 (g) The degree to which the proposed project will enhance
316 the performance and longevity of proximate beach nourishment
317 projects, thereby reducing the frequency of such periodic
318 nourishment projects.

319 (h) The project-ranking criteria in s. 161.101(14) to the
320 extent such criteria are applicable to inlet management studies,
321 projects, and activities and are distinct from, and not
322 duplicative of, the criteria listed in paragraphs (a)-(g).

323 (3) The department may pay from legislative appropriations
324 up to 75 percent of the construction costs of an initial major
325 inlet management project component for the purpose of mitigating

326 the erosive effects of the inlet to the shoreline and balancing
327 the sediment budget. The remaining balance of such construction
328 costs must be paid from other funding sources, such as local
329 sponsors. All project costs not associated with an initial major
330 inlet management project component must be shared equally by
331 state and local sponsors in accordance with, ~~pursuant to s.~~
332 ~~161.101 and notwithstanding s. 161.101(15), pay from legislative~~
333 ~~appropriations provided for these purposes 75 percent of the~~
334 ~~total costs, or, if applicable, the nonfederal costs, of a~~
335 ~~study, activity, or other project concerning the management of~~
336 ~~an inlet. The balance must be paid by the local governments or~~
337 ~~special districts having jurisdiction over the property where~~
338 ~~the inlet is located.~~

339 ~~(4) Using the legislative appropriation to the statewide~~
340 ~~beach management support category of the department's fixed~~
341 ~~capital outlay funding request, the department may employ~~
342 ~~university-based or other contractual sources and pay 100~~
343 ~~percent of the costs of studies that are consistent with the~~
344 ~~legislative declaration in s. 161.142 and that:~~

345 ~~(a) Determine, calculate, refine, and achieve general~~
346 ~~consensus regarding net annual sediment transport volumes to be~~
347 ~~used for the purpose of planning and prioritizing inlet~~
348 ~~management projects; and~~

349 ~~(b) Appropriate, assign, and apportion responsibilities~~
350 ~~between inlet beneficiaries for the erosion caused by a~~

351 ~~particular inlet on adjacent beaches.~~

352 (4)~~(5)~~ The department shall annually provide an inlet
353 management project list, in priority order, to the Legislature
354 as part of the department's budget request. ~~The list must~~
355 ~~include studies, projects, or other activities that address the~~
356 ~~management of at least 10 separate inlets and that are ranked~~
357 ~~according to the criteria established under subsection (2).~~

358 (a) The department shall designate for ~~make available at~~
359 ~~least 10 percent of the total amount that the Legislature~~
360 ~~appropriates in each fiscal year for statewide beach management~~
361 ~~for the three highest-ranked projects on the current year's~~
362 inlet management project list, in priority order, an amount that
363 is at least equal to the greater of:

364 1. Ten percent of the total amount that the Legislature
365 appropriates in the fiscal year for statewide beach management;
366 or

367 2. The percentage of inlet management funding requests
368 from local sponsors as a proportion of the total amount of
369 statewide beach management dollars requested in a given year.

370 (b) The department shall include inlet monitoring
371 activities ranked on the inlet management project list as one
372 aggregated subcategory on the overall inlet management project
373 list ~~make available at least 50 percent of the funds~~
374 ~~appropriated for the feasibility and design category in the~~
375 ~~department's fixed capital outlay funding request for projects~~

376 ~~on the current year's inlet management project list which~~
377 ~~involve the study for, or design or development of, an inlet~~
378 ~~management project.~~

379 ~~(c) The department shall make available all statewide~~
380 ~~beach management funds that remain unencumbered or are allocated~~
381 ~~to non-project-specific activities for projects on legislatively~~
382 ~~approved inlet management project lists. Funding for local-~~
383 ~~government specific projects on annual project lists approved by~~
384 ~~the Legislature must remain available for such purposes for a~~
385 ~~period of 18 months pursuant to s. 216.301(2) (a). Based on an~~
386 ~~assessment and the department's determination that a project~~
387 ~~will not be ready to proceed during this 18-month period, such~~
388 ~~funds shall be used for inlet management projects on~~
389 ~~legislatively approved lists.~~

390 ~~(5)(d) The Legislature shall designate one of the three~~
391 ~~highest projects on the inlet management project list in any~~
392 ~~year as the Inlet of the Year. The department shall update and~~
393 ~~maintain an annual annually report on its website to the~~
394 ~~Legislature concerning the extent to which each inlet project~~
395 ~~designated by the Legislature as Inlet of the Year has succeeded~~
396 ~~in balancing the sediment budget of the inlet and adjacent~~
397 ~~beaches and in, mitigating the inlet's erosive effects on~~
398 ~~adjacent beaches. The report must estimate the quantity of~~
399 ~~sediment bypassed, transferred, and transferring or otherwise~~
400 ~~placed ~~placing~~ beach-quality sand on adjacent eroding beaches,~~

401 or in such beaches' nearshore area, for the purpose of
402 offsetting the erosive effects of inlets on the beaches of this
403 state.

404 Section 4. Effective July 1, 2020, subsections (2) through
405 (7) of section 161.161, Florida Statutes, are renumbered as
406 subsections (3) through (8), respectively, subsection (1) and
407 present subsection (2) are amended, and a new subsection (2) is
408 added to that section, to read:

409 161.161 Procedure for approval of projects.—

410 (1) The department shall develop and maintain a
411 comprehensive long-term beach management plan for the
412 restoration and maintenance of the state's critically eroded
413 beaches fronting the Atlantic Ocean, Gulf of Mexico, and Straits
414 of Florida. In developing and maintaining this ~~the beach~~
415 ~~management~~ plan, the department shall:

416 (a) Address long-term solutions to the problem of
417 critically eroded beaches in this state.

418 (b) Evaluate each improved, modified, or altered inlet and
419 determine whether the inlet is a significant cause of beach
420 erosion. With respect to each inlet determined to be a
421 significant cause of beach erosion, the plan shall include:

422 ~~1.~~ the extent to which such inlet causes beach erosion and
423 recommendations to mitigate the erosive impact of the inlet,
424 including, but not limited to, ~~recommendations regarding~~ inlet
425 sediment bypassing; improvement of infrastructure to facilitate

426 sand bypassing; modifications to channel dredging, jetty design,
427 and disposal of spoil material; establishment of feeder beaches;
428 and beach restoration and beach nourishment;~~and~~

429 ~~2. Cost estimates necessary to take inlet corrective~~
430 ~~measures and recommendations regarding cost sharing among the~~
431 ~~beneficiaries of such inlet.~~

432 (c) Evaluate ~~Design~~ criteria for beach restoration and
433 beach nourishment projects, including, but not limited to, 1.

434 ~~1.~~ dune elevation and width and revegetation and
435 stabilization requirements~~;~~ and

436 ~~2.~~ beach profiles ~~profile~~.

437 (d) Consider ~~Evaluate~~ the establishment of regional
438 sediment management alternatives for one or more individual
439 beach and inlet sand bypassing projects ~~feeder beaches~~ as an
440 alternative to ~~direct~~ beach restoration when appropriate and
441 cost-effective, and recommend the location of such regional
442 sediment management alternatives ~~feeder beaches~~ and the source
443 of beach-compatible sand.

444 (e) Identify causes of shoreline erosion and change,
445 determine ~~calculate~~ erosion rates, and maintain an updated list
446 of critically eroded sandy beaches based on data, analyses, and
447 investigations of shoreline conditions ~~and project long-term~~
448 ~~erosion for all major beach and dune systems by surveys and~~
449 ~~profiles.~~

450 (f) ~~Identify shoreline development and degree of density~~

451 ~~and~~ Assess impacts of development and coastal protection
452 ~~shoreline protective~~ structures on shoreline change and erosion.

453 (g) Identify short-term and long-term economic costs and
454 benefits of beaches to the state and individual beach
455 communities, ~~including recreational value to user groups, tax~~
456 ~~base, revenues generated, and beach acquisition and maintenance~~
457 ~~costs.~~

458 (h) Study dune and vegetation conditions, identify
459 existing beach projects without dune features or with dunes
460 without adequate elevations, and encourage dune restoration and
461 revegetation to be incorporated as part of storm damage recovery
462 projects or future dune maintenance events.

463 (i) Identify beach areas used by marine turtles and
464 develop strategies for protection of the turtles and their nests
465 and nesting locations.

466 (j) Identify alternative management responses to preserve
467 undeveloped beach and dune systems and, to restore damaged beach
468 and dune systems. In identifying such management responses, the
469 department shall consider, at a minimum, and to prevent
470 ~~inappropriate development and redevelopment on migrating~~
471 ~~beaches, and consider~~ beach restoration and nourishment,
472 armoring, relocation ~~and abandonment~~, dune and vegetation
473 restoration, and acquisition.

474 (k) Document procedures and policies for preparing post-
475 storm damage assessments and corresponding recovery plans,

476 including repair cost estimates ~~Establish criteria, including~~
477 ~~costs and specific implementation actions, for alternative~~
478 ~~management techniques.~~

479 (1) Identify and assess ~~Select and recommend~~ appropriate
480 management measures for all of the state's critically eroded
481 sandy beaches ~~in a beach management program.~~

482 ~~(m) Establish a list of beach restoration and beach~~
483 ~~nourishment projects, arranged in order of priority, and the~~
484 ~~funding levels needed for such projects.~~

485 (2) The comprehensive long-term management plan developed
486 and maintained by the department pursuant to subsection (1) must
487 include, at a minimum, a strategic beach management plan, a
488 critically eroded beaches report, and a statewide long-range
489 budget plan. The long-range budget plan must include a 3-year
490 work plan for beach restoration, beach nourishment, and inlet
491 management projects that lists planned projects for each of the
492 3 fiscal years addressed in the work plan.

493 (a) The strategic beach management plan must identify and
494 recommend appropriate measures for all of the state's critically
495 eroded sandy beaches and may incorporate plans ~~be~~ prepared at
496 the regional level, taking into account ~~based upon~~ areas of
497 greatest need and probable federal and local funding. Upon
498 approval in accordance with this section, such regional plans,
499 along with the 3-year work plan identified in subparagraph
500 (c)1., must ~~shall be components of the statewide beach~~

501 ~~management plan and shall~~ serve as the basis for state funding
502 ~~decisions upon approval in accordance with chapter 86-138, Laws~~
503 ~~of Florida. Before finalizing the strategic beach management~~
504 ~~plan In accordance with a schedule established for the~~
505 ~~submission of regional plans by the department, any completed~~
506 ~~plan must be submitted to the secretary of the department for~~
507 ~~approval no later than March 1 of each year. These regional~~
508 ~~plans shall include, but shall not be limited to,~~
509 ~~recommendations of appropriate funding mechanisms for~~
510 ~~implementing projects in the beach management plan, giving~~
511 ~~consideration to the use of single county and multicounty taxing~~
512 ~~districts or other revenue generation measures by state and~~
513 ~~local governments and the private sector. Prior to presenting~~
514 ~~the plan to the secretary of the department, the department~~
515 ~~shall hold a public meeting in the region areas for which the~~
516 ~~plan is prepared or hold a publicly noticed webinar. The plan~~
517 ~~submission schedule shall be submitted to the secretary for~~
518 ~~approval. Any revisions to such schedule must be approved in~~
519 ~~like manner.~~

520 (b) The critically eroded beaches report must be developed
521 and maintained based primarily on the requirements specified in
522 paragraph (1) (e).

523 (c) The statewide long-range budget plan must include at
524 least 5 years of planned beach restoration, beach nourishment,
525 and inlet management project funding needs as identified, and

526 subsequently refined, by local government sponsors. This plan
527 must consist of two components:

528 1. A 3-year work plan that identifies beach restoration,
529 beach nourishment, and inlet management projects viable for
530 implementation during the next 3 fiscal years, as determined by
531 available cost-sharing, local sponsor support, regulatory
532 considerations, and the ability of the project to proceed as
533 scheduled. The 3-year work plan must, for each fiscal year,
534 identify proposed projects and their current development status,
535 listing them in priority order based on the applicable criteria
536 established in ss. 161.101(14) and 161.143(2). Specific funding
537 requests and criteria ranking, pursuant to ss. 161.101(14) and
538 161.143(2), may be modified as warranted in each successive
539 fiscal year, and such modifications must be documented and
540 submitted to the Legislature with each 3-year work plan. Year
541 one projects shall consist of those projects identified for
542 funding consideration in the ensuing fiscal year.

543 2. A long-range plan that identifies projects for
544 inclusion in the fourth and fifth ensuing fiscal years. These
545 projects may be presented by region and do not need to be
546 presented in priority order; however, the department should
547 identify issues that may prevent successful completion of such
548 projects and recommend solutions that would allow the projects
549 to progress into the 3-year work plan.

550 (3)-(2) Annually, The secretary shall present the 3-year

551 work plan to the Legislature annually. The work plan must be
552 accompanied by a 3-year financial forecast for the availability
553 of funding for the projects ~~recommendations for funding beach~~
554 ~~erosion control projects prioritized according to the criteria~~
555 ~~established in s. 161.101(14).~~

556 Section 5. Except as otherwise expressly provided in this
557 act, this act shall take effect July 1, 2019.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 325 Coastal Management
SPONSOR(S): State Affairs Committee, LaMarca and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 446

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	10 Y, 0 N	Melkun	Shugar
2) Agriculture & Natural Resources Appropriations Subcommittee	8 Y, 0 N	White	Pigott
3) State Affairs Committee	22 Y, 0 N, As CS	Melkun	Williamson

SUMMARY ANALYSIS

Due to storm events, construction and maintenance of inlets, imprudent coastal developments, and other factors, 420.9 miles of Florida's beaches are critically eroded. The Beach Management Funding Assistance Program (program) within the Department of Environmental Protection (DEP) works with local sponsors to protect and restore the state's beaches through a comprehensive beach management planning program. Local sponsors submit annual funding requests to DEP for beach management and inlet management projects. DEP ranks the requests and provides a funding recommendation to the Legislature.

As it relates to beach management projects, the bill revises and provides more detail on the criteria DEP must consider when ranking beach management projects for funding consideration and requires DEP to implement a scoring system for annual project funding priorities that consists of criteria divided into four tiers. The bill assigns each tier a certain percentage of overall point value and requires that the criteria be equally weighted within each tier. The bill changes how DEP may utilize surplus funds and the procedures that must be followed.

For inlet management projects, the bill:

- Revises and updates the criteria DEP must consider when ranking inlet management projects for funding consideration, and requires DEP to weigh each criterion equally;
- Authorizes DEP to pay up to 75 percent of the construction costs of an initial major inlet management project component, and allows DEP to share the costs of the other components of inlet management projects equally with the local sponsor;
- Requires DEP to rank the inlet monitoring activities for inlet management projects as one overall subcategory request for funding separate from the beach management project funding requests; and
- Eliminates the requirement for the Legislature to designate one of the three highest ranked inlet management projects on the priority list as the Inlet of the Year.

The bill updates how DEP must develop and maintain a Comprehensive Long-Term Beach Management Plan that requires DEP to include, at a minimum, the following: a strategic beach management plan, critically eroded beaches report, and statewide long-range budget plan that includes a three-year work plan identifying beach nourishment and inlet management projects viable for implementation during the ensuing fiscal years.

The bill will have an insignificant negative fiscal impact on DEP.

The changes to the beach ranking criteria and the Comprehensive Long-Term Beach Management Plan criteria have an effective date of July 1, 2020. The other aspects of the bill have an effective date of July 1, 2019.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Beach Management

Present Situation

Beach Management Funding Assistance Program

There are 825 miles of sandy shores lining Florida's coasts, fronting the Atlantic Ocean, Gulf of Mexico, and Straits of Florida. These beaches serve several important functions in maintaining the health of Florida's economy and environment. The coastal sandy beach system is home to hundreds of species of plants and animals that are dependent upon the beaches, dunes, and nearshore waters.¹ Beaches also serve as Florida's primary tourist attraction, generating millions of dollars for Florida's economy. The Office of Economic and Demographic Research (EDR) identified beaches as the most important feature of Florida and have the strongest effect in terms of attracting tourists.² Nourished beaches contribute to the expanding federal, state, and local tax bases; increase sales, income, and employment opportunities from resident and visitor spending; and enhance property values by protecting the developed shorefront from storm surges thereby preventing loss of upland property.³ For every dollar spent by the state on beach restoration, \$5.40 of additional tax revenue was generated during the 2010-2011 through 2012-2013 fiscal years.⁴

Beaches are subject to both natural and manmade erosion. Sand naturally moves along the shore due to wind driven currents and tides, and storms can cause dramatic and immediate changes to the coastline. The majority of manmade erosion is caused by the creation and maintenance of inlets where the sand has historically been removed from the coastal system and the natural drift of sand along the shore is blocked by jetties, trapped in channels, or moved into ebb and flood shoals. The development and placement of infrastructure near the shore also contributes to coastal erosion by preventing the storage of sand in dunes and hardening the shore for protection of upland property.⁵

Due to storm events, construction and maintenance of inlets, imprudent coastal development, and other factors, 420.9 miles of Florida's beaches are critically eroded.⁶ Recognizing the importance of the state's beaches and the problems presented by erosion, the Legislature declared a necessity to protect and restore the state's beaches through a comprehensive beach management planning program.⁷ Under the planning program, the Department of Environmental Protection (DEP) evaluates beach

¹ Department of Environmental Protection (DEP), *Beaches and Coastal Systems*, available at <https://floridadep.gov/water/beaches> (last visited Feb. 5, 2019).

² EDR, *Economic Evaluation of Florida's Investment in Beaches*, p. 9 (Jan. 2015), available at <http://edr.state.fl.us/Content/returnoninvestment/BeachReport.pdf> (last visited Feb. 5, 2019).

³ DEP, *Strategic Beach Management Plan*, p. 1 (May 2018), available at https://floridadep.gov/sites/default/files/SBMP-Introduction_0.pdf (last visited Feb. 5, 2019).

⁴ EDR, *Economic Evaluation of Florida's Investment in Beaches*, p. 12 (Jan. 2015), available at <http://edr.state.fl.us/Content/returnoninvestment/BeachReport.pdf> (last visited Feb. 5, 2019).

⁵ DEP, *Strategic Beach Management Plan*, p. 1 (May 2018), available at https://floridadep.gov/sites/default/files/SBMP-Introduction_0.pdf (last visited Feb. 5, 2019).

⁶ DEP, *Critically Eroded Beaches in Florida Report*, p. 5 (June 2018), available at <https://floridadep.gov/sites/default/files/CriticallyErodedBeaches.pdf> (last visited Feb. 5, 2019); A "critically eroded shoreline" is a segment of shoreline where natural processes or human activities have caused, or contributed to, erosion and recession of the beach and dune system to such a degree that upland development, recreational interests, wildlife habitat or important cultural resources are threatened or lost. Critically eroded shoreline may also include adjacent segments or gaps between identified critical erosion areas which, although they may be stable or slightly erosional now, their inclusion is necessary for continuity of management of the coastal system or for the design integrity of adjacent beach management projects; r. 62B-36.002(5), F.A.C.

⁷ Sections 161.088 and 161.091, F.S.

erosion problems throughout the state seeking viable solutions.⁸ The Beach Management Funding Assistance Program (program) serves as the primary vehicle to implement the beach management planning recommendations and works with local, state, and federal governmental entities to achieve the protection, preservation, and restoration of the coastal resources of the state.⁹ The program provides cost-share to county and municipal governments, community development districts, or special taxing districts (collectively “local sponsors”) for shore protection and preservation activities to implement beach management and inlet management projects.¹⁰ DEP annually evaluates and ranks beach management and inlet management project funding requests submitted by local sponsors and submits a recommendation to the Legislature for funding consideration.¹¹

OPPAGA Report on Beach Management Funding

In December 2014, the Office of Program Policy Analysis and Government Accountability (OPPAGA) released a report evaluating DEP’s process for selecting and prioritizing local beach management and inlet management projects. The review considered the existing statutory criteria and related administrative rules and the funding request application process, information requirements, and timeline. Further, OPPAGA reviewed how DEP uses each ranking criteria for establishing the annual priority order for beach management and restoration projects.¹²

The report made several findings, including:

- Certain criteria accounts for the majority of the points awarded;
- Certain criteria only apply to a limited number of projects;
- The criteria do not adequately account for the economic impact of beach projects;
- The criteria do not adequately account for a project’s cost effectiveness or performance;
- The criteria do not account for the impacts of recent storms or current conditions of the shoreline;
- Stakeholders found the application requirements for funding to be too complicated and time consuming; and
- Stakeholders perceived a bias for projects that received federal funding.¹³

Beach Management Projects

“Beach Management” is protecting, maintaining, preserving, or enhancing Florida’s beaches. Beach management activities include beach restoration¹⁴ and nourishment¹⁵ activities, dune protection and restoration, restoration of natural shoreline processes, removal of derelict structures and obstacles to natural shoreline process, and construction of erosion control structures (projects).¹⁶ To receive funding, projects must be consistent with the adopted Strategic Beach Management Plan.¹⁷ Funding for these projects comes from federal, state, and local government sources. DEP may provide financial assistance to local sponsors in an amount up to 75 percent of the project costs for projects located on critically eroded beaches fronting the Gulf of Mexico, Atlantic Ocean, or Straits of Florida.¹⁸ However,

⁸ Section 161.101(2), F.S.

⁹ DEP, *Beaches Funding Program*, available at <https://floridadep.gov/water/beaches-funding-program> (last visited Feb. 5, 2019).

¹⁰ Rules 62B-36.001 and 62B-36.002(9), F.A.C.

¹¹ Sections 161.101 and 161.143, F.S.

¹² OPPAGA, *The Beach Management Funding Assistance Program Was Recently Improved, but Some Stakeholder Concerns Persist*, available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=14-12> (last visited Feb. 5, 2019).

¹³ *Id.*

¹⁴ “Beach restoration” is the placement of sand on an eroded beach for the purposes of restoring it as a recreational beach and providing storm protection for upland properties; s. 161.021(4), F.S.

¹⁵ “Beach nourishment” is the maintenance of a restored beach by the replacement of sand; s. 161.021(3), F.S.

¹⁶ Rule 62B-36.002(3), F.A.C.

¹⁷ Rule 62B-36.005(3), F.A.C.

¹⁸ Sections 161.101(1) and 161.101(7), F.S.

until the unmet demand for repairing beaches and dunes is met, DEP may only provide cost-share up to 50 percent of the non-federal share.¹⁹

Projects must provide adequate public access, protect natural resources, and provide protection for endangered and threatened species.²⁰ Further, DEP may not fund projects that provide only recreational benefits. All funded activities must have an identifiable beach erosion control or beach preservation benefit directed toward maintaining or enhancing sand in the system.²¹ Currently, local, state and federal entities manage approximately 227 miles of critically eroded beaches in Florida.²²

Annually, local sponsors submit cost-share funding requests to DEP.²³ DEP must then evaluate and rank these requests based on the information submitted by the local sponsor.²⁴ DEP prioritizes the projects based on the following criteria:

- Severity of erosion conditions, the threat to existing upland development, and recreational or economic benefits;
- Availability of federal matching dollars;
- Extent of the local government sponsor financial and administrative commitment to the project;
- Previous state commitment and involvement in the project;
- Anticipated physical performance of the proposed project, including the frequency of periodic planned nourishment;
- Extent to which the proposed project mitigates the adverse impact of improved, modified, or altered inlets on adjacent beaches;
- Innovative, cost-effective, and environmentally sensitive applications to reduce erosion;
- Projects that provide enhanced habitat within or adjacent to designated refuges of nesting sea turtles;
- Extent to which local or regional sponsors of beach erosion control projects agree to coordinate the planning, design, and construction of their projects to take advantage of identifiable cost savings; and
- Degree to which the project addresses the state's most significant beach erosion problems.²⁵

In the event that more than one project ranks equally, DEP must assign funding priority to those projects that are ready to proceed.²⁶ DEP adopted a point system for scoring projects based on the criteria in the statute. Each criterion can have more than one component. The following table illustrates how points are assigned.

¹⁹ Section 161.101(15), F.S.; rr. 62B-36.003(9) and 62B-36.007(1), F.A.C.; DEP may pay up to 100 percent of the costs of a project when the state is the upland riparian owner; s. 161.101(10), F.S.

²⁰ Section 161.101(12), F.S.

²¹ Section 161.101(13), F.S.

²² DEP, *Beaches Funding Program*, available at <https://floridadep.gov/water/beaches-funding-program> (last visited Feb. 5, 2019).

²³ Rule 62B-36.005(1), F.A.C.

²⁴ Rules 62B-36.005(3) and 62B-36.005(4), F.A.C.

²⁵ Section 161.101(14), F.S.

²⁶ *Id.*

Beach Management Ranking Points²⁷		
Statutory Criteria	Number of Component Criteria	Available Points
Significance	6	20
Local Sponsor Financial and Administrative Commitment	6	10
Previous State Commitment	4	10
Availability of Federal Funds	3	10
Recreational and Economic Benefit	1	10
Severity of Erosion	1	10
Mitigation of Inlet Effects	1	10
Threat to Upland Structures	1	10
Project Performance	2	10
Innovative Technologies	2	5
Regionalization	1	5
Enhance Refuges of Nesting Sea Turtles	1	5

Once DEP creates a ranking list, the local sponsors have 21 days to review the list and provide clarification to support additional points.²⁸ Then, DEP considers the requests, finalizes a ranking, and submits a recommendation to the Legislature for funding consideration.²⁹ As part of the annual legislative budget request, DEP must prepare a summary of specific project activities for the current fiscal year, funding status, and changes to annual project lists.³⁰

DEP must maintain active project listings on the website by fiscal year in order to provide transparency regarding projects receiving funding and to facilitate legislative reporting and oversight. DEP must notify the Governor and the Legislature if the funding levels of a given project significantly change from what the local sponsor initially requested in DEP's budget submission and subsequently included in approved annual funding allocations. The term "significant change" means changes exceeding 25 percent of a project's original allocation.³¹ If there is surplus funding, DEP must notify the Governor and the Legislature to indicate whether the intention is to use the additional dollars for inlet management projects, reversion as part of the next appropriations process, or for other specified priority projects on active project lists.³²

A local sponsor may at any time release, in whole or in part, appropriated project dollars by formal notification to DEP. DEP must then notify the Governor and the Legislature and indicate how the project dollars will be used.³³

Effect of the Proposed Changes

The bill amends s. 161.101(14), F.S., to revise and clarify the criteria DEP must consider when ranking beach management projects for funding consideration. The bill requires DEP to implement a scoring system for annual project funding priorities that consists of criteria divided into a four-tier scoring system, assigns each tier a certain percentage of overall point value, and requires that the criteria be equally weighted within each tier.

²⁷ Rule 62B-36.006(1), F.A.C.; *see also*, ss. 161.101(1) – (6), F.S.

²⁸ Rule 62B-36.005(4), F.A.C.

²⁹ Section 161.161(2), F.S.

³⁰ Section 161.101(20)(b), F.S.

³¹ Section 161.101(20)(a), F.S.

³² *Id.*

³³ Section 161.101(20)(c), F.S.

Tier one addresses tourism-related return on investment and the economic impact of beach management projects and must account for 20 percent of the total score. DEP must weigh the following criteria equally in tier one:

- Return on investment by applying the ratio of the tourism-related tax revenues for the most recent year to the amount of state funding requested for the proposed project; and
- Economic impact of the project by applying the ratio of the tourism-related tax revenues for the most recent year to all county tax revenues for the most recent year.³⁴

DEP must calculate the ratios in tier one by using state sales tax and tourism development tax data of the county with jurisdiction over the project area. If the proposed beach management project covers two jurisdictions, DEP must assess each county individually then calculate the average.

Tier two accounts for 45 percent of the total score, and requires DEP to weigh the following criteria equally:

- Availability of federal matching dollars considering federal authorization, the federal cost-share percentage, and the status of the funding award;³⁵
- The storm damage reduction benefit of the beach management project based on following considerations:
 - The current condition of the project area, including any recent storm damage impact, as a percentage of volume of sand lost since the most recent beach nourishment event or most recent beach surveys. DEP must use the historical background erosion rate if the project has not been previously restored;³⁶
 - The overall potential threat to existing upland development, including public and private infrastructure, based on a percentage of vulnerable structures within the project boundaries;³⁷ and
 - The value of upland property benefiting from the protection provided by the project and subsequent maintenance. DEP must only consider property within one quarter of a mile from the project boundaries when creating this score;
- The cost-effectiveness of the proposed beach management project based on yearly cost per volume per mile of proposed beach fill placement.³⁸ When assessing cost effectiveness, DEP must also consider:
 - Existence of projects with proposed structural or design components that extend the beach nourishment interval;³⁹
 - Existence of beach nourishment projects that reduce upland damage cost by incorporating new or enhanced dune structures or new or existing dune restoration and revegetation projects;⁴⁰
 - Proposed innovative technologies designed to reduce project costs;⁴¹ and
 - Regional sediment management strategies and coordination to conserve sand source resources and reduce project costs.⁴²

³⁴ This is similar to existing criteria in s. 161.101(14)(a), F.S., and r. 62B-36.006(1)(c), F.A.C.

³⁵ This is similar to existing criteria in s. 161.101(14)(b), F.S., and r. 62B-36.006(1)(d), F.A.C.

³⁶ This is similar to existing criteria in s. 161.101(14)(a), F.S., and r. 62B-36.006(1)(a), F.A.C.; These criteria will measure the volume of sand lost from the last beach nourishment or most recent beach survey and not the last beach restoration, define beach restoration as the placement of sand on an eroded beach, define beach nourishment as the maintenance of a restored beach, and will prevent DEP from using data on the sand lost from the initial placement of sand on an eroding beach unless a recent beach survey has been performed.

³⁷ This is similar to existing criteria in s. 161.101(14)(a), F.S., and r. 62B-36.006(1)(b), F.A.C.

³⁸ This is similar to existing criteria in s. 161.101(14)(g), F.S., and r. 62B-36.006(1)(g), F.A.C.

³⁹ This is similar to existing criteria in s. 161.101(14)(e), F.S., and r. 62B-36.006(1)(g), F.A.C.

⁴⁰ This is similar to existing criteria in s. 161.101(14)(e), F.S., and r. 62B-36.006(1)(g), F.A.C. This revised criterion will only consider beach nourishment projects incorporating new or enhanced dune structures or new or existing dune restoration and revegetation projects and will not consider beach restoration projects that incorporate such dune structures; thus, only applying to projects that have already accomplished one maintenance event.

⁴¹ This is similar to existing criteria in s. 161.101(14)(g), F.S., and r. 62B-36.006(1)(i), F.A.C.

⁴² This is similar to existing criteria in s. 161.101(14)(i), F.S., and r. 62B-36.006(1)(k), F.A.C.

Tier three accounts for 20 percent of the total score and requires DEP to weigh the following criteria equally:

- Previous state commitment, considering previously funded phases, the total amount of previous state funding, and previous partial appropriations for the proposed project;⁴³
- Recreational benefit of the beach management project based on:
 - Accessibility of the beach area added to the project, which is a new criteria; and
 - Percentage of linear footage within the project boundaries that is zoned as recreational or open space, for commercial use, and to otherwise allow public lodging establishments;⁴⁴
- Extent that the beach management project mitigates adverse impacts of improved, modified, or altered inlets on adjacent beach;⁴⁵ and
- Degree that the beach management project addresses most significant beach erosion problems based on the ratio of the linear footage of the project shoreline to the cubic yards of sand placed per mile per year.⁴⁶

Tier four accounts for 15 percent of the total score and requires DEP to weigh the following criteria equally:

- Increased prioritization for projects continually ranked on a DEP project list for successive years that have not previously secured state funding for project implementation;
- Environmental habitat enhancement, recognizing state or federal critical habitat areas for threatened or endangered species that may be subject to extensive shoreline armoring or recognizing areas where extensive shoreline armoring threatens the availability or quality of habitat for such species. The bill allows DEP to consider turtle-friendly designs, dune and vegetation projects for areas with redesigned or reduced fill templates, proposed incorporation of best management practices and adaptive management strategies to protect resources, and innovative technologies designed to benefit critical habitat preservation;⁴⁷ and
- The overall readiness of the beach management project to proceed.⁴⁸ The bill requires DEP to consider the readiness of beach management projects, including readiness for the construction phase of development, the status of required permits, the status of any needed easement acquisition, the availability of local funding sources, and the establishment of an erosion control line.⁴⁹

If DEP identifies specific reasonable and documented concerns that the project will not proceed in a timely manner, DEP may choose not to include the project in the annual funding priorities submitted to the Legislature.⁵⁰

The bill removes s. 161.101(14)(c), F.S., to eliminate the requirement that DEP assign points for the financial and administrative commitment to the project by the local sponsor, including a long-term financial plan with a designated funding source or sources for initial construction and periodic maintenance. Currently, local sponsors may receive up to 10 points for this criterion.⁵¹

⁴³ This is similar to existing criteria in s. 161.101(14)(d), F.S., and r. 62B-36.006(1)(f), F.A.C.

⁴⁴ This is similar to existing criteria in s. 161.101(14)(a), F.S., and r. 62B-36.006(1)(c), F.A.C.

⁴⁵ This is similar to existing criteria in s. 161.101(14)(f), F.S., and r. 62B-36.006(1)(h), F.A.C.

⁴⁶ This is similar to existing criteria in s. 161.101(14)(j), F.S., and r. 62B-36.006(1)(l)6., F.A.C.

⁴⁷ These criteria are similar to existing criteria in s. 161.101(14)(h), F.S., and r. 62B-36.006(1)(j), F.A.C.; however, it will likely apply to more beach management projects.

⁴⁸ This is similar to the existing tie breaking criteria in s. 161.101(14), F.S., and r. 62B-36.006(1)(m), F.A.C.

⁴⁹ An “erosion control line” is the line determined in accordance with the procedures in ch. 161, F.S., that represents the landward extent of the claims of the state in its capacity as sovereign titleholder of the submerged bottoms and shores of the Atlantic Ocean, the Gulf of Mexico, and the bays, lagoons and other tidal reaches thereof on the date of the recording of the survey; s. 161.151(3), F.S.

⁵⁰ This is similar to the procedures in s. 161.143(5)(c), F.S.; however, this new procedure prevents projects from receiving funds in the first place, rather than requiring the local sponsor to return the funds if a project is not ready to proceed.

⁵¹ Rule 62B-36.006(1)(e), F.A.C.

The bill amends s. 161.101(14), F.S., to change the tiebreaking criteria if two beach management projects receive the same score by requiring DEP to assign the highest priority to the beach management projects shown most ready to proceed, rather than the projects that are ready to proceed.

The bill amends s. 161.101(20), F.S., to require DEP to quarterly update the active beach management project list on its website.

The bill amends s. 161.101(20)(a), F.S., to change the definition of “significant change” to include a project-specific change or cumulative changes that exceed the project’s original allocation by \$500,000. When a funding level for a project significantly changes from the amount the local sponsor requested and was approved in the funding allocation, DEP must notify the Governor and the Legislature how the surplus funds will be used.

The bill creates s. 161.101(20)(a)1., F.S., to change how DEP utilizes surplus funds. If there is available surplus funding from a significant change, DEP must provide supporting justification to the Governor and the Legislature to indicate how the surplus dollars will be used. The bill allows surplus dollars to be used on beach restoration and beach nourishment projects. Currently, DEP may only use surplus funds for inlet management projects approved by the Legislature, offered for reversion as part of the next appropriations process, or used for other specified priority projects on active project lists.

The bill creates s. 161.101(20)(a)2., F.S., to authorize DEP to use surplus funds from projects that do not have a significant change for inlet management projects, beach restoration and beach nourishment projects, reversion as part of the next appropriations process, or other specified priority projects on active project lists. The bill requires DEP to post the use of surplus funds from a project that did not significantly change on the website. However, the bill does not require DEP to provide notice and supporting justification to the Governor and Legislature before using the surplus funds, as was previously required.

The bill amends s. 161.101(20)(c), F.S., to require funding for specific projects on annual project lists approved by the Legislature to remain available for such projects for 18 months. This provision was moved from s. 161.143(5)(c), F.S.

The changes to s. 161.101(14), F.S., related to the beach ranking criteria have an effective date of July 1, 2020. The changes to s. 161.101(20), F.S., related to surplus funds have an effective date of July 1, 2019.

Inlet Management Projects

Present Situation

Inlets interrupt or alter the natural littoral drift of sand resources. This often results in sand resources depositing in nearshore areas, in the inlet channel, or in the inland waterway adjacent to the inlet, instead of providing natural nourishment to the adjacent eroding beaches. The Legislature declared it is in the public interest to replicate the natural drift of sand interrupted or altered by inlets. Such projects should balance the sediment budget of the inlet and adjacent beaches and extend the life of proximate beach restoration projects so that periodic nourishment is needed by the local sponsor less frequently.⁵²

“Inlet Management” is comprised of actions taken to minimize, eliminate, or mitigate the effects of the inlet on the adjacent shorelines, including feasibility, engineering, design, environmental studies, construction, and post-construction monitoring to support such activities.⁵³ Inlet management projects

⁵² Section 161.142, F.S.

⁵³ Rule 62B-36.002(8), F.A.C.

include, but are not limited to, inlet sand bypassing,⁵⁴ modifications to channel dredging, jetty redesign, jetty repair, disposal of spoil material, and the development, revision, adoption, or implementation of an inlet management plan.⁵⁵

Funding for these projects comes from federal, state, and local government sources. DEP may use legislative appropriations to pay for 75 percent of the non-federal cost-share of inlet management projects, and local sponsors must pay the balance of such costs.⁵⁶ Further, DEP may employ university-based or other contractual sources and pay 100 percent of the costs of studies that are consistent with the state's inlet policies and determine, calculate, refine, and achieve general consensus regarding net annual sediment transport volumes to be used for the purpose of planning and prioritizing inlet management projects; and appropriate, assign, and apportion responsibilities between inlet beneficiaries for the erosion caused by a particular inlet on adjacent beaches.

Local sponsors submit annual funding requests for inlet management projects to DEP⁵⁷ for evaluation and ranking based on the information received before DEP submits a funding recommendation to the Legislature.⁵⁸ DEP prioritizes the projects based on the following criteria:

- Estimate of the annual quantity of beach-quality sand reaching the updrift boundary of the improved jetty or inlet channel;
- Severity of the erosion to the adjacent beaches caused by the inlet and the extent that the proposed project mitigates the erosive effects of the inlet;
- Overall significance and anticipated success of the proposed project in balancing the sediment budget of the inlet and adjacent beaches and addressing the sand deficit along the inlet-affected shorelines;
- Extent to which existing bypassing activities at an inlet would benefit from modest, cost-effective improvements when considering the volumetric increases from the proposed project, the availability of beach-quality sand currently not bypassed to adjacent eroding beaches, and the ease with which such beach-quality sand may be obtained;
- Interest and commitment of local governments as demonstrated by their willingness to coordinate the planning, design, construction, and maintenance of an inlet management project and their financial plan for funding the local cost-share for initial construction, ongoing sand bypassing, channel dredging, and maintenance;
- Previous completion or approval of a state-sponsored inlet management plan or local-government-sponsored inlet study concerning the inlet addressed by the proposed project, the ease of updating and revising any such plan or study, and the adequacy and specificity of the recommendations of the plan or study concerning the mitigation of an inlet's erosive effects on adjacent beaches;
- Degree to which the proposed project will enhance the performance and longevity of proximate beach nourishment projects, thereby reducing the frequency of such periodic nourishment projects; and
- Beach management project-ranking criteria, described above, to the extent such criteria are applicable to inlet management studies, projects, and activities.⁵⁹

DEP adopted by rule a point system for scoring projects based on criteria in statute. Each criterion can have more than one component. The table below illustrates how points are assigned.

⁵⁴ "Sand bypassing" is the artificial transport of littoral drift across tidal entrances to help prevent accretion, on the updrift side, control downdrift erosion, and maintain navigation channels; Coastal Wiki, *Sand by-pass system*, available at http://www.coastalwiki.org/wiki/Sand_by-pass_system (last visited Feb. 5, 2019).

⁵⁵ Section 161.143(2), F.S.

⁵⁶ Section 161.143(3), F.S.

⁵⁷ Rule 62B-36.005(1), F.A.C.

⁵⁸ Rules 62B-36.005(3) and 62B-36.005(4), F.A.C.

⁵⁹ Section 161.143(2), F.S.

Inlet Management Ranking Points⁶⁰		
Statutory Criteria	Number of Component Criteria	Available Points
Balancing the Sand Budget	1	20
Inlet Management Plan	3	15
Estimated annual quantity of beach-quality sand reaching the updrift boundary of the improved jetty or inlet channel	1	10
Cost Effective Alternatives	1	10
Local Sponsor Financial and Administrative Commitment	6	10
Previous State Commitment	4	10
Availability of Federal Funds	3	10
Enhanced Project Performance	1	5

Once DEP creates a ranking list, the local sponsors have 21 days to review the rankings and provide clarification to support additional points.⁶¹ Then, DEP considers the requests, finalizes the ranking, and submits a recommendation to the Legislature for consideration of funding in priority order. The funding recommendation list must include studies, projects, or other activities that address the management of at least 10 separate inlets.⁶²

DEP must make available at least 10 percent of the total amount of the statewide beach management appropriation each fiscal year for the three highest-ranked projects on the current year's inlet management project list.⁶³ DEP must also make available 50 percent of the funds appropriated for the feasibility and design category in DEP's fixed capital outlay funding request for projects which involve the study for, or design or development of, an inlet management project that appear on the current year inlet management project list.⁶⁴

DEP must make available all statewide beach management funds that are unencumbered or allocated to non-project-specific activities for projects on legislatively approved inlet management project lists. Funding for local-government-specific projects on annual project lists approved by the Legislature must remain available for such purposes for a period of 18 months. If a project will not be ready to proceed during this 18-month period, based on an assessment and a determination by DEP, then the department must use the funds for inlet management projects on the legislatively approved lists.⁶⁵

When approving the beach management project funding list, the Legislature must designate one of the three highest projects on the inlet management project list provided by DEP each year as the Inlet of the Year. DEP must annually report to the Legislature the extent to which each Inlet of the Year project has succeeded in balancing the sediment budget of the inlet and adjacent beaches, mitigating the inlet's erosive effects on adjacent beaches, and transferring or otherwise placing beach-quality sand on adjacent eroding beaches.⁶⁶

Effect of the Proposed Changes

The bill changes the procedure and criteria for funding inlet management projects. The bill amends 161.143(2), F.S., to require that inlet management projects funded by DEP constitute the intended scope of the state's public policy relating to improved navigation inlets found in s. 161.142, F.S., and the planning, prioritizing, funding, approving, and implementation of inlet management projects found in

⁶⁰ Rule 62B-36.006(2), F.A.C.

⁶¹ Rule 62B-36.005(4), F.A.C.

⁶² Section 161.143(5), F.S.

⁶³ Section 161.143(5)(a), F.S.

⁶⁴ Section 161.143(5)(b), F.S.

⁶⁵ Section 161.143(5)(c), F.S.

⁶⁶ Section 161.143(5)(d), F.S.

s. 161.143, F.S. The bill also expands the inlet management projects DEP may fund by including improvement of infrastructure to facilitate sand bypassing. DEP must consider inlet management projects separate and apart from beach management projects when creating the annual funding priorities.

The bill amends s. 161.143(2), F.S., to revise and update the criteria DEP must consider when ranking inlet management projects for funding consideration and require DEP to weigh each criterion equally. Specifically, the bill:

- Moves the requirement that DEP consider the extent that the proposed project mitigates the erosion effects of the inlet from the severity of erosion criteria in s. 161.143(2)(b), F.S., to the significance of the project in s. 161.143(2)(c), F.S.;
- Removes “existing” from consideration of the extent that bypassing activities at the inlet would benefit from modest, cost-effective improvements when considering the volumetric increases from the proposed project, the availability of beach-quality sand currently not bypassed to adjacent eroding beaches, and the ease to obtain such beach-quality sand. This change will allow local sponsors who currently do not perform sand bypassing at their inlet, but wish to start, to receive points;
- Adds cost-effectiveness of sand made available by a proposed inlet management project or activity relative to other sand source opportunities that would be used to address inlet-caused beach erosion to the criteria DEP must consider;
- Eliminates the requirement that DEP assign points for the local sponsor’s interest and commitment as demonstrated by their willingness to coordinate the planning, design, construction, and maintenance of an inlet management project and their financial plan for funding the local cost-share for initial construction, ongoing sand bypassing, channel dredging, and maintenance;
- Adds the existence of proposed or recently updated inlet management plan or local government sponsored inlet study addressing the mitigation of an inlet’s erosive effects on adjacent beaches to the criteria DEP must consider;
- Eliminates the requirement that DEP assign points for the previous completion or approval of a state-sponsored inlet management plan or study, the ease of updating and revising the inlet management plan or study, and the adequacy and specificity of the recommendations in the plan or study concerning the mitigation of an inlet’s erosive effects on adjacent beaches; and
- Clarifies that DEP may use the same criteria used for ranking beach management projects for inlet management projects if the criteria are distinct from and not duplicative of inlet management project ranking criteria.

The bill amends s. 161.143(3), F.S., to authorize DEP to pay from legislative appropriations up to 75 percent of the construction costs of an initial major inlet management project component for the purpose of mitigating the erosive effects of the inlet to the shoreline and balancing the sediment budget. The local sponsor must pay the remaining balance of the costs for the initial major inlet management project components. DEP and the local sponsor must share equally all other costs associated with an inlet management project.

The bill removes s. 161.143(4), F.S., to eliminate the authority to use an appropriation from the fixed capital outlay funding request to pay 100 percent of the costs for studies that are consistent with the state’s inlet management policy.

The bill amends s. 161.143(4), F.S., to remove the requirement that DEP include in the funding priorities studies, projects, or other activities that address the management of at least 10 separate inlets. The bill also removes the requirement that DEP make available at least 10 percent of the funding appropriated by the Legislature for beach management for the three highest ranked inlet management projects on the current year project list. Instead, the bill requires DEP to designate for inlet management projects on the current year project list, in priority order, an amount that is at least equal to the greater of 10 percent of the funding appropriated by the Legislature for the fiscal year for statewide beach management or the percentage of inlet management funding requests from local

sponsors as a proportion of the total amount of statewide beach management dollars requested in a given year.

The bill amends s. 161.143(5), F.S., to require DEP to rank inlet monitoring activities for inlet management projects as one overall subcategory request for funding separate from the beach management project funding requests. The bill removes the requirement for DEP to make 50 percent of funds appropriated available from the feasibility and design category for DEP's fixed capital outlay for projects on current year inlet management projects list for, or design or development of, an inlet management project.

The bill removes s. 161.143(5)(c), F.S., to eliminate the requirement that DEP make all statewide beach management funds remaining unencumbered or allocated to non-project-specific activities for projects on legislatively approved inlet management project lists. The bill also moves the requirement that funds for local sponsors' specific projects on annual projects lists approved by the Legislature to remain available for 18 months from s. 161.143(5)(c), F.S., to s. 161.101(20)(c), F.S. The bill eliminates DEP's ability to use funds on inlet management projects from other projects that received appropriations that were determined not ready to proceed. The bill replaces this power by granting DEP the ability to not include projects on the priority list that DEP determines are not ready to proceed by amending s. 161.101(14), F.S.

The bill removes s. 161.143(5)(d), F.S., to eliminate the requirement for the Legislature to designate one of the three highest ranked inlet management projects on the priority list as the Inlet of the Year. DEP will no longer be required to provide reports to the Legislature on the Inlets of the Year. The bill amends s. 161.143(5), F.S., to require DEP to update and maintain an annual report on the website on each inlet project and how the project has succeeded in balancing the sediment budget and mitigated erosive effects of the inlet. The report must provide an estimate of the quantity of sediment bypassed, transferred, or otherwise placed on adjacent eroding beaches, or in such nearshore areas of beaches, for offsetting the erosive effects of inlets on the beaches of this state. This change allows DEP to report on sand bypassed, transferred, or otherwise placed in the nearshore, not just on the adjacent beach.

These changes will require DEP to amend chapter 62B-36, F.A.C.

The changes to s. 161.143, F.S., related to inlet management projects have an effective date of July 1, 2020.

Strategic Beach Management Plan

Present Situation

The Strategic Beach Management Plan (SBMP) provides an inventory of Florida's strategic beach management areas fronting on the Atlantic Ocean, Gulf of Mexico, Straits of Florida and an inventory of Florida's 66 coastal barrier tidal inlets.⁶⁷ Beach management and inlet management projects proposed by local sponsors must be consistent with the SBMP to receive funding.⁶⁸ The SBMP must:

- Address long-term solutions to the problem of critically eroded beaches in this state;
- Evaluate each improved, modified, or altered inlet and determine whether the inlet is a significant cause of beach erosion;
- Design criteria for beach restoration and beach nourishment projects;
- Evaluate the establishment of feeder beaches as an alternative to direct beach restoration and recommend the location of such feeder beaches and the source of beach-compatible sand;
- Identify causes of shoreline erosion and change, calculate erosion rates, and project long-term erosion for all major beach and dune systems by surveys and profiles;

⁶⁷ DEP, *Strategic Beach Management Plan* (May 2018), available at https://floridadep.gov/sites/default/files/SBMP-Introduction_0.pdf (last visited Feb. 5, 2019).

⁶⁸ *Id.*; r. 62B-36.005(3), F.A.C.

- Identify shoreline development and degree of density and assess impacts of development and shoreline protective structures on shoreline change and erosion;
- Identify short-term and long-term economic costs and benefits of beaches;
- Study dune and vegetation conditions;
- Identify beach areas used by marine turtles and develop strategies for protection of the turtles and their nests and nesting locations;
- Identify alternative management responses;
- Establish criteria for alternative management techniques;
- Select and recommend appropriate management measures for all of the state's sandy beaches in a beach management program; and
- Establish a list of beach restoration and beach nourishment projects, arranged in order of priority, and the funding levels needed for such projects.⁶⁹

DEP may prepare the SBMP at the regional level based upon areas of greatest need and probable federal funding. The regional plans must be components of the SBMP and must serve as the basis for state funding decisions once approved by the secretary of DEP and the Board of Trustees of the Internal Improvement Trust Fund. DEP staff must submit any completed regional plan to the secretary of DEP for approval no later than March 1 of each year. These regional plans must include, but are not limited to, recommendations of appropriate funding mechanisms for implementing projects in the SBMP. DEP must hold public meetings in the areas affected by the proposed regional plans prior to presenting the plan to the secretary of DEP for approval.

Effect of the Proposed Changes

The bill amends s. 161.161(1), F.S., to update how DEP must develop a comprehensive beach management planning program and maintain the Comprehensive Long-Term Beach Management Plan. Specifically, the bill:

- Requires DEP to include improvement of infrastructure to facilitate sand bypassing in the recommendations on how to mitigate each inlet's erosive impacts;
- Eliminates the requirement for DEP to include cost estimates necessary to take inlet corrective measures and recommendations for cost-share among the beneficiaries of such inlets;
- Requires DEP to evaluate, rather than design, criteria for beach restoration and beach nourishment;
- Adds that DEP must consider the establishment of regional sediment management alternatives for one or more individual beach and inlet sand bypassing projects as an alternative to beach restoration and requires DEP to recommend locations of such regional sediment management alternatives;
- Eliminates the requirement for DEP to consider the establishment of feeder beaches;
- Requires DEP to maintain an updated list of critically eroded sandy beaches based on data, analyses, and investigations of shoreline conditions;⁷⁰
- Removes the requirement for DEP to project long-term erosion for all major beach and dune systems by surveys and profiles and identify shoreline development and degree of density;
- Adds that DEP must assess the impact of coastal protection structures on shoreline change and erosion;
- Requires DEP to identify short-term and long-term economic costs and benefits of beaches to the state and individual beach communities;
- Eliminates the requirement to include recreational value to user groups, tax base, revenues generated, and beach acquisition and maintenance costs in the evaluation by DEP;

⁶⁹ Section 161.161(1), F.S.

⁷⁰ DEP. *Critical Erosion Report*, available at <https://floridadep.gov/water/engineering-hydrology-geology/documents/critically-eroded-beaches-florida> (last visited Feb. 14, 2019).

- Requires DEP to identify existing beach projects without dune features or with dunes without adequate elevations, and encourage dune restoration and revegetation to be incorporated as part of storm damage recovery projects or future dune maintenance events;
- Removes the requirement for DEP to identify alternative management responses to prevent inappropriate development and redevelopment on migrating beaches;
- Eliminates the requirement for DEP to consider abandonment of development as an alternative management response, but continues to require DEP to consider relocation of development;
- Requires DEP to include document procedures and policies for preparing post-storm damage assessments and corresponding recovery plans, including repair cost estimates in the Comprehensive Long-Term Beach Management Plan;
- Removes the requirement for DEP to include costs and specific implementation actions for alternative management techniques;
- Eliminates the requirement for DEP to select and assess appropriate management measures for all of the state's sandy beaches in the beach management program and requires DEP to identify and assess appropriate management measures for all of the critically eroded beaches; and
- Removes the requirement for DEP to establish a list of beach restoration and beach nourishment projects in priority order for funding because the requirement already exists in s. 161.101(14), F.S.

The bill creates s. 161.161(2), F.S., to require DEP's Comprehensive Long-Term Beach Management Plan to include, at a minimum, a SBMP, critically eroded beaches report, and statewide long-range budget plan.

The SBMP must identify and recommend appropriate measures for all of the state's critically eroded sandy beaches and may incorporate plans prepared at the regional level taking into account areas of greatest need and probable federal and local funding. The bill adds local funding to the evaluation by DEP. The bill removes what must be included in the regional plans. This criterion is similar to what DEP considers in the statewide plan. The bill removes the requirement for DEP to present the plan to the secretary of DEP by March 1 of each year. DEP must still hold public meetings before finalizing such regional plans. The bill also authorizes DEP to host publically noticed webinars in lieu of holding public meetings. The state may use the SBMP, along with the three-year work plan, as a basis for funding decisions once DEP finalizes the SBMP.

DEP must base the critically eroded beaches report on data, analyses, and investigations of shoreline conditions.

The statewide long-range budget plan must include at least five years of planned beach restoration, beach nourishment, and inlet management projects funding needs as identified, and subsequently refined, by local sponsors. The statewide long-range budget plan must include:

- A three-year work plan that identifies beach restoration, beach nourishment, and inlet management projects viable for implementation during the next ensuing fiscal years, as determined by available cost-share, local sponsor support, regulatory considerations, and the ability of the project to proceed as scheduled. For each fiscal year, DEP must identify proposed projects and their development status, listing them in priority order based on the applicable criteria for beach and inlet management projects for inclusion in the three-year work plan. DEP may modify specific funding requests and criteria ranking as warranted in each successive fiscal year. DEP must document and submit such modifications to the Legislature with each three-year work plan. Year one projects must consist of those projects identified for funding consideration in the ensuing fiscal year; and
- A long-range plan that identifies projects for inclusion in the fourth and fifth ensuing fiscal years. DEP may present these projects by region. DEP does not need to present these projects in priority order. However, DEP must identify issues that may prevent successful completion of such projects and recommend solutions that would allow the projects to progress into the three-year work plan.

Lastly, the bill adds s. 161.161(3), F.S., to require the secretary of DEP to annually present the three-year work plan to the Legislature that includes a three-year financial forecast for the availability of funding for projects.

The changes to s. 161.161, F.S., related to the Comprehensive Long-Term Beach Management Plan have an effective date of July 1, 2020.

B. SECTION DIRECTORY:

Section 1. Amends s. 161.101, F.S., relating to state and local participation in authorized projects and studies for beach management and erosion control.

Section 2. Amends s. 161.143, F.S., relating to inlet management, planning, prioritization, funding, approval, and implementation of projects.

Section 3. Amends s. 161.161, F.S., relating to the procedure for approval of projects.

Section 4. Provides an effective date of July 1, 2019, except as otherwise provided in the act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill will have an insignificant negative fiscal impact on DEP because the department will need to revise rules to comply with the statutory changes in the bill. Further, DEP must comply with additional reporting requirements and the creation of a five-year work plan. The rulemaking and workload requirements of the bill can be handled within existing resources since those sections of the bill are not effective until July 1, 2020.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Current law authorizes DEP to adopt rules to implement s. 161.101, F.S. As such, no additional rulemaking authority is necessary.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 14, 2019, the State Affairs Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed unnecessary language directing DEP to adopt rules.

This analysis is drafted to the committee substitute as approved by the State Affairs Committee.

By Senator Mayfield

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1 A bill to be entitled
2 An act relating to water quality improvements;
3 providing a short title; transferring the onsite
4 sewage program of the Department of Health to the
5 Department of Environmental Protection by a type two
6 transfer; amending s. 373.807, F.S.; revising the
7 requirements for a basin management action plan for an
8 Outstanding Florida Spring; prohibiting a local
9 government from approving building permits within the
10 plan area under certain circumstances; providing
11 penalties; requiring the Department of Environmental
12 Protection, in consultation with the Department of
13 Agriculture and Consumer Services, to develop an
14 agricultural remediation plan as part of each basin
15 management action plan under certain circumstances;
16 requiring such plans to be adopted by a specified
17 date; creating s. 381.00661, F.S.; establishing a
18 wastewater grant program within the Department of
19 Environmental Protection; authorizing the department
20 to distribute appropriated funds for certain projects;
21 providing requirements for the distribution; requiring
22 the department to coordinate with each water
23 management district to identify grant recipients;
24 requiring an annual report to the Governor and the
25 Legislature by a specified date; amending s. 403.067,
26 F.S.; revising requirements for a basin management
27 action plan; requiring estimated nutrient load
28 reductions in such plans to exceed a specified amount;
29 requiring each local government to develop a

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30 wastewater treatment plan that meets certain
31 requirements; prohibiting a local government that does
32 not meet certain requirements relating to wastewater
33 treatment plant project plans or onsite sewage
34 treatment and disposal system remediation plans from
35 approving any building permits within a specified
36 timeframe; prohibiting the department from approving
37 any onsite sewage treatment and disposal system within
38 such an area for a specified timeframe; providing
39 penalties; defining the term "onsite sewage treatment
40 and disposal system"; requiring a local government to
41 create an onsite sewage treatment and disposal system
42 remediation plan as part of the basin management
43 action plan under certain circumstances; providing
44 requirements for such plan; providing requirements for
45 a restoration plan for certain water bodies; creating
46 s. 403.0771, F.S.; requiring a wastewater treatment
47 plant to notify customers of unlawful discharges of
48 raw or partially treated sewage into any waterway or
49 aquifer within a specified timeframe; prohibiting a
50 local government that owns such a plant from approving
51 any building permits within a specified timeframe;
52 prohibiting the department from approving any onsite
53 sewage treatment and disposal system within such an
54 area for a specified timeframe; providing penalties;
55 amending s. 403.086, F.S.; prohibiting facilities for
56 sanitary sewage disposal from disposing of any waste
57 in the Indian River Lagoon without first providing
58 advanced waste treatment; amending s. 403.9337, F.S.;

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59 providing penalties for a local government that fails
60 to adopt, enact, and implement a specified ordinance;
61 requiring the department to revise the basin
62 management action plan for Indian River Lagoon and
63 other specified basin management action plans by a
64 specified date; authorizing the department to grant an
65 extension to a local government upon a showing of good
66 cause; amending ss. 153.54, 153.73, 163.3180, 373.811,
67 381.006, 381.0061, 381.0064, 381.0065, 381.00651, and
68 381.0068, F.S.; conforming provisions and cross-
69 references to changes made by the act; providing
70 effective dates.

71

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

73

74 Section 1. This act may be cited as the "Clean Waterways
75 Act."

76 Section 2. All powers, duties, functions, records, offices,
77 personnel, associated administrative support positions,
78 property, pending issues, existing contracts, administrative
79 authority, administrative rules, and unexpended balances of
80 appropriations, allocations, and other funds for the regulation
81 of onsite sewage treatment and disposal systems and relating to
82 the onsite sewage program of the Department of Health are
83 transferred by a type two transfer, as defined in s. 20.06(2),
84 Florida Statutes, to the Department of Environmental Protection.

85 Section 3. Section 373.807, Florida Statutes, is amended to
86 read:

87 373.807 Protection of water quality in Outstanding Florida

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88 Springs.—By July 1, 2016, the department shall initiate
89 assessment, pursuant to s. 403.067(3), of Outstanding Florida
90 Springs or spring systems for which an impairment determination
91 has not been made under the numeric nutrient standards in effect
92 for spring vents. Assessments must be completed by July 1, 2018.

93 (1) (a) Concurrent with the adoption of a nutrient total
94 maximum daily load for an Outstanding Florida Spring, the
95 department, or the department in conjunction with a water
96 management district, shall initiate development of a basin
97 management action plan, as specified in s. 403.067. For an
98 Outstanding Florida Spring with a nutrient total maximum daily
99 load adopted before July 1, 2016, the department, or the
100 department in conjunction with a water management district,
101 shall initiate development of a basin management action plan by
102 July 1, 2016. During the development of a basin management
103 action plan, if the department identifies onsite sewage
104 treatment and disposal systems as contributors of at least 20
105 percent of nonpoint source nutrient ~~nitrogen~~ pollution or if the
106 department determines remediation is necessary to achieve the
107 total maximum daily load, the basin management action plan shall
108 include an onsite sewage treatment and disposal system
109 remediation plan pursuant to s. 403.067(7)(e) ~~subsection (3)~~ for
110 those systems identified as requiring remediation.

111 (b) A basin management action plan for an Outstanding
112 Florida Spring shall be adopted within 2 years after its
113 initiation and must include, at a minimum:

- 114 1. A list of all specific projects and programs identified
115 to implement a nutrient total maximum daily load;
- 116 2. A list of all specific projects identified in any

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117 incorporated onsite sewage treatment and disposal system
118 remediation plan, if applicable;

119 3. A priority rank for each listed project. The priority
120 ranking shall be based on the estimated reduction in nutrient
121 load per project, project readiness, cost effectiveness, overall
122 environmental benefit, location within the plan area, local
123 matching funds, and water savings or quantity improvements;

124 4. For each listed project, a planning level cost estimate,
125 ~~and~~ the estimated date of completion, and a plan submitted by
126 each local government within the plan area and approved by the
127 department for each wastewater treatment plant project as
128 specified in s. 403.067(7)(d) and onsite sewage treatment and
129 disposal system remediation plan as specified in s.
130 403.067(7)(e). Each plan must include deadlines and is subject
131 to penalties required under s. 403.067;

132 5. The source and amount of financial assistance to be made
133 available by the department, a water management district, or
134 other entity for each listed project;

135 6. An estimate of each listed project's nutrient load
136 reduction;

137 7. Identification of each point source or category of
138 nonpoint sources, including, but not limited to, urban turf
139 fertilizer, sports turf fertilizer, agricultural fertilizer,
140 onsite sewage treatment and disposal systems, wastewater
141 treatment plants facilities, animal wastes, and stormwater
142 facilities. An estimated allocation of the pollutant load must
143 be provided for each point source or category of nonpoint
144 sources; and

145 8. An implementation plan designed with a target to achieve

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146 the nutrient total maximum daily load no more than 20 years
147 after the adoption of a basin management action plan.

148
149 The estimated nutrient load reductions in each basin management
150 action plan developed pursuant to this paragraph must exceed the
151 total amount of nutrient load reductions needed to meet the
152 total maximum daily load required under the plan. The department
153 shall develop a schedule establishing 5-year, 10-year, and 15-
154 year targets for achieving the nutrient total maximum daily
155 load. The schedule shall be used to provide guidance for
156 planning and funding purposes and is exempt from chapter 120.

157 (c) For a basin management action plan adopted before July
158 1, 2016, which addresses an Outstanding Florida Spring, the
159 department or the department in conjunction with a water
160 management district must revise the plan if necessary to comply
161 with this section by July 1, 2018.

162 (d) A local government may apply to the department for a
163 single extension of up to 5 years for any project in an adopted
164 basin management action plan. A local government in a rural area
165 of opportunity, as defined in s. 288.0656, may apply for a
166 single extension of up to 10 years for such a project. The
167 department may grant the extension if the local government
168 provides to the department sufficient evidence that an extension
169 is in the best interest of the public.

170 (2) By July 1, 2020 ~~2017~~, each local government, as defined
171 in s. 373.802(2), that has not adopted an ordinance pursuant to
172 s. 403.9337, shall develop, enact, and implement an ordinance
173 pursuant to that section. It is the intent of the Legislature
174 that ordinances required to be adopted under this subsection

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175 reflect the latest scientific information, advancements, and
176 technological improvements in the industry. A local government
177 that fails to adopt, enact, and implement this ordinance is
178 subject to a daily fine as provided in ss. 403.121, 403.141, and
179 403.161 and may not approve any building permits within the plan
180 area until such time as the ordinance has been adopted, enacted,
181 and implemented.

182 (3) As part of each basin management action plan that
183 includes an Outstanding Florida Spring, the department, in
184 coordination with the Department of Agriculture and Consumer
185 Services, shall develop an agricultural remediation plan if the
186 department determines that agricultural nonpoint sources,
187 including, but not limited to, fertilizer and animal wastes,
188 contribute at least 20 percent of nonpoint source nutrient
189 pollution. The plan must identify cost-effective and financially
190 feasible projects, including, if applicable, advanced best
191 management practices and land acquisition projects, including
192 conservation easements, to reduce the nutrient impacts from
193 agricultural operations. The department is the lead agency in
194 coordinating the preparation of and the adoption of the plan.
195 The Department of Agriculture and Consumer Services is the lead
196 agency in developing and adopting advanced best management
197 practices capable of achieving the total maximum daily load and
198 shall develop and adopt such practices for incorporation into
199 the plan. The plan must be adopted as part of the basin
200 management action plan by July 1, 2021.

201 ~~(3) As part of a basin management action plan that includes~~
202 ~~an Outstanding Florida Spring, the department, the Department of~~
203 ~~Health, relevant local governments, and relevant local public~~

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204 ~~and private wastewater utilities shall develop an onsite sewage~~
205 ~~treatment and disposal system remediation plan for a spring if~~
206 ~~the department determines onsite sewage treatment and disposal~~
207 ~~systems within a priority focus area contribute at least 20~~
208 ~~percent of nonpoint source nitrogen pollution or if the~~
209 ~~department determines remediation is necessary to achieve the~~
210 ~~total maximum daily load. The plan shall identify cost-effective~~
211 ~~and financially feasible projects necessary to reduce the~~
212 ~~nutrient impacts from onsite sewage treatment and disposal~~
213 ~~systems and shall be completed and adopted as part of the basin~~
214 ~~management action plan no later than the first 5-year milestone~~
215 ~~required by subparagraph (1)(b)8. The department is the lead~~
216 ~~agency in coordinating the preparation of and the adoption of~~
217 ~~the plan. The department shall:~~

218 ~~(a) Collect and evaluate credible scientific information on~~
219 ~~the effect of nutrients, particularly forms of nitrogen, on~~
220 ~~springs and springs systems; and~~

221 ~~(b) Develop a public education plan to provide area~~
222 ~~residents with reliable, understandable information about onsite~~
223 ~~sewage treatment and disposal systems and springs.~~

224
225 ~~In addition to the requirements in s. 403.067, the plan shall~~
226 ~~include options for repair, upgrade, replacement, drainfield~~
227 ~~modification, addition of effective nitrogen reducing features,~~
228 ~~connection to a central sewerage system, or other action for an~~
229 ~~onsite sewage treatment and disposal system or group of systems~~
230 ~~within a priority focus area that contribute at least 20 percent~~
231 ~~of nonpoint source nitrogen pollution or if the department~~
232 ~~determines remediation is necessary to achieve a total maximum~~

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233 ~~daily load. For these systems, the department shall include in~~
234 ~~the plan a priority ranking for each system or group of systems~~
235 ~~that requires remediation and shall award funds to implement the~~
236 ~~remediation projects contingent on an appropriation in the~~
237 ~~General Appropriations Act, which may include all or part of the~~
238 ~~costs necessary for repair, upgrade, replacement, drainfield~~
239 ~~modification, addition of effective nitrogen reducing features,~~
240 ~~initial connection to a central sewerage system, or other~~
241 ~~action. In awarding funds, the department may consider expected~~
242 ~~nutrient reduction benefit per unit cost, size and scope of~~
243 ~~project, relative local financial contribution to the project,~~
244 ~~and the financial impact on property owners and the community.~~
245 ~~The department may waive matching funding requirements for~~
246 ~~proposed projects within an area designated as a rural area of~~
247 ~~opportunity under s. 288.0656.~~

248 (4) The department shall provide notice to a local
249 government of all permit applicants under s. 403.814(12) in a
250 priority focus area of an Outstanding Florida Spring over which
251 the local government has full or partial jurisdiction.

252 Section 4. Section 381.00661, Florida Statutes, is created
253 to read:

254 381.00661 Wastewater grant program.—A wastewater grant
255 program is established within the Department of Environmental
256 Protection.

257 (1) Subject to appropriation, the department may provide
258 grants for projects that will individually or collectively
259 reduce excess nutrient pollution for projects within a basin
260 management action plan or an alternative restoration plan
261 adopted by final order for all of the following:

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262 (a) Projects to retrofit onsite sewage treatment and
263 disposal systems.

264 (b) Projects to construct, upgrade, or expand facilities to
265 provide advanced waste treatment, as defined in ss. 403.086(4).

266 (c) Projects to connect onsite sewage treatment and
267 disposal systems to central sewer facilities.

268 (2) In making an allocation of such funds, priority shall
269 be given for projects that subsidize the connection of onsite
270 sewage treatment and disposal systems to a wastewater treatment
271 plant or that subsidize inspections and assessments of onsite
272 sewage treatment and disposal systems.

273 (3) Each grant for a project described in subsection (1)
274 must require a minimum of 50 percent local matching funds.
275 However, the department may, at its discretion, totally or
276 partially waive this consideration of the local contribution for
277 proposed projects within an area designated as a rural area of
278 opportunity under s. 288.0656.

279 (4) The department shall coordinate with each water
280 management district, as necessary, to identify grant recipients
281 in each district.

282 (5) Beginning January 1, 2020, and each January 1
283 thereafter, the department shall submit a report regarding the
284 projects funded pursuant to this section to the Governor, the
285 President of the Senate, and the Speaker of the House of
286 Representatives.

287 Section 5. Present paragraph (d) of subsection (7) of
288 section 403.067, Florida Statutes, is redesignated as paragraph
289 (f), a new paragraph (d) and paragraphs (e) and (g) are added to
290 that subsection, and paragraph (a) of that subsection is

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291 amended, to read:

292 403.067 Establishment and implementation of total maximum
293 daily loads.—

294 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
295 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

296 (a) *Basin management action plans.*—

297 1. In developing and implementing the total maximum daily
298 load for a water body, the department, or the department in
299 conjunction with a water management district, may develop a
300 basin management action plan that addresses some or all of the
301 watersheds and basins tributary to the water body. Such plan
302 must integrate the appropriate management strategies available
303 to the state through existing water quality protection programs
304 to achieve the total maximum daily loads and may provide for
305 phased implementation of these management strategies to promote
306 timely, cost-effective actions as provided for in s. 403.151.
307 The plan must establish a schedule implementing the management
308 strategies, provide detailed information for improvement
309 projects including descriptions and timelines for completion,
310 establish a basis for evaluating the plan's effectiveness, and
311 identify feasible funding strategies for implementing the plan's
312 management strategies. The management strategies may include
313 regional treatment systems or other public works, where
314 appropriate, and voluntary trading of water quality credits to
315 achieve the needed pollutant load reductions.

316 2. A basin management action plan must equitably allocate,
317 pursuant to paragraph (6) (b), pollutant reductions to individual
318 basins, as a whole to all basins, or to each identified point
319 source or category of nonpoint sources, as appropriate. For

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320 nonpoint sources for which best management practices have been
321 adopted, the initial requirement specified by the plan must be
322 those practices developed pursuant to paragraph (c). Where
323 appropriate, the plan may take into account the benefits of
324 pollutant load reduction achieved by point or nonpoint sources
325 that have implemented management strategies to reduce pollutant
326 loads, including best management practices, before the
327 development of the basin management action plan. The plan must
328 also identify the mechanisms that will address potential future
329 increases in pollutant loading.

330 3. The basin management action planning process is intended
331 to involve the broadest possible range of interested parties,
332 with the objective of encouraging the greatest amount of
333 cooperation and consensus possible. In developing a basin
334 management action plan, the department shall assure that key
335 stakeholders, including, but not limited to, applicable local
336 governments, water management districts, the Department of
337 Agriculture and Consumer Services, other appropriate state
338 agencies, local soil and water conservation districts,
339 environmental groups, regulated interests, and affected
340 pollution sources, are invited to participate in the process.
341 The department shall hold at least one public meeting in the
342 vicinity of the watershed or basin to discuss and receive
343 comments during the planning process and shall otherwise
344 encourage public participation to the greatest practicable
345 extent. Notice of the public meeting must be published in a
346 newspaper of general circulation in each county in which the
347 watershed or basin lies not less than 5 days nor more than 15
348 days before the public meeting. A basin management action plan

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349 does not supplant or otherwise alter any assessment made under
350 subsection (3) or subsection (4) or any calculation or initial
351 allocation.

352 4. Each new or revised basin management action plan shall
353 include:

354 a. The appropriate management strategies available through
355 existing water quality protection programs to achieve total
356 maximum daily loads, which may provide for phased implementation
357 to promote timely, cost-effective actions as provided for in s.
358 403.151;

359 b. A description of best management practices adopted by
360 rule;

361 c. A list of projects in priority ranking with a planning-
362 level cost estimate and estimated date of completion for each
363 listed project. The priority ranking shall be based on the
364 estimated reduction in nutrient load per project, project
365 readiness, cost effectiveness, overall environmental benefit,
366 location within the plan area, local matching funds, and water
367 savings or quantity improvements;

368 d. The source and amount of financial assistance to be made
369 available by the department, a water management district, or
370 other entity for each listed project, if applicable; ~~and~~

371 e. A planning-level estimate of each listed project's
372 expected nutrient load reduction, if applicable; and

373 f. Identification of each point source or category of
374 nonpoint sources, including, but not limited to, urban turf
375 fertilizer, sports turf fertilizer, agricultural fertilizer,
376 onsite sewage treatment and disposal systems, wastewater
377 treatment plants, animal wastes, and stormwater facilities. An

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378 estimated allocation of the pollutant load must be provided for
379 each point source or category of nonpoint sources.

380
381 The estimated nutrient load reductions in each basin management
382 action plan developed pursuant to this subparagraph must exceed
383 the total amount of nutrient load reductions needed to meet the
384 total maximum daily load required under the plan.

385 5. The department shall adopt all or any part of a basin
386 management action plan and any amendment to such plan by
387 secretarial order pursuant to chapter 120 to implement the
388 provisions of this section.

389 6. The basin management action plan must include milestones
390 for implementation and water quality improvement, and an
391 associated water quality monitoring component sufficient to
392 evaluate whether reasonable progress in pollutant load
393 reductions is being achieved over time. An assessment of
394 progress toward these milestones shall be conducted every 5
395 years, and revisions to the plan shall be made as appropriate.
396 Revisions to the basin management action plan shall be made by
397 the department in cooperation with basin stakeholders. Revisions
398 to the management strategies required for nonpoint sources must
399 follow the procedures set forth in subparagraph (c)4. Revised
400 basin management action plans must be adopted pursuant to
401 subparagraph 5.

402 7. In accordance with procedures adopted by rule under
403 paragraph (9)(c), basin management action plans, and other
404 pollution control programs under local, state, or federal
405 authority as provided in subsection (4), may allow point or
406 nonpoint sources that will achieve greater pollutant reductions

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407 than required by an adopted total maximum daily load or
408 wasteload allocation to generate, register, and trade water
409 quality credits for the excess reductions to enable other
410 sources to achieve their allocation; however, the generation of
411 water quality credits does not remove the obligation of a source
412 or activity to meet applicable technology requirements or
413 adopted best management practices. Such plans must allow trading
414 between NPDES permittees, and trading that may or may not
415 involve NPDES permittees, where the generation or use of the
416 credits involve an entity or activity not subject to department
417 water discharge permits whose owner voluntarily elects to obtain
418 department authorization for the generation and sale of credits.

419 8. The provisions of the department's rule relating to the
420 equitable abatement of pollutants into surface waters do not
421 apply to water bodies or water body segments for which a basin
422 management plan that takes into account future new or expanded
423 activities or discharges has been adopted under this section.

424 (d) Wastewater treatment plan.-

425 1. As part of a basin management action plan, each local
426 government, in cooperation with the department and relevant
427 local public and private wastewater utilities, shall develop a
428 plan to implement improvements that provide, at a minimum,
429 advanced waste treatment, as defined in s. 403.086(4). The plan
430 must provide for construction, expansion, or upgrades necessary
431 to achieve a total maximum daily load, consistent with an onsite
432 sewage treatment and disposal system remediation plan under
433 paragraph (e).

434 2. Each owner or operator of an existing wastewater
435 treatment plant shall provide certain information for each plant

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436 that has a plan to implement upgrades that meet or exceed
437 advanced waste treatment, as defined in s. 403.086(4). This
438 information must include the following as it relates to existing
439 conditions and estimated conditions after upgrades are
440 implemented:

- 441 a. The permitted capacity of the plant, in gallons per day;
442 b. The average nutrient concentration; and
443 c. The estimated average nutrient load.

444 3.a. The local government shall submit to the department
445 for approval a detailed plan, which includes:

446 (I) The timeline of dates required for the commencement of
447 construction of any improvements, completion of each stage of
448 construction, and the commencement of operations;

449 (II) A detailed planning and design report setting forth
450 the plan for construction of improvements and operations; and

451 (III) A certification that the local government, in
452 agreement with the owner or operator, has approved the method of
453 implementing upgrades and method of financing or funding
454 construction and operation.

455 b. The department may amend the plan and shall approve a
456 final plan. The department shall provide technical support upon
457 request by a local government. An existing wastewater treatment
458 plant must also incorporate the plan into its next NPDES permit
459 renewal.

460 c. Each new wastewater treatment plant located within the
461 plan area shall comply with the requirements and approved dates
462 in the basin management action plan. Each existing wastewater
463 treatment plant located within the plan area shall comply with
464 the requirements and approved dates in the basin management

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465 action plan no later than the next 5-year renewal date of the
466 NPDES permit. Upon a showing of good cause, the department may
467 grant an extension of time to the local government to reach
468 compliance with the schedule.

469 d. If the deadlines for the initiation of construction of
470 improvements, completion of construction, and commencement of
471 operations which were approved pursuant to this subparagraph are
472 not satisfied, each local government with a wastewater treatment
473 plant that does not meet the requirements in this subparagraph
474 may not approve any building permits within the plan area, and
475 the department may not approve any onsite sewage treatment and
476 disposal systems in the plan area where the wastewater treatment
477 plant is located until such time as the plant is brought into
478 compliance. In addition, the department shall, unless good cause
479 is shown, assess penalties pursuant to ss. 403.121, 403.141, and
480 403.161 until such time as the plant is brought into compliance.
481 The department may reduce penalties based on expenditures for
482 improvements and upgrades to the wastewater treatment plant.

483 (e) *Onsite sewage treatment and disposal systems.*

484 1. For purposes of this paragraph, the term "onsite sewage
485 treatment and disposal system" has the same meaning as in s.
486 381.0065.

487 2.a. As part of a basin management action plan, each local
488 government, in cooperation with the department and relevant
489 local public and private wastewater utilities, shall develop an
490 onsite sewage treatment and disposal system remediation plan if
491 the department identifies onsite sewage treatment and disposal
492 systems as contributors of at least 20 percent of nonpoint
493 source nutrient pollution or if the department determines that

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494 remediation is necessary to achieve a total maximum daily load.
495 In order to promote cost-effective remediation, the department
496 may identify one or more priority focus areas. The department
497 shall identify these areas by considering soil conditions;
498 groundwater or surface water travel time; proximity to surface
499 waters, including predominantly marine waters as defined by
500 department rule; hydrogeology; onsite system density; nutrient
501 load; and other factors that may lead to water quality
502 degradation. The remediation plan must identify cost-effective
503 and financially feasible projects necessary to reduce the
504 nutrient impacts from onsite sewage treatment and disposal
505 systems. The plan shall be completed and adopted as part of the
506 basin management action plan no later than the first 5-year
507 milestone assessment identified in subparagraph (a)6. or as
508 required in s. 373.807(1)(b)8., for Outstanding Florida Springs.
509 The department is responsible for timely approval and adoption
510 of the plan. For basin management action plans not governed by
511 part VIII of chapter 373, a priority focus area means the area
512 or areas of a basin where the groundwater is generally most
513 vulnerable to pollutant inputs where there is a known
514 connectivity between groundwater pathways and an impaired water
515 body, as determined by the department in consultation with the
516 appropriate water management districts and delineated in a basin
517 management action plan.

518 b.(I) Each local government within the plan area, or the
519 local government's designee, shall prepare a plan, by the first
520 5-year milestone assessment required under subparagraph (a)6.,
521 or as required in s. 373.807(1)(b)8. for Outstanding Florida
522 Springs, for its jurisdiction that provides for either

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523 connecting each onsite sewage treatment and disposal system to a
524 central wastewater treatment plant or replacing the current
525 system with a new system where the discharge meets current water
526 quality standards and which has a discharge monitoring system.
527 The local government shall submit to the department for
528 approval, a detailed plan, which includes:

529 (A) The timeline of dates required for the commencement of
530 construction of any improvements, completion of each stage of
531 construction, and the commencement of operations;

532 (B) A detailed planning and design report setting forth the
533 plan for construction of improvements and operations;

534 (C) A certification that the local government, in agreement
535 with the owner or operator, has approved the method of
536 remediation and method of financing or funding construction and
537 operation.

538 (II) The department may amend the plan and shall approve a
539 final plan. The department shall provide technical support upon
540 request by a local government. Upon a showing of good cause, the
541 department may grant an extension of time to reach compliance
542 with the schedule.

543 (III) If the deadlines for the initiation of construction
544 of improvements, completion of construction, and commencement of
545 operations that were approved pursuant to this subsection are
546 not satisfied, the local government may not approve any building
547 permits within the plan area, and the department may not approve
548 any onsite sewage treatment and disposal system within the plan
549 area until the actions in the remediation plan have been
550 completed. In addition, the department shall, unless good cause
551 is shown, assess penalties pursuant to ss. 403.121, 403.141, and

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552 403.161 until the actions in the remediation plan have been
553 completed. The department may reduce penalties based on
554 expenditures designed to achieve compliance with the remediation
555 plan.

556 c. In developing and adopting the plan, the department
557 shall:

558 (I) Collect and evaluate credible scientific information on
559 the effect of nutrients on surface waters and groundwater;

560 (II) Work with local stakeholders to develop a public
561 education plan to provide area residents with reliable,
562 understandable information about onsite sewage treatment and
563 disposal systems and surface and groundwater pollution;

564 (III) In addition to sub-subparagraph 2.b., the department
565 may include in the plan, if appropriate, options for system
566 repair, upgrade, or replacement; drainfield modification; the
567 addition of effective nutrient-reducing features; or other
568 actions addressing onsite sewage treatment and disposal system
569 issues. The department shall include in the plan a priority
570 ranking for each onsite system, or group of systems, that
571 requires remediation. The priority ranking shall be used to
572 ensure the most effective, efficient use of the funding provided
573 for onsite system remediation. In awarding any such funds, the
574 department may consider expected nutrient reduction benefit per
575 unit cost, the size and scope of the project, local financial
576 contribution to the project relative to the overall cost, and the
577 financial impact on property owners and the community. For the
578 purpose of awarding funds, the department may, at its discretion,
579 totally or partially waive this consideration of the local
580 contribution for proposed projects within an area designated as a

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581 rural area of opportunity under s. 288.0656; and

582 (IV) The installation, repair, modification, or upgrade of
583 onsite sewage treatment and disposal systems on lots of 1 acre or
584 less and within the boundaries of a basin management action plan
585 with an onsite sewage treatment and disposal remediation plan
586 must conform to the requirements of the remediation plan.

587 (g) Alternative restoration plan.—

588 1. To demonstrate that the department can forgo placing a
589 water body on the verified impaired water bodies list and
590 establishing a total maximum daily load, the restoration plan
591 for a water body must establish:

592 a. The implementation of best management practices or
593 monitoring for nonpoint sources of pollution;

594 b. The implementation of a septic remediation plan where
595 such remediation is necessary to restore the water body; and

596 c. Adoption of alternative waste treatment levels for
597 wastewater treatment plants.

598 2. In addition, the restoration plan must include any other
599 pollution control mechanisms that are being implemented to
600 demonstrate a reasonable assurance that existing or proposed
601 pollution control mechanisms or programs will effectively
602 address the impairment. Upon adoption of such a restoration
603 plan, the requirement that best management practices or
604 monitoring be conducted within the watershed impacting the water
605 body is enforceable pursuant to this section and ss. 403.121,
606 403.141, and 403.161.

607 Section 6. Section 403.0771, Florida Statutes, is created
608 to read:

609 403.0771 Sewage spill notification; moratorium.—

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610 (1) In addition to the public notification requirements of
611 s. 403.077, a wastewater treatment plant that unlawfully
612 discharges raw or partially treated sewage into any waterway or
613 aquifer must, within 24 hours after discovering the discharge,
614 notify its customers that the discharge has occurred.

615 (2) If a wastewater treatment plant owned by a local
616 government unlawfully discharges raw or partially treated sewage
617 into any waterway or aquifer, the local government may not
618 approve any building permits and the department may not approve
619 any onsite sewage treatment and disposal system in the local
620 government's jurisdiction until any required maintenance,
621 repair, or improvement has been implemented to reduce or
622 eliminate sanitary sewage overflows, as determined by the
623 department. In addition, the department shall assess a daily
624 penalty pursuant to ss. 403.121, 403.141, and 403.161 until the
625 required maintenance, repair, or improvement has been
626 implemented. The department may reduce a penalty based on the
627 wastewater treatment plant's investment in assessment and
628 maintenance activities to identify and address conditions that
629 may cause sanitary sewage overflows.

630 Section 7. Effective July 1, 2024, paragraph (c) of
631 subsection (1) of section 403.086, Florida Statutes, is amended
632 to read:

633 403.086 Sewage disposal facilities; advanced and secondary
634 waste treatment.—

635 (1)

636 (c) Notwithstanding any other provisions of this chapter or
637 chapter 373, facilities for sanitary sewage disposal may not
638 dispose of any wastes into Old Tampa Bay, Tampa Bay,

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639 Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater
640 Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay,
641 or Charlotte Harbor Bay, Indian River Lagoon, or into any river,
642 stream, channel, canal, bay, bayou, sound, or other water
643 tributary thereto, without providing advanced waste treatment,
644 as defined in subsection (4), approved by the department. This
645 paragraph shall not apply to facilities which were permitted by
646 February 1, 1987, and which discharge secondary treated
647 effluent, followed by water hyacinth treatment, to tributaries
648 of tributaries of the named waters; or to facilities permitted
649 to discharge to the nontidally influenced portions of the Peace
650 River.

651 Section 8. Present subsection (4) of section 403.9337,
652 Florida Statutes, is redesignated as subsection (5), and a new
653 subsection (4) is added to that section, to read:

654 403.9337 Model Ordinance for Florida-Friendly Fertilizer
655 Use on Urban Landscapes.—

656 (4) A local government that fails to adopt, enact, and
657 implement an ordinance pursuant to this section is subject to a
658 daily fine as provided in ss. 403.121, 403.141, and 403.161 and
659 may not approve any building permits until the ordinance has
660 been adopted, enacted, and implemented.

661 Section 9. (1) The Department of Environmental Protection
662 shall revise the basin management action plans for Indian River
663 Lagoon and the basin management action plans that were adopted
664 pursuant to s. 373.807, Florida Statutes, and approved by the
665 Secretary of Environmental Protection or prepared by the
666 department before July 1, 2019, to conform existing plans to
667 changes made by this act. Revisions to such basin management

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668 action plans made pursuant to this act must be completed by July
669 1, 2020. The department may grant an extension, upon a showing
670 of good cause, to a local government on the deadlines for its
671 wastewater treatment plan project or onsite sewage treatment and
672 disposal system remediation plans submitted as part of a basin
673 management action plan.

674 (2) The department shall revise all basin management action
675 plans not included under subsection (1), but adopted pursuant to
676 s. 403.067(7), Florida Statutes, and approved by the Secretary
677 of Environmental Protection or prepared by the department before
678 July 1, 2019, to conform existing plans to changes made by this
679 act. Revisions to such basin management action plans made
680 pursuant to this act must be completed by the next required 5-
681 year milestone assessment for those revisions scheduled for on
682 or after July 1, 2020. The department may grant an extension,
683 upon a showing of good cause, to a local government on the
684 deadlines for its wastewater treatment plan project or onsite
685 sewage treatment and disposal system remediation plans submitted
686 as part of a basin management action plan.

687 Section 10. Subsection (5) of section 153.54, Florida
688 Statutes, is amended to read:

689 153.54 Preliminary report by county commissioners with
690 respect to creation of proposed district.—Upon receipt of a
691 petition duly signed by not less than 25 qualified electors who
692 are also freeholders residing within an area proposed to be
693 incorporated into a water and sewer district pursuant to this
694 law and describing in general terms the proposed boundaries of
695 such proposed district, the board of county commissioners if it
696 shall deem it necessary and advisable to create and establish

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697 such proposed district for the purpose of constructing,
698 establishing or acquiring a water system or a sewer system or
699 both in and for such district (herein called "improvements"),
700 shall first cause a preliminary report to be made which such
701 report together with any other relevant or pertinent matters,
702 shall include at least the following:

703 (5) For the construction of a new proposed sewerage system
704 or the extension of an existing sewerage system that was not
705 previously approved, the report shall include a study that
706 includes the available information from the Department of
707 Environmental Protection ~~Health~~ on the history of onsite sewage
708 treatment and disposal systems currently in use in the area and
709 a comparison of the projected costs to the owner of a typical
710 lot or parcel of connecting to and using the proposed sewerage
711 system versus installing, operating, and properly maintaining an
712 onsite sewage treatment system that is approved by the
713 Department of Environmental Protection ~~Health~~ and that provides
714 for the comparable level of environmental and health protection
715 as the proposed central sewerage system; consideration of the
716 local authority's obligations or reasonably anticipated
717 obligations for water body cleanup and protection under state or
718 federal programs, including requirements for water bodies listed
719 under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33
720 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by
721 the local authority.

722
723 Such report shall be filed in the office of the clerk of the
724 circuit court and shall be open for the inspection of any
725 taxpayer, property owner, qualified elector or any other

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726 interested or affected person.

727 Section 11. Paragraph (c) of subsection (2) of section
728 153.73, Florida Statutes, is amended to read:

729 153.73 Assessable improvements; levy and payment of special
730 assessments.—Any district may provide for the construction or
731 reconstruction of assessable improvements as defined in s.
732 153.52, and for the levying of special assessments upon
733 benefited property for the payment thereof, under the provisions
734 of this section.

735 (2)

736 (c) For the construction of a new proposed sewerage system
737 or the extension of an existing sewerage system that was not
738 previously approved, the report shall include a study that
739 includes the available information from the Department of
740 Environmental Protection ~~Health~~ on the history of onsite sewage
741 treatment and disposal systems currently in use in the area and
742 a comparison of the projected costs to the owner of a typical
743 lot or parcel of connecting to and using the proposed sewerage
744 system versus installing, operating, and properly maintaining an
745 onsite sewage treatment system that is approved by the
746 Department of Environmental Protection ~~Health~~ and that provides
747 for the comparable level of environmental and health protection
748 as the proposed central sewerage system; consideration of the
749 local authority's obligations or reasonably anticipated
750 obligations for water body cleanup and protection under state or
751 federal programs, including requirements for water bodies listed
752 under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33
753 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by
754 the local authority.

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755 Section 12. Subsection (2) of section 163.3180, Florida
756 Statutes, is amended to read:

757 163.3180 Concurrency.—

758 (2) Consistent with public health and safety, sanitary
759 sewer, solid waste, drainage, adequate water supplies, and
760 potable water facilities shall be in place and available to
761 serve new development no later than the issuance by the local
762 government of a certificate of occupancy or its functional
763 equivalent. Prior to approval of a building permit or its
764 functional equivalent, the local government shall consult with
765 the applicable water supplier to determine whether adequate
766 water supplies to serve the new development will be available no
767 later than the anticipated date of issuance by the local
768 government of a certificate of occupancy or its functional
769 equivalent. A local government may meet the concurrency
770 requirement for sanitary sewer through the use of onsite sewage
771 treatment and disposal systems approved by the Department of
772 Environmental Protection ~~Health~~ to serve new development.

773 Section 13. Subsection (2) of section 373.811, Florida
774 Statutes, is amended to read:

775 373.811 Prohibited activities within a priority focus
776 area.—The following activities are prohibited within a priority
777 focus area in effect for an Outstanding Florida Spring:

778 (2) New onsite sewage treatment and disposal systems on
779 lots of less than 1 acre, if the addition of the specific
780 systems conflicts with an onsite treatment and disposal system
781 remediation plan incorporated into a basin management action
782 plan in accordance with s. 403.067(7)(e) ~~s. 373.807(3)~~.

783 Section 14. Subsections (7) and (18) of section 381.006,

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784 Florida Statutes, are amended to read:

785 381.006 Environmental health.—The department shall conduct
786 an environmental health program as part of fulfilling the
787 state's public health mission. The purpose of this program is to
788 detect and prevent disease caused by natural and manmade factors
789 in the environment. The environmental health program shall
790 include, but not be limited to:

791 ~~(7) An onsite sewage treatment and disposal function.~~

792 (18) A food service inspection function for domestic
793 violence centers that are certified by the Department of
794 Children and Families and monitored by the Florida Coalition
795 Against Domestic Violence under part XII of chapter 39 and group
796 care homes as described in subsection (15) ~~(16)~~, which shall be
797 conducted annually and be limited to the requirements in
798 department rule applicable to community-based residential
799 facilities with five or fewer residents.

800

801 The department may adopt rules to carry out the provisions of
802 this section.

803 Section 15. Subsection (1) of section 381.0061, Florida
804 Statutes, is amended to read:

805 381.0061 Administrative fines.—

806 (1) In addition to any administrative action authorized by
807 chapter 120 or by other law, the department may impose a fine,
808 which shall not exceed \$500 for each violation, for a violation
809 of s. 381.006(15) ~~s. 381.006(16)~~, s. 381.0065, s. 381.0066, s.
810 381.0072, or part III of chapter 489, for a violation of any
811 rule adopted under this chapter, or for a violation of any of
812 the provisions of chapter 386. Notice of intent to impose such

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813 fine shall be given by the department to the alleged violator.
814 Each day that a violation continues may constitute a separate
815 violation.

816 Section 16. Subsection (1) of section 381.0064, Florida
817 Statutes, is amended to read:

818 381.0064 Continuing education courses for persons
819 installing or servicing septic tanks.—

820 (1) The Department of Environmental Protection ~~Health~~ shall
821 establish a program for continuing education which meets the
822 purposes of ss. 381.0101 and 489.554 regarding the public health
823 and environmental effects of onsite sewage treatment and
824 disposal systems and any other matters the department determines
825 desirable for the safe installation and use of onsite sewage
826 treatment and disposal systems. The department may charge a fee
827 to cover the cost of such program.

828 Section 17. Present paragraphs (d) through (q) of
829 subsection (2) of section 381.0065, Florida Statutes, are
830 redesignated as paragraphs (e) through (r), respectively, a new
831 paragraph (d) is added to that subsection, and subsections (3)
832 and (4) of that section are amended, to read:

833 381.0065 Onsite sewage treatment and disposal systems;
834 regulation.—

835 (2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the
836 term:

837 (d) "Department" means the Department of Environmental
838 Protection.

839 (3) DUTIES AND POWERS OF THE DEPARTMENT ~~OF HEALTH~~.—The
840 department shall:

841 (a) Adopt rules to administer ss. 381.0065-381.0067,

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842 including definitions that are consistent with the definitions
843 in this section, decreases to setback requirements where no
844 health hazard exists, increases for the lot-flow allowance for
845 performance-based systems, requirements for separation from
846 water table elevation during the wettest season, requirements
847 for the design and construction of any component part of an
848 onsite sewage treatment and disposal system, application and
849 permit requirements for persons who maintain an onsite sewage
850 treatment and disposal system, requirements for maintenance and
851 service agreements for aerobic treatment units and performance-
852 based treatment systems, and recommended standards, including
853 disclosure requirements, for voluntary system inspections to be
854 performed by individuals who are authorized by law to perform
855 such inspections and who shall inform a person having ownership,
856 control, or use of an onsite sewage treatment and disposal
857 system of the inspection standards and of that person's
858 authority to request an inspection based on all or part of the
859 standards.

860 (b) Perform application reviews and site evaluations, issue
861 permits, and conduct inspections and complaint investigations
862 associated with the construction, installation, maintenance,
863 modification, abandonment, operation, use, or repair of an
864 onsite sewage treatment and disposal system for a residence or
865 establishment with an estimated domestic sewage flow of 10,000
866 gallons or less per day, or an estimated commercial sewage flow
867 of 5,000 gallons or less per day, which is not currently
868 regulated under chapter 403.

869 (c) Develop a comprehensive program to ensure that onsite
870 sewage treatment and disposal systems regulated by the

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871 department are sized, designed, constructed, installed,
872 repaired, modified, abandoned, used, operated, and maintained in
873 compliance with this section and rules adopted under this
874 section to prevent groundwater contamination and surface water
875 contamination and to preserve the public health. The department
876 is the final administrative interpretive authority regarding
877 rule interpretation. In the event of a conflict regarding rule
878 interpretation, the State Surgeon General, or his or her
879 designee, shall timely assign a staff person to resolve the
880 dispute.

881 (d) Grant variances in hardship cases under the conditions
882 prescribed in this section and rules adopted under this section.

883 (e) Permit the use of a limited number of innovative
884 systems for a specific period of time, when there is compelling
885 evidence that the system will function properly and reliably to
886 meet the requirements of this section and rules adopted under
887 this section.

888 (f) Issue annual operating permits under this section.

889 (g) Establish and collect fees as established under s.
890 381.0066 for services provided with respect to onsite sewage
891 treatment and disposal systems.

892 (h) Conduct enforcement activities, including imposing
893 fines, issuing citations, suspensions, revocations, injunctions,
894 and emergency orders for violations of this section, part I of
895 chapter 386, or part III of chapter 489 or for a violation of
896 any rule adopted under this section, part I of chapter 386, or
897 part III of chapter 489.

898 (i) Provide or conduct education and training of department
899 personnel, service providers, and the public regarding onsite

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900 sewage treatment and disposal systems.

901 (j) Supervise research on, demonstration of, and training
902 on the performance, environmental impact, and public health
903 impact of onsite sewage treatment and disposal systems within
904 this state. Research fees collected under s. 381.0066(2)(k) must
905 be used to develop and fund hands-on training centers designed
906 to provide practical information about onsite sewage treatment
907 and disposal systems to septic tank contractors, master septic
908 tank contractors, contractors, inspectors, engineers, and the
909 public and must also be used to fund research projects which
910 focus on improvements of onsite sewage treatment and disposal
911 systems, including use of performance-based standards and
912 reduction of environmental impact. Research projects shall be
913 initially approved by the technical review and advisory panel
914 and shall be applicable to and reflect the soil conditions
915 specific to Florida. Such projects shall be awarded through
916 competitive negotiation, using the procedures provided in s.
917 287.055, to public or private entities that have experience in
918 onsite sewage treatment and disposal systems in Florida and that
919 are principally located in Florida. Research projects shall not
920 be awarded to firms or entities that employ or are associated
921 with persons who serve on either the technical review and
922 advisory panel or the research review and advisory committee.

923 (k) Approve the installation of individual graywater
924 disposal systems in which blackwater is treated by a central
925 sewerage system.

926 (l) Regulate and permit the sanitation, handling,
927 treatment, storage, reuse, and disposal of byproducts from any
928 system regulated under this chapter and not regulated by the

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929 Department of Environmental Protection.

930 (m) Permit and inspect portable or temporary toilet
931 services and holding tanks. The department shall review
932 applications, perform site evaluations, and issue permits for
933 the temporary use of holding tanks, privies, portable toilet
934 services, or any other toilet facility that is intended for use
935 on a permanent or nonpermanent basis, including facilities
936 placed on construction sites when workers are present. The
937 department may specify standards for the construction,
938 maintenance, use, and operation of any such facility for
939 temporary use.

940 (n) Regulate and permit maintenance entities for
941 performance-based treatment systems and aerobic treatment unit
942 systems. To ensure systems are maintained and operated according
943 to manufacturer's specifications and designs, the department
944 shall establish by rule minimum qualifying criteria for
945 maintenance entities. The criteria shall include: training,
946 access to approved spare parts and components, access to
947 manufacturer's maintenance and operation manuals, and service
948 response time. The maintenance entity shall employ a contractor
949 licensed under s. 489.105(3)(m), or part III of chapter 489, or
950 a state-licensed wastewater plant operator, who is responsible
951 for maintenance and repair of all systems under contract.

952 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
953 construct, repair, modify, abandon, or operate an onsite sewage
954 treatment and disposal system without first obtaining a permit
955 approved by the department. The department may issue permits to
956 carry out this section, ~~but shall not make the issuance of such~~
957 ~~permits contingent upon prior approval by the Department of~~

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958 ~~Environmental Protection, except that~~ The issuance of a permit
959 for work seaward of the coastal construction control line
960 established under s. 161.053 shall be contingent upon receipt of
961 any required coastal construction control line permit from the
962 department ~~of Environmental Protection~~. A construction permit is
963 valid for 18 months from the issuance date and may be extended
964 by the department for one 90-day period under rules adopted by
965 the department. A repair permit is valid for 90 days from the
966 date of issuance. An operating permit must be obtained before
967 ~~prior to~~ the use of any aerobic treatment unit or if the
968 establishment generates commercial waste. Buildings or
969 establishments that use an aerobic treatment unit or generate
970 commercial waste shall be inspected by the department at least
971 annually to assure compliance with the terms of the operating
972 permit. The operating permit for a commercial wastewater system
973 is valid for 1 year from the date of issuance and must be
974 renewed annually. The operating permit for an aerobic treatment
975 unit is valid for 2 years from the date of issuance and must be
976 renewed every 2 years. If all information pertaining to the
977 siting, location, and installation conditions or repair of an
978 onsite sewage treatment and disposal system remains the same, a
979 construction or repair permit for the onsite sewage treatment
980 and disposal system may be transferred to another person, if the
981 transferee files, within 60 days after the transfer of
982 ownership, an amended application providing all corrected
983 information and proof of ownership of the property. There is no
984 fee associated with the processing of this supplemental
985 information. A person may not contract to construct, modify,
986 alter, repair, service, abandon, or maintain any portion of an

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987 onsite sewage treatment and disposal system without being
988 registered under part III of chapter 489. A property owner who
989 personally performs construction, maintenance, or repairs to a
990 system serving his or her own owner-occupied single-family
991 residence is exempt from registration requirements for
992 performing such construction, maintenance, or repairs on that
993 residence, but is subject to all permitting requirements. A
994 municipality or political subdivision of the state may not issue
995 a building or plumbing permit for any building that requires the
996 use of an onsite sewage treatment and disposal system unless the
997 owner or builder has received a construction permit for such
998 system from the department. A building or structure may not be
999 occupied and a municipality, political subdivision, or any state
1000 or federal agency may not authorize occupancy until the
1001 department approves the final installation of the onsite sewage
1002 treatment and disposal system. A municipality or political
1003 subdivision of the state may not approve any change in occupancy
1004 or tenancy of a building that uses an onsite sewage treatment
1005 and disposal system until the department has reviewed the use of
1006 the system with the proposed change, approved the change, and
1007 amended the operating permit.

1008 (a) Subdivisions and lots in which each lot has a minimum
1009 area of at least one-half acre and either a minimum dimension of
1010 100 feet or a mean of at least 100 feet of the side bordering
1011 the street and the distance formed by a line parallel to the
1012 side bordering the street drawn between the two most distant
1013 points of the remainder of the lot may be developed with a water
1014 system regulated under s. 381.0062 and onsite sewage treatment
1015 and disposal systems, provided the projected daily sewage flow

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1016 does not exceed an average of 1,500 gallons per acre per day,
1017 and provided satisfactory drinking water can be obtained and all
1018 distance and setback, soil condition, water table elevation, and
1019 other related requirements of this section and rules adopted
1020 under this section can be met.

1021 (b) Subdivisions and lots using a public water system as
1022 defined in s. 403.852 may use onsite sewage treatment and
1023 disposal systems, provided there are no more than four lots per
1024 acre, provided the projected daily sewage flow does not exceed
1025 an average of 2,500 gallons per acre per day, and provided that
1026 all distance and setback, soil condition, water table elevation,
1027 and other related requirements that are generally applicable to
1028 the use of onsite sewage treatment and disposal systems are met.

1029 (c) Notwithstanding paragraphs (a) and (b), for
1030 subdivisions platted of record on or before October 1, 1991,
1031 when a developer or other appropriate entity has previously made
1032 or makes provisions, including financial assurances or other
1033 commitments, acceptable to the department ~~of Health~~, that a
1034 central water system will be installed by a regulated public
1035 utility based on a density formula, private potable wells may be
1036 used with onsite sewage treatment and disposal systems until the
1037 agreed-upon densities are reached. In a subdivision regulated by
1038 this paragraph, the average daily sewage flow may not exceed
1039 2,500 gallons per acre per day. This section does not affect the
1040 validity of existing prior agreements. After October 1, 1991,
1041 the exception provided under this paragraph is not available to
1042 a developer or other appropriate entity.

1043 (d) Paragraphs (a) and (b) do not apply to any proposed
1044 residential subdivision with more than 50 lots or to any

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1045 proposed commercial subdivision with more than 5 lots where a
1046 publicly owned or investor-owned sewerage system is available.
1047 It is the intent of this paragraph not to allow development of
1048 additional proposed subdivisions in order to evade the
1049 requirements of this paragraph.

1050 (e) Onsite sewage treatment and disposal systems must not
1051 be placed closer than:

1052 1. Seventy-five feet from a private potable well.

1053 2. Two hundred feet from a public potable well serving a
1054 residential or nonresidential establishment having a total
1055 sewage flow of greater than 2,000 gallons per day.

1056 3. One hundred feet from a public potable well serving a
1057 residential or nonresidential establishment having a total
1058 sewage flow of less than or equal to 2,000 gallons per day.

1059 4. Fifty feet from any nonpotable well.

1060 5. Ten feet from any storm sewer pipe, to the maximum
1061 extent possible, but in no instance shall the setback be less
1062 than 5 feet.

1063 6. Seventy-five feet from the mean high-water line of a
1064 tidally influenced surface water body.

1065 7. Seventy-five feet from the mean annual flood line of a
1066 permanent nontidal surface water body.

1067 8. Fifteen feet from the design high-water line of
1068 retention areas, detention areas, or swales designed to contain
1069 standing or flowing water for less than 72 hours after a
1070 rainfall or the design high-water level of normally dry drainage
1071 ditches or normally dry individual lot stormwater retention
1072 areas.

1073 (f) Except as provided under paragraphs (e) and (t), no

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1074 limitations shall be imposed by rule, relating to the distance
1075 between an onsite disposal system and any area that either
1076 permanently or temporarily has visible surface water.

1077 (g) All provisions of this section and rules adopted under
1078 this section relating to soil condition, water table elevation,
1079 distance, and other setback requirements must be equally applied
1080 to all lots, with the following exceptions:

1081 1. Any residential lot that was platted and recorded on or
1082 after January 1, 1972, or that is part of a residential
1083 subdivision that was approved by the appropriate permitting
1084 agency on or after January 1, 1972, and that was eligible for an
1085 onsite sewage treatment and disposal system construction permit
1086 on the date of such platting and recording or approval shall be
1087 eligible for an onsite sewage treatment and disposal system
1088 construction permit, regardless of when the application for a
1089 permit is made. If rules in effect at the time the permit
1090 application is filed cannot be met, residential lots platted and
1091 recorded or approved on or after January 1, 1972, shall, to the
1092 maximum extent possible, comply with the rules in effect at the
1093 time the permit application is filed. At a minimum, however,
1094 those residential lots platted and recorded or approved on or
1095 after January 1, 1972, but before January 1, 1983, shall comply
1096 with those rules in effect on January 1, 1983, and those
1097 residential lots platted and recorded or approved on or after
1098 January 1, 1983, shall comply with those rules in effect at the
1099 time of such platting and recording or approval. In determining
1100 the maximum extent of compliance with current rules that is
1101 possible, the department shall allow structures and
1102 appurtenances thereto which were authorized at the time such

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1103 lots were platted and recorded or approved.

1104 2. Lots platted before 1972 are subject to a 50-foot
1105 minimum surface water setback and are not subject to lot size
1106 requirements. The projected daily flow for onsite sewage
1107 treatment and disposal systems for lots platted before 1972 may
1108 not exceed:

1109 a. Two thousand five hundred gallons per acre per day for
1110 lots served by public water systems as defined in s. 403.852.

1111 b. One thousand five hundred gallons per acre per day for
1112 lots served by water systems regulated under s. 381.0062.

1113 (h)1. The department may grant variances in hardship cases
1114 which may be less restrictive than the provisions specified in
1115 this section. If a variance is granted and the onsite sewage
1116 treatment and disposal system construction permit has been
1117 issued, the variance may be transferred with the system
1118 construction permit, if the transferee files, within 60 days
1119 after the transfer of ownership, an amended construction permit
1120 application providing all corrected information and proof of
1121 ownership of the property and if the same variance would have
1122 been required for the new owner of the property as was
1123 originally granted to the original applicant for the variance.
1124 There is no fee associated with the processing of this
1125 supplemental information. A variance may not be granted under
1126 this section until the department is satisfied that:

1127 a. The hardship was not caused intentionally by the action
1128 of the applicant;

1129 b. No reasonable alternative, taking into consideration
1130 factors such as cost, exists for the treatment of the sewage;
1131 and

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1132 c. The discharge from the onsite sewage treatment and
1133 disposal system will not adversely affect the health of the
1134 applicant or the public or significantly degrade the groundwater
1135 or surface waters.

1136
1137 Where soil conditions, water table elevation, and setback
1138 provisions are determined by the department to be satisfactory,
1139 special consideration must be given to those lots platted before
1140 1972.

1141 2. The department shall appoint and staff a variance review
1142 and advisory committee, which shall meet monthly to recommend
1143 agency action on variance requests. The committee shall make its
1144 recommendations on variance requests at the meeting in which the
1145 application is scheduled for consideration, except for an
1146 extraordinary change in circumstances, the receipt of new
1147 information that raises new issues, or when the applicant
1148 requests an extension. The committee shall consider the criteria
1149 in subparagraph 1. in its recommended agency action on variance
1150 requests and shall also strive to allow property owners the full
1151 use of their land where possible. The committee consists of the
1152 following:

- 1153 a. The State Surgeon General or his or her designee.
1154 b. A representative from the county health departments.
1155 c. A representative from the home building industry
1156 recommended by the Florida Home Builders Association.
1157 d. A representative from the septic tank industry
1158 recommended by the Florida Onsite Wastewater Association.
1159 e. A representative from the Department of Environmental
1160 Protection.

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1161 f. A representative from the real estate industry who is
1162 also a developer in this state who develops lots using onsite
1163 sewage treatment and disposal systems, recommended by the
1164 Florida Association of Realtors.

1165 g. A representative from the engineering profession
1166 recommended by the Florida Engineering Society.

1167
1168 Members shall be appointed for a term of 3 years, with such
1169 appointments being staggered so that the terms of no more than
1170 two members expire in any one year. Members shall serve without
1171 remuneration, but if requested, shall be reimbursed for per diem
1172 and travel expenses as provided in s. 112.061.

1173 (i) A construction permit may not be issued for an onsite
1174 sewage treatment and disposal system in any area zoned or used
1175 for industrial or manufacturing purposes, or its equivalent,
1176 where a publicly owned or investor-owned sewage treatment system
1177 is available, or where a likelihood exists that the system will
1178 receive toxic, hazardous, or industrial waste. An existing
1179 onsite sewage treatment and disposal system may be repaired if a
1180 publicly owned or investor-owned sewerage system is not
1181 available within 500 feet of the building sewer stub-out and if
1182 system construction and operation standards can be met. This
1183 paragraph does not require publicly owned or investor-owned
1184 sewerage treatment systems to accept anything other than
1185 domestic wastewater.

1186 1. A building located in an area zoned or used for
1187 industrial or manufacturing purposes, or its equivalent, when
1188 such building is served by an onsite sewage treatment and
1189 disposal system, must not be occupied until the owner or tenant

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1190 has obtained written approval from the department. The
1191 department shall not grant approval when the proposed use of the
1192 system is to dispose of toxic, hazardous, or industrial
1193 wastewater or toxic or hazardous chemicals.

1194 2. Each person who owns or operates a business or facility
1195 in an area zoned or used for industrial or manufacturing
1196 purposes, or its equivalent, or who owns or operates a business
1197 that has the potential to generate toxic, hazardous, or
1198 industrial wastewater or toxic or hazardous chemicals, and uses
1199 an onsite sewage treatment and disposal system that is installed
1200 on or after July 5, 1989, must obtain an annual system operating
1201 permit from the department. A person who owns or operates a
1202 business that uses an onsite sewage treatment and disposal
1203 system that was installed and approved before July 5, 1989, need
1204 not obtain a system operating permit. However, upon change of
1205 ownership or tenancy, the new owner or operator must notify the
1206 department of the change, and the new owner or operator must
1207 obtain an annual system operating permit, regardless of the date
1208 that the system was installed or approved.

1209 3. The department shall periodically review and evaluate
1210 the continued use of onsite sewage treatment and disposal
1211 systems in areas zoned or used for industrial or manufacturing
1212 purposes, or its equivalent, and may require the collection and
1213 analyses of samples from within and around such systems. If the
1214 department finds that toxic or hazardous chemicals or toxic,
1215 hazardous, or industrial wastewater have been or are being
1216 disposed of through an onsite sewage treatment and disposal
1217 system, the department shall initiate enforcement actions
1218 against the owner or tenant to ensure adequate cleanup,

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1219 treatment, and disposal.

1220 (j) An onsite sewage treatment and disposal system designed
1221 by a professional engineer registered in the state and certified
1222 by such engineer as complying with performance criteria adopted
1223 by the department must be approved by the department subject to
1224 the following:

1225 1. The performance criteria applicable to engineer-designed
1226 systems must be limited to those necessary to ensure that such
1227 systems do not adversely affect the public health or
1228 significantly degrade the groundwater or surface water. Such
1229 performance criteria shall include consideration of the quality
1230 of system effluent, the proposed total sewage flow per acre,
1231 wastewater treatment capabilities of the natural or replaced
1232 soil, water quality classification of the potential surface-
1233 water-receiving body, and the structural and maintenance
1234 viability of the system for the treatment of domestic
1235 wastewater. However, performance criteria shall address only the
1236 performance of a system and not a system's design.

1237 2. A person electing to utilize an engineer-designed system
1238 shall, upon completion of the system design, submit such design,
1239 certified by a registered professional engineer, to the county
1240 health department. The county health department may utilize an
1241 outside consultant to review the engineer-designed system, with
1242 the actual cost of such review to be borne by the applicant.
1243 Within 5 working days after receiving an engineer-designed
1244 system permit application, the county health department shall
1245 request additional information if the application is not
1246 complete. Within 15 working days after receiving a complete
1247 application for an engineer-designed system, the county health

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1248 department either shall issue the permit or, if it determines
1249 that the system does not comply with the performance criteria,
1250 shall notify the applicant of that determination and refer the
1251 application to the department for a determination as to whether
1252 the system should be approved, disapproved, or approved with
1253 modification. The department engineer's determination shall
1254 prevail over the action of the county health department. The
1255 applicant shall be notified in writing of the department's
1256 determination and of the applicant's rights to pursue a variance
1257 or seek review under ~~the provisions of~~ chapter 120.

1258 3. The owner of an engineer-designed performance-based
1259 system must maintain a current maintenance service agreement
1260 with a maintenance entity permitted by the department. The
1261 maintenance entity shall inspect each system at least twice each
1262 year and shall report quarterly to the department on the number
1263 of systems inspected and serviced. The reports may be submitted
1264 electronically.

1265 4. The property owner of an owner-occupied, single-family
1266 residence may be approved and permitted by the department as a
1267 maintenance entity for his or her own performance-based
1268 treatment system upon written certification from the system
1269 manufacturer's approved representative that the property owner
1270 has received training on the proper installation and service of
1271 the system. The maintenance service agreement must conspicuously
1272 disclose that the property owner has the right to maintain his
1273 or her own system and is exempt from contractor registration
1274 requirements for performing construction, maintenance, or
1275 repairs on the system but is subject to all permitting
1276 requirements.

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1277 5. The property owner shall obtain a biennial system
1278 operating permit from the department for each system. The
1279 department shall inspect the system at least annually, or on
1280 such periodic basis as the fee collected permits, and may
1281 collect system-effluent samples if appropriate to determine
1282 compliance with the performance criteria. The fee for the
1283 biennial operating permit shall be collected beginning with the
1284 second year of system operation.

1285 6. If an engineer-designed system fails to properly
1286 function or fails to meet performance standards, the system
1287 shall be re-engineered, if necessary, to bring the system into
1288 compliance with ~~the provisions of~~ this section.

1289 (k) An innovative system may be approved in conjunction
1290 with an engineer-designed site-specific system which is
1291 certified by the engineer to meet the performance-based criteria
1292 adopted by the department.

1293 (1) For the Florida Keys, the department shall adopt a
1294 special rule for the construction, installation, modification,
1295 operation, repair, maintenance, and performance of onsite sewage
1296 treatment and disposal systems which considers the unique soil
1297 conditions and water table elevations, densities, and setback
1298 requirements. On lots where a setback distance of 75 feet from
1299 surface waters, saltmarsh, and buttonwood association habitat
1300 areas cannot be met, an injection well, approved and permitted
1301 by the department, may be used for disposal of effluent from
1302 onsite sewage treatment and disposal systems. The following
1303 additional requirements apply to onsite sewage treatment and
1304 disposal systems in Monroe County:

1305 1. The county, each municipality, and those special

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1306 districts established for the purpose of the collection,
1307 transmission, treatment, or disposal of sewage shall ensure, in
1308 accordance with the specific schedules adopted by the
1309 Administration Commission under s. 380.0552, the completion of
1310 onsite sewage treatment and disposal system upgrades to meet the
1311 requirements of this paragraph.

1312 2. Onsite sewage treatment and disposal systems must cease
1313 discharge by December 31, 2015, or must comply with department
1314 rules and provide the level of treatment which, on a permitted
1315 annual average basis, produces an effluent that contains no more
1316 than the following concentrations:

1317 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

1318 b. Suspended Solids of 10 mg/l.

1319 c. Total Nitrogen, expressed as N, of 10 mg/l or a
1320 reduction in nitrogen of at least 70 percent. A system that has
1321 been tested and certified to reduce nitrogen concentrations by
1322 at least 70 percent shall be deemed to be in compliance with
1323 this standard.

1324 d. Total Phosphorus, expressed as P, of 1 mg/l.

1325

1326 In addition, onsite sewage treatment and disposal systems
1327 discharging to an injection well must provide basic disinfection
1328 as defined by department rule.

1329 3. In areas not scheduled to be served by a central sewer,
1330 onsite sewage treatment and disposal systems must, by December
1331 31, 2015, comply with department rules and provide the level of
1332 treatment described in subparagraph 2.

1333 4. In areas scheduled to be served by central sewer by
1334 December 31, 2015, if the property owner has paid a connection

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1335 fee or assessment for connection to the central sewer system,
1336 the property owner may install a holding tank with a high water
1337 alarm or an onsite sewage treatment and disposal system that
1338 meets the following minimum standards:

1339 a. The existing tanks must be pumped and inspected and
1340 certified as being watertight and free of defects in accordance
1341 with department rule; and

1342 b. A sand-lined drainfield or injection well in accordance
1343 with department rule must be installed.

1344 5. Onsite sewage treatment and disposal systems must be
1345 monitored for total nitrogen and total phosphorus concentrations
1346 as required by department rule.

1347 6. The department shall enforce proper installation,
1348 operation, and maintenance of onsite sewage treatment and
1349 disposal systems pursuant to this chapter, including ensuring
1350 that the appropriate level of treatment described in
1351 subparagraph 2. is met.

1352 7. The authority of a local government, including a special
1353 district, to mandate connection of an onsite sewage treatment
1354 and disposal system is governed by s. 4, chapter 99-395, Laws of
1355 Florida.

1356 8. Notwithstanding any other provision of law, an onsite
1357 sewage treatment and disposal system installed after July 1,
1358 2010, in unincorporated Monroe County, excluding special
1359 wastewater districts, that complies with the standards in
1360 subparagraph 2. is not required to connect to a central sewer
1361 system until December 31, 2020.

1362 (m) No product sold in the state for use in onsite sewage
1363 treatment and disposal systems may contain any substance in

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1364 concentrations or amounts that would interfere with or prevent
1365 the successful operation of such system, or that would cause
1366 discharges from such systems to violate applicable water quality
1367 standards. The department shall publish criteria for products
1368 known or expected to meet the conditions of this paragraph. In
1369 the event a product does not meet such criteria, such product
1370 may be sold if the manufacturer satisfactorily demonstrates to
1371 the department that the conditions of this paragraph are met.

1372 (n) Evaluations for determining the seasonal high-water
1373 table elevations or the suitability of soils for the use of a
1374 new onsite sewage treatment and disposal system shall be
1375 performed by department personnel, professional engineers
1376 registered in the state, or such other persons with expertise,
1377 as defined by rule, in making such evaluations. Evaluations for
1378 determining mean annual flood lines shall be performed by those
1379 persons identified in paragraph (2) (k) ~~paragraph (2) (j)~~. The
1380 department shall accept evaluations submitted by professional
1381 engineers and such other persons as meet the expertise
1382 established by this section or by rule unless the department has
1383 a reasonable scientific basis for questioning the accuracy or
1384 completeness of the evaluation.

1385 (o) The department shall appoint a research review and
1386 advisory committee, which shall meet at least semiannually. The
1387 committee shall advise the department on directions for new
1388 research, review and rank proposals for research contracts, and
1389 review draft research reports and make comments. The committee
1390 is comprised of:

1391 1. A representative of the State Surgeon General, or his or
1392 her designee.

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- 1393 2. A representative from the septic tank industry.
- 1394 3. A representative from the home building industry.
- 1395 4. A representative from an environmental interest group.
- 1396 5. A representative from the State University System, from
- 1397 a department knowledgeable about onsite sewage treatment and
- 1398 disposal systems.
- 1399 6. A professional engineer registered in this state who has
- 1400 work experience in onsite sewage treatment and disposal systems.
- 1401 7. A representative from local government who is
- 1402 knowledgeable about domestic wastewater treatment.
- 1403 8. A representative from the real estate profession.
- 1404 9. A representative from the restaurant industry.
- 1405 10. A consumer.

1406

1407 Members shall be appointed for a term of 3 years, with the

1408 appointments being staggered so that the terms of no more than

1409 four members expire in any one year. Members shall serve without

1410 remuneration, but are entitled to reimbursement for per diem and

1411 travel expenses as provided in s. 112.061.

1412 (p) An application for an onsite sewage treatment and

1413 disposal system permit shall be completed in full, signed by the

1414 owner or the owner's authorized representative, or by a

1415 contractor licensed under chapter 489, and shall be accompanied

1416 by all required exhibits and fees. No specific documentation of

1417 property ownership shall be required as a prerequisite to the

1418 review of an application or the issuance of a permit. The

1419 issuance of a permit does not constitute determination by the

1420 department of property ownership.

1421 (q) The department may not require any form of subdivision

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1422 analysis of property by an owner, developer, or subdivider
1423 before ~~prior to~~ submission of an application for an onsite
1424 sewage treatment and disposal system.

1425 (r) Nothing in this section limits the power of a
1426 municipality or county to enforce other laws for the protection
1427 of the public health and safety.

1428 (s) In the siting of onsite sewage treatment and disposal
1429 systems, including drainfields, shoulders, and slopes, guttering
1430 shall not be required on single-family residential dwelling
1431 units for systems located greater than 5 feet from the roof drip
1432 line of the house. If guttering is used on residential dwelling
1433 units, the downspouts shall be directed away from the
1434 drainfield.

1435 (t) Notwithstanding ~~the provisions of~~ subparagraph (g)1.,
1436 onsite sewage treatment and disposal systems located in
1437 floodways of the Suwannee and Aucilla Rivers must adhere to the
1438 following requirements:

1439 1. The absorption surface of the drainfield shall not be
1440 subject to flooding based on 10-year flood elevations. Provided,
1441 however, for lots or parcels created by the subdivision of land
1442 in accordance with applicable local government regulations
1443 before ~~prior to~~ January 17, 1990, if an applicant cannot
1444 construct a drainfield system with the absorption surface of the
1445 drainfield at an elevation equal to or above 10-year flood
1446 elevation, the department shall issue a permit for an onsite
1447 sewage treatment and disposal system within the 10-year
1448 floodplain of rivers, streams, and other bodies of flowing water
1449 if all of the following criteria are met:

1450 a. The lot is at least one-half acre in size;

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1451 b. The bottom of the drainfield is at least 36 inches above
1452 the 2-year flood elevation; and

1453 c. The applicant installs either: a waterless,
1454 incinerating, or organic waste composting toilet and a graywater
1455 system and drainfield in accordance with department rules; an
1456 aerobic treatment unit and drainfield in accordance with
1457 department rules; a system approved by the State Health Office
1458 that is capable of reducing effluent nitrate by at least 50
1459 percent; or a system approved by the county health department
1460 pursuant to department rule other than a system using
1461 alternative drainfield materials. The United States Department
1462 of Agriculture Soil Conservation Service soil maps, State of
1463 Florida Water Management District data, and Federal Emergency
1464 Management Agency Flood Insurance maps are resources that shall
1465 be used to identify flood-prone areas.

1466 2. The use of fill or mounding to elevate a drainfield
1467 system out of the 10-year floodplain of rivers, streams, or
1468 other bodies of flowing water shall not be permitted if such a
1469 system lies within a regulatory floodway of the Suwannee and
1470 Aucilla Rivers. In cases where the 10-year flood elevation does
1471 not coincide with the boundaries of the regulatory floodway, the
1472 regulatory floodway will be considered for the purposes of this
1473 subsection to extend at a minimum to the 10-year flood
1474 elevation.

1475 (u)1. The owner of an aerobic treatment unit system shall
1476 maintain a current maintenance service agreement with an aerobic
1477 treatment unit maintenance entity permitted by the department.
1478 The maintenance entity shall inspect each aerobic treatment unit
1479 system at least twice each year and shall report quarterly to

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1480 the department on the number of aerobic treatment unit systems
1481 inspected and serviced. The reports may be submitted
1482 electronically.

1483 2. The property owner of an owner-occupied, single-family
1484 residence may be approved and permitted by the department as a
1485 maintenance entity for his or her own aerobic treatment unit
1486 system upon written certification from the system manufacturer's
1487 approved representative that the property owner has received
1488 training on the proper installation and service of the system.
1489 The maintenance entity service agreement must conspicuously
1490 disclose that the property owner has the right to maintain his
1491 or her own system and is exempt from contractor registration
1492 requirements for performing construction, maintenance, or
1493 repairs on the system but is subject to all permitting
1494 requirements.

1495 3. A septic tank contractor licensed under part III of
1496 chapter 489, if approved by the manufacturer, may not be denied
1497 access by the manufacturer to aerobic treatment unit system
1498 training or spare parts for maintenance entities. After the
1499 original warranty period, component parts for an aerobic
1500 treatment unit system may be replaced with parts that meet
1501 manufacturer's specifications but are manufactured by others.
1502 The maintenance entity shall maintain documentation of the
1503 substitute part's equivalency for 2 years and shall provide such
1504 documentation to the department upon request.

1505 4. The owner of an aerobic treatment unit system shall
1506 obtain a system operating permit from the department and allow
1507 the department to inspect during reasonable hours each aerobic
1508 treatment unit system at least annually, and such inspection may

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1509 include collection and analysis of system-effluent samples for
1510 performance criteria established by rule of the department.

1511 (v) The department may require the submission of detailed
1512 system construction plans that are prepared by a professional
1513 engineer registered in this state. The department shall
1514 establish by rule criteria for determining when such a
1515 submission is required.

1516 (w) Any permit issued and approved by the department for
1517 the installation, modification, or repair of an onsite sewage
1518 treatment and disposal system shall transfer with the title to
1519 the property in a real estate transaction. A title may not be
1520 encumbered at the time of transfer by new permit requirements by
1521 a governmental entity for an onsite sewage treatment and
1522 disposal system which differ from the permitting requirements in
1523 effect at the time the system was permitted, modified, or
1524 repaired. An inspection of a system may not be mandated by a
1525 governmental entity at the point of sale in a real estate
1526 transaction. This paragraph does not affect a septic tank phase-
1527 out deferral program implemented by a consolidated government as
1528 defined in s. 9, Art. VIII of the State Constitution (1885).

1529 (x) A governmental entity, including a municipality,
1530 county, or statutorily created commission, may not require an
1531 engineer-designed performance-based treatment system, excluding
1532 a passive engineer-designed performance-based treatment system,
1533 before the completion of the Florida Onsite Sewage Nitrogen
1534 Reduction Strategies Project. This paragraph does not apply to a
1535 governmental entity, including a municipality, county, or
1536 statutorily created commission, which adopted a local law,
1537 ordinance, or regulation on or before January 31, 2012.

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1538 Notwithstanding this paragraph, an engineer-designed
1539 performance-based treatment system may be used to meet the
1540 requirements of the variance review and advisory committee
1541 recommendations.

1542 (y)1. An onsite sewage treatment and disposal system is not
1543 considered abandoned if the system is disconnected from a
1544 structure that was made unusable or destroyed following a
1545 disaster and if the system was properly functioning at the time
1546 of disconnection and was not adversely affected by the disaster.
1547 The onsite sewage treatment and disposal system may be
1548 reconnected to a rebuilt structure if:

1549 a. The reconnection of the system is to the same type of
1550 structure which contains the same number of bedrooms or fewer,
1551 if the square footage of the structure is less than or equal to
1552 110 percent of the original square footage of the structure that
1553 existed before the disaster;

1554 b. The system is not a sanitary nuisance; and

1555 c. The system has not been altered without prior
1556 authorization.

1557 2. An onsite sewage treatment and disposal system that
1558 serves a property that is foreclosed upon is not considered
1559 abandoned.

1560 (z) If an onsite sewage treatment and disposal system
1561 permittee receives, relies upon, and undertakes construction of
1562 a system based upon a validly issued construction permit under
1563 rules applicable at the time of construction but a change to a
1564 rule occurs within 5 years after the approval of the system for
1565 construction but before the final approval of the system, the
1566 rules applicable and in effect at the time of construction

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1567 approval apply at the time of final approval if fundamental site
1568 conditions have not changed between the time of construction
1569 approval and final approval.

1570 (aa) An existing-system inspection or evaluation and
1571 assessment, or a modification, replacement, or upgrade of an
1572 onsite sewage treatment and disposal system is not required for
1573 a remodeling addition or modification to a single-family home if
1574 a bedroom is not added. However, a remodeling addition or
1575 modification to a single-family home may not cover any part of
1576 the existing system or encroach upon a required setback or the
1577 unobstructed area. To determine if a setback or the unobstructed
1578 area is impacted, the local health department shall review and
1579 verify a floor plan and site plan of the proposed remodeling
1580 addition or modification to the home submitted by a remodeler
1581 which shows the location of the system, including the distance
1582 of the remodeling addition or modification to the home from the
1583 onsite sewage treatment and disposal system. The local health
1584 department may visit the site or otherwise determine the best
1585 means of verifying the information submitted. A verification of
1586 the location of a system is not an inspection or evaluation and
1587 assessment of the system. The review and verification must be
1588 completed within 7 business days after receipt by the local
1589 health department of a floor plan and site plan. If the review
1590 and verification is not completed within such time, the
1591 remodeling addition or modification to the single-family home,
1592 for the purposes of this paragraph, is approved.

1593 Section 18. Paragraph (d) of subsection (7) and subsections
1594 (8) and (9) of section 381.00651, Florida Statutes, are amended
1595 to read:

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1596 381.00651 Periodic evaluation and assessment of onsite
1597 sewage treatment and disposal systems.-

1598 (7) The following procedures shall be used for conducting
1599 evaluations:

1600 (d) *Assessment procedure.*-All evaluation procedures used by
1601 a qualified contractor shall be documented in the environmental
1602 health database of the department ~~of Health~~. The qualified
1603 contractor shall provide a copy of a written, signed evaluation
1604 report to the property owner upon completion of the evaluation
1605 and to the county health department within 30 days after the
1606 evaluation. The report must ~~shall~~ contain the name and license
1607 number of the company providing the report. A copy of the
1608 evaluation report shall be retained by the local county health
1609 department for a minimum of 5 years and until a subsequent
1610 inspection report is filed. The front cover of the report must
1611 identify any system failure and include a clear and conspicuous
1612 notice to the owner that the owner has a right to have any
1613 remediation of the failure performed by a qualified contractor
1614 other than the contractor performing the evaluation. The report
1615 must further identify any crack, leak, improper fit, or other
1616 defect in the tank, manhole, or lid, and any other damaged or
1617 missing component; any sewage or effluent visible on the ground
1618 or discharging to a ditch or other surface water body; any
1619 downspout, stormwater, or other source of water directed onto or
1620 toward the system; and any other maintenance need or condition
1621 of the system at the time of the evaluation which, in the
1622 opinion of the qualified contractor, would possibly interfere
1623 with or restrict any future repair or modification to the
1624 existing system. The report shall conclude with an overall

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1625 assessment of the fundamental operational condition of the
1626 system.

1627 (8) The county health department, in coordination with the
1628 department, shall administer any evaluation program on behalf of
1629 a county, or a municipality within the county, that has adopted
1630 an evaluation program pursuant to this section. In order to
1631 administer the evaluation program, the county or municipality,
1632 in consultation with the county health department, may develop a
1633 reasonable fee schedule to be used solely to pay for the costs
1634 of administering the evaluation program. Such a fee schedule
1635 shall be identified in the ordinance that adopts the evaluation
1636 program. When arriving at a reasonable fee schedule, the
1637 estimated annual revenues to be derived from fees may not exceed
1638 reasonable estimated annual costs of the program. Fees shall be
1639 assessed to the system owner during an inspection and separately
1640 identified on the invoice of the qualified contractor. Fees
1641 shall be remitted by the qualified contractor to the county
1642 health department. The county health department's administrative
1643 responsibilities include the following:

1644 (a) Providing a notice to the system owner at least 60 days
1645 before the system is due for an evaluation. The notice may
1646 include information on the proper maintenance of onsite sewage
1647 treatment and disposal systems.

1648 (b) In consultation with the department ~~of Health~~,
1649 providing uniform disciplinary procedures and penalties for
1650 qualified contractors who do not comply with the requirements of
1651 the adopted ordinance, including, but not limited to, failure to
1652 provide the evaluation report as required in this subsection to
1653 the system owner and the county health department. Only the

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1654 county health department may assess penalties against system
1655 owners for failure to comply with the adopted ordinance,
1656 consistent with existing requirements of law.

1657 (9) (a) A county or municipality that adopts an onsite
1658 sewage treatment and disposal system evaluation and assessment
1659 program pursuant to this section shall notify the Secretary of
1660 Environmental Protection, the Department of Health, and the
1661 applicable county health department upon the adoption of its
1662 ordinance establishing the program.

1663 (b) Upon receipt of the notice under paragraph (a), the
1664 department ~~of Environmental Protection~~ shall, within existing
1665 resources, notify the county or municipality of the potential
1666 use of, and access to, program funds under the Clean Water State
1667 Revolving Fund or s. 319 of the Clean Water Act, provide
1668 guidance in the application process to receive such moneys, and
1669 provide advice and technical assistance to the county or
1670 municipality on how to establish a low-interest revolving loan
1671 program or how to model a revolving loan program after the low-
1672 interest loan program of the Clean Water State Revolving Fund.
1673 This paragraph does not obligate the department ~~of Environmental~~
1674 ~~Protection~~ to provide any county or municipality with money to
1675 fund such programs.

1676 (c) The department ~~of Health~~ may not adopt any rule that
1677 alters the provisions of this section.

1678 (d) The department ~~of Health~~ must allow county health
1679 departments and qualified contractors access to the
1680 environmental health database to track relevant information and
1681 assimilate data from assessment and evaluation reports of the
1682 overall condition of onsite sewage treatment and disposal

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1683 systems. The environmental health database must be used by
1684 contractors to report each service and evaluation event and by a
1685 county health department to notify owners of onsite sewage
1686 treatment and disposal systems when evaluations are due. Data
1687 and information must be recorded and updated as service and
1688 evaluations are conducted and reported.

1689 Section 19. Subsection (1) of section 381.0068, Florida
1690 Statutes, is amended to read:

1691 381.0068 Technical review and advisory panel.—

1692 (1) The Department of Environmental Protection ~~Health~~ shall
1693 establish and staff a technical review and advisory panel to
1694 assist the department with rule adoption.

1695 Section 20. Except as otherwise expressly provided in this
1696 act, this act shall take effect July 1, 2019.

MIAF Bill Tracking

Sorted by Bill Number

- HB 9** **Community Redevelopment Agencies** LaMarca
Community Redevelopment Agencies: Specifies ethics training requirements for community redevelopment agency commissioners; establishes procedures for appointing board of community redevelopment agency board members; requires referendum to create community redevelopment agency; establishes procurement procedures; provides reporting and boundary map requirements; provides termination dates for certain community redevelopment agencies; provides phase-out period for existing community redevelopment agencies; requires DEO to declare inactive certain community redevelopment agencies; requires DEO to maintain website identifying inactive community redevelopment agencies; specifies level of tax increment financing that governing body may establish; revises requirements for budgets of community redevelopment agencies; revises requirements for annual audit. Effective Date: July 1, 2019
3/12/2019 HOUSE Now in State Affairs Committee
- HB 53** **Single Subject Requirement for Revisions or Amendments to the Constitution** Byrd
Single Subject Requirement for Revisions or Amendments to the Constitution: Proposes amendments to Sections 2 and 6 of Article XI of the State Constitution to limit each revision or amendment to the Constitution proposed by the constitution revision commission or the taxation and budget reform commission to one subject and matter directly connected therewith.
3/5/2019 HOUSE Now in Judiciary Committee
- SB 78** **Public Financing of Construction Projects** Rodriguez (J)
Public Financing of Construction Projects; Prohibiting state-financed constructors from commencing construction of certain structures in coastal areas without first conducting a sea level impact projection study and having such study published and approved by the Department of Environmental Protection; requiring the department to develop by rule standards for such studies; providing for enforcement; requiring the department to publish such studies on its website, subject to certain conditions, etc. Effective Date: 7/1/2019
3/14/2019 SENATE Now in Infrastructure and Security
- HB 85** **Onsite Sewage Treatment and Disposal Systems** Robinson
Onsite Sewage Treatment and Disposal Systems: Directs DOH to identify certain information for onsite sewage treatment & disposal systems, update database of such systems, & submit report to Governor & Legislature; requires periodic inspection of such systems; directs DOH to administer onsite sewage treatment & disposal system inspection program & adopt rules; provides inspection requirements; provides exceptions; requires owners to pay costs of inspections & pump-outs; requires that inspections & pump-outs be performed by certain registered contractors; provides notice requirements; requires system disclosure summary for certain properties & acknowledgement of such disclosures by purchaser before or at execution of contract for sale. Effective Date: October 1, 2019
1/3/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee
- HB 87** **Registration and Titling of Vehicles and Vessels** Ponder
Registration and Titling of Vehicles and Vessels: Revises registration periods for certain vehicles; requires DHSMV to develop methodology to prorate registration renewals for customers & implement changes made by act; provides limitation; authorizes surviving spouse of motor vehicle owner to present certain death records when requesting registration certificate & license plate transfer; authorizes new owner or surviving coowner of vessel to submit certain death records when applying for transfer of title. Effective Date: July 1, 2019
3/14/2019 HOUSE Placed on Special Order Calendar, 03/20/19
- HB 89** **Verification of Employment Eligibility** Altman
Verification of Employment Eligibility: Requires employers to register with & use E-Verify system to verify employment eligibility of new employees; suspends employer licenses until registration with E-Verify system; provides for license reinstatement; prohibits employer from knowingly employing unauthorized alien; authorizes complaint to be filed with DEO; provides specified immunity; requires DEO to maintain public database containing certain information & make such information available on its website; authorizes injunctive relief; provides private cause of action & remedies; requires public employers, contractors, & subcontractors to register with & use E-Verify system for specified purposes; prohibits such entities from entering into contract unless each party to contract registers with & uses E-Verify system; authorizes termination of contract; authorizes challenge to such termination. Effective Date: July 1, 2019
1/3/2019 HOUSE Now in Workforce Development & Tourism Subcommittee
- SB 92** **C-51 Reservoir Project** Book
C-51 Reservoir Project; Revising the portions of the C-51 reservoir project for which the South Florida Water Management District may negotiate; revising water storage and use requirements specified for the project if state funds are appropriated for the project; specifying that Phase II of the project may be funded by appropriation, in addition to other sources, etc. Effective Date: 7/1/2019
2/22/2019 SENATE Now in Appropriations
- HB 95** **C-51 Reservoir Project** Jacobs
C-51 Reservoir Project: Revises portions of C-51 reservoir project for which South Florida Water Management District may negotiate; revises water storage & use requirements for project; specifies funding sources for Phase II of project; authorizes district to enter into certain agreements & request waiver for certain loan repayment; authorizes DEP to waive loan repayment under certain conditions. Effective Date: July 1, 2019

- HB 99** **Shark Fins and Ray Parts** Jacobs
Shark Fins and Ray Parts: Prohibits certain possession of shark fins & ray parts; provides exceptions; directs FWCC to adopt specified rules; provides & revises penalties. Effective Date: July 1, 2019
1/3/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee
- SB 134** **Florida Black Bears** Stewart
Florida Black Bears; Creating the "Florida Black Bear Protection Act"; prohibiting the Fish and Wildlife Conservation Commission from allowing the recreational hunting of Florida black bears mothering cubs that weigh less than 100 pounds under a Florida black bear hunting permit; specifying a penalty for the unlawful harvesting of saw palmetto berries on state lands; prohibiting prescribed burns in certain designated habitats during specified times, etc. Effective Date: 7/1/2019
1/10/2019 SENATE Referred to Environment and Natural Resources; Agriculture; Criminal Justice; Rules
- HB 141** **Water Quality Improvements** Fine
Water Quality Improvements: Authorizes DEP to provide grants for certain projects identified in Indian River Lagoon Comprehensive Conservation & Management Plan; directs DEP to submit annual report regarding projects to Governor & Legislature; requires local governments to submit annual reports regarding projects to DEP & water management districts; requires wastewater facilities permitted under National Pollutant Discharge Elimination System program that unlawfully discharge certain amount of raw or partially treated sewage to provide written notification; provides penalties; provides for such facilities to make certain upgrades & repairs. Effective Date: July 1, 2019
3/15/2019 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee
- SB 146** **Advanced Well Stimulation Treatment** Stewart
Advanced Well Stimulation Treatment; Defining the term "advanced well stimulation treatment"; prohibiting the performance of advanced well stimulation treatments; clarifying that permits for drilling or operating a well do not authorize the performance of advanced well stimulation treatments, etc. Effective Date: Upon becoming a law
1/10/2019 SENATE Referred to Environment and Natural Resources; Innovation, Industry, and Technology; Appropriations
- SB 164** **Verification of Employment Eligibility** Bean
Verification of Employment Eligibility; Requiring employers to register with and use the E-Verify system beginning on a specified date to verify the employment eligibility of new employees; requiring the Department of Economic Opportunity to order certain agencies to suspend an employer's license under certain circumstances; prohibiting the department from independently making a final determination regarding whether an employee is an unauthorized alien; requiring public employers, contractors, and subcontractors to register with and use the E-Verify system, etc. Effective Date: 7/1/2019
1/10/2019 SENATE Referred to Judiciary; Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations
- HB 169** **Public Financing of Construction Projects** Fernández
Public Financing of Construction Projects: Prohibits state-financed constructors from commencing construction of certain structures in coastal areas without first conducting sea level impact projection study & having such study published & approved by DEP; requires department to develop by rule standards for such studies; provides for enforcement; requires department to publish such studies on its website; requires department to enforce certain requirements & to adopt rules. Effective Date: July 1, 2019
1/16/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee
- SB 216** **Water Quality Improvements** Gruters
Water Quality Improvements; Requiring each wastewater facility that unlawfully discharges specified volumes of sewage into a waterway or aquifer to notify certain customers by first class mail within a specified timeframe; providing penalties for wastewater treatment facilities that unlawfully discharge a specified volume of sewage into designated areas, etc. Effective Date: 7/1/2019
3/14/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government
- SB 234** **Registration and Titling of Vehicles and Vessels** Baxley
Registration and Titling of Vehicles and Vessels; Revising registration periods for certain vehicles; requiring the Department of Highway Safety and Motor Vehicles to prorate registration renewals for customers in order to implement changes made by the act; authorizing the department or its agent to verify necessary information through the electronic file of death records maintained by the Department of Health for a surviving spouse of a motor vehicle owner when requesting a registration certificate and license plate transfer, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2019
3/13/2019 SENATE Now in Appropriations
- HB 239** **Advanced Well Stimulation Treatment** Fitzenhagen
Advanced Well Stimulation Treatment: Prohibits performance of advanced well stimulation treatments; provides that permits for drilling or operating wells do not authorize performance of advanced well treatments; provides applicability. Effective Date: upon becoming a law
1/23/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee

<u>HB 249</u>	Repeal of Constitution Revision Commission	Drake
	Repeal of Constitution Revision Commission: Proposes amendments to State Constitution to repeal establishment, membership selection & composition, & duties of Constitution Revision Commission. 3/15/2019 HOUSE Now in Judiciary Committee	
<u>HB 251</u>	Constitution Revision Commission	Drake
	Constitution Revision Commission: Repeals references to Constitution Revision Commission, powers of chair, & assistance by state & local agencies. Effective Date: the effective date of the amendment to the State Constitution proposed by HJR 249 or a similar joint resolution having substantially the same specific intent and purpose 3/14/2019 HOUSE Now in Judiciary Committee	
<u>HB 291</u>	Growth Management	McClain
	Growth Management: Requires comprehensive plan to include property rights element; provides statement of rights that local government may use; requires local government to adopt property rights element by specified date; provides that local government's property rights element may not conflict with statutorily provided statement rights. Effective Date: July 1, 2019 2/21/2019 HOUSE Now in Commerce Committee	
<u>HB 309</u>	Railroad-Highway Grade Crossings	Duggan
	Railroad-Highway Grade Crossings: Prohibits railroad train from blocking public highway, street, or road at railroad-highway grade crossing for more than specified time period; provides exceptions; provides civil penalties; exempts certain persons from liability for violations. Effective Date: July 1, 2019 1/23/2019 HOUSE Now in Transportation & Infrastructure Subcommittee	
<u>SB 314</u>	Advanced Well Stimulation Treatment	Montford
	Advanced Well Stimulation Treatment; Defining the terms "high-pressure well stimulation" and "matrix acidization"; prohibiting the performance of high-pressure well stimulation treatments or matrix acidization; clarifying that permits for drilling or operating a well do not authorize the performance of high-pressure well stimulation treatments or matrix acidization; requiring the Department of Environmental Protection to conduct a study on high-pressure well stimulation and matrix acidization, etc. Effective Date: Upon becoming a law 2/15/2019 SENATE Now in Innovation, Industry, and Technology	
<u>SB 320</u>	Residential Conservation Programs	Hooper
	Residential Conservation Programs; Authorizing the Fish and Wildlife Conservation Commission to organize, staff, equip, and operate residential conservation programs for a specified purpose, etc. Effective Date: 7/1/2019 3/13/2019 SENATE Now in Appropriations	
<u>HB 331</u>	Nontransferable Tickets	Rodriguez (AM)
	Nontransferable Tickets: Requires ticket issuers to offer option for transferable tickets; prohibits discrimination against holders of such tickets; provides civil penalties. Effective Date: July 1, 2019 2/28/2019 HOUSE Withdrawn prior to introduction	
<u>SB 336</u>	Local Tax Referenda	Brandes
	Local Tax Referenda; Providing that a referendum to adopt or amend a local discretionary sales surtax must be held at a general election, etc. Effective Date: Upon becoming a law 3/15/2019 SENATE On Committee agenda - Finance and Tax, 03/20/19, 1:30 pm, 401 S	
<u>HB 347</u>	Towing-storage Operator Liens	Rodriguez (AM)
	Towing-storage Operator Liens: Requires certain lien notices be sent through third-party mailing service; requires third-party mailing services to apply to DHSMV; requires department to approve application if certain conditions are met; authorizes department to deny, suspend, or revoke its approval; requires third-party mailing service to maintain certain records for specified period & allow inspection of such records by department. Effective Date: July 1, 2019 3/15/2019 HOUSE On Committee agenda - Transportation & Infrastructure Subcommittee, 03/19/19, 12:00 pm, 102 H	
<u>SB 352</u>	Shark Fins and Ray Parts	Gruters
	Shark Fins And Ray Parts; Prohibiting the possession, sale or offer to sell, purchase or offer to purchase, or distribution of shark fins and ray parts, instead of only the possession of separated shark fins, under specified circumstances, etc. Effective Date: 10/1/2019 1/25/2019 SENATE Referred to Environment and Natural Resources; Criminal Justice; Rules	
<u>SB 362</u>	Abolishing the Constitution Revision Commission	Brandes
	Abolishing the Constitution Revision Commission; Proposing amendments to the State Constitution to abolish the Constitution Revision Commission, etc. 2/19/2019 SENATE Now in Rules	
<u>SB 368</u>	Land Acquisition Trust Fund	Harrell
	Land Acquisition Trust Fund; Providing an appropriation for certain projects related to the Indian River Lagoon Comprehensive Conservation and Management Plan; authorizing the Department of Environmental Protection to make grants for such projects, etc. Effective Date: 7/1/2019	

- SB 376** **Land Acquisition Trust Fund** Montford
Land Acquisition Trust Fund; Requiring that certain funds distributed into the Land Acquisition Trust Fund be used for conservation and management projects in certain counties; providing the types of projects for which the Department of Environmental Protection may use such funds; authorizing the department to distribute such funds to the appropriate agency, etc. Effective Date: 7/1/2019
3/7/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government
- HB 377** **Residential Conservation Programs** Stone
Residential Conservation Programs: Authorizes FWCC to organize & operate certain conservation education & training programs; provides for implementation of programs. Effective Date: July 1, 2019
3/6/2019 HOUSE Now in State Affairs Committee
- HB 389** **Notice of Tobacco Smoking Policy on Rental Premises** Goff-Marcil
Notice of Tobacco Smoking Policy on Rental Premises: Requires certain persons to provide written notice of tobacco smoking policy to tenant or potential tenant that includes certain information before entering into rental agreement; requires such persons to obtain written acknowledgment of receipt of notice before entering into rental agreement. Effective Date: July 1, 2019
1/30/2019 HOUSE Now in Civil Justice Subcommittee
- HB 393** **Employment Practices** Joseph
Employment Practices: Requires employer to allow certain employees to take paid family leave for certain purposes; specifies limitations & duties related to employer's administration of family leave; provides family leave requirements; provides responsibilities and powers of DEO; provides penalties; authorizes civil action; authorizes award of specified compensation, damages, & fees; provides protections for employee who acts in good faith; prohibits employee from taking certain actions in bad faith; authorizes department to adopt rules; prohibits specified employment practices; provides certain rights for employee who is disabled from pregnancy, childbirth, or related medical condition; reenacts & revises provisions relating to administrative & civil remedies for violations of Florida Civil Rights Act of 1992. Effective Date: July 1, 2019
1/30/2019 HOUSE Now in Business & Professions Subcommittee
- HB 399** **Millage Notices** DiCeglie
Millage Notices: Authorizes property appraiser to make proposed property tax & non-ad valorem assessment notices available on website in lieu of mailing notices; requires property appraiser to hold public hearing before posting notices; specifies items included on property appraiser's website; requires property appraiser to mail notice containing specified information for specified timeframe after implementing web-based noticing system; specifies items that must be included on website to inform new property owners of their options for receiving notification of notices & their appeal rights; revises dates within which taxpayers may petition value adjustment board on valuation issues. Effective Date: July 1, 2019
2/13/2019 HOUSE Now in Ways & Means Committee
- SB 404** **Strategic Fuel Reserve** Farmer, Jr.
Strategic Fuel Reserve; Creating the Florida Strategic Fuel Reserve Task Force within the Division of Emergency Management to develop a recommended strategic fuel reserve plan for an emergency or disaster, etc. Effective Date: 7/1/2019
2/20/2019 SENATE Now in Governmental Oversight and Accountability
- HB 405** **Biosolids Management** Grall
Biosolids Management: Directs DEP to initiate rulemaking by specified date & to adopt rules for biosolids management; provides rule requirements. Effective Date: July 1, 2019
3/15/2019 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee
- HB 417** **Workplace Sexual Harassment** Eskamani
Workplace Sexual Harassment: Requires Florida Commission on Human Relations to create & publish model sexual harassment prevention policy & model sexual harassment prevention training program; requires employers to use model policy & program. Effective Date: January 1, 2020
1/30/2019 HOUSE Now in Civil Justice Subcommittee
- HB 419** **Discrimination in Labor and Employment** Joseph
Discrimination in Labor and Employment: Prohibits employer from providing less favorable employment opportunities to employees based on sex, with exceptions; provides affirmative defense; provides civil penalties; provides exemption for minority business enterprises; prohibits employer from taking certain employment actions against employees; prohibits employer from engaging in certain activities relating to employee wages & benefits or requiring employees to sign certain waivers & documents; authorizes employer to confirm wage or salary history under certain conditions. Effective Date: July 1, 2019
3/3/2019 HOUSE Withdrawn prior to introduction
- SB 428** **Growth Management** Perry
Growth Management; Requiring a local government's comprehensive plan to include a property rights element; providing a statement of rights that a local government may use; requiring each local government to adopt a property rights

element by a specified date, etc. Effective Date: 7/1/2019
2/1/2019 SENATE Referred to Community Affairs; Judiciary; Rules

- SB 430** **Prohibited Discrimination** Rouson
Prohibited Discrimination; Citing this act as the "Florida Competitive Workforce Act"; adding sexual orientation and gender identity as impermissible grounds for discrimination in public lodging establishments and public food service establishments; providing an exception for constitutionally protected free exercise of religion; revising the purposes of the Florida Civil Rights Act of 1992 to conform to changes made by the act; defining the terms "gender identity" and "sexual orientation", etc. Effective Date: 7/1/2019
2/1/2019 SENATE Referred to Governmental Oversight and Accountability; Judiciary; Rules
- SB 432** **Employment Conditions** Gruters
Employment Conditions; Prohibiting a political subdivision from establishing, mandating, or otherwise requiring an employer to offer conditions of employment not otherwise required by state or federal law; specifying that certain requirements related to minimum wage and other conditions of employment are expressly preempted to the state, etc. Effective Date: Upon becoming a law
3/12/2019 SENATE Now in Community Affairs
- SB 436** **Use of Vessel Registration Fees** Hooper
Use of Vessel Registration Fees; Authorizing a portion of county or municipal vessel registration fees to be used for specified additional purposes, etc. Effective Date: 7/1/2019
3/6/2019 SENATE Now in Environment and Natural Resources
- HB 437** **Community Development Districts** Buchanan
Community Development Districts: Specifies procedure for establishing & adding parcels to new community development districts; provides noticing & filing requirements; specifies that expansion of district's boundaries does not alter voting methods; authorizes use of existing procedures for adding parcels to community development districts. Effective Date: July 1, 2019
3/7/2019 HOUSE Now in Ways & Means Committee
- SB 438** **Prohibited Discrimination** Gruters
Prohibited Discrimination; Citing this act as the "Florida Inclusive Workforce Act"; revising the purposes of the Florida Civil Rights Act of 1992 to conform to changes made by the act; revising provisions regarding remedies for unlawful discrimination to include discrimination based on sexual orientation and gender identity in the area of employment, to conform to changes made by the act; adding sexual orientation and gender identity as impermissible grounds for discrimination with respect to specified unlawful employment practices, etc. Effective Date: 7/1/2019
2/1/2019 SENATE Referred to Governmental Oversight and Accountability; Judiciary; Rules
- HB 443** **Assessment of Property** Rodriguez (Ant)
Assessment of Property: Authorizes local governments to enter into agreements with certain property owners to record specified restrictive covenants over their properties related to affordable housing; authorizes such covenants to contain resale restrictions & to be changed & updated; requires property owners to consider such restrictive covenants in arriving at just value of such properties; specifies that such restrictive covenants & changes & updates to & resale restrictions in covenants are deemed land use regulation; revises requirements that allow property appraisers to exempt certain property from tangible personal property tax. Effective Date: July 1, 2019
3/12/2019 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 03/15/19, 1:30 pm, 117 K (No Votes Will Be Taken)
- SB 474** **Discrimination in Labor and Employment** Stewart
Discrimination in Labor and Employment; Creating the "Senator Helen Gordon Davis Fair Pay Protection Act"; prohibiting an employer from providing less favorable employment opportunities to employees based on their sex; prohibiting an employer from taking certain employment actions against employees; prohibiting an employer from engaging in certain activities relating to wages and benefits, etc. Effective Date: 7/1/2019
2/8/2019 SENATE Referred to Commerce and Tourism; Judiciary; Rules
- HB 475** **Certificates of Title for Vessels** Williamson
Certificates of Title for Vessels: Revises & provides requirements for application for and issuance of certificate of title for vessel; revises & provides duties of DHSMV related to issuance, renewal, replacement, or cancellation of certificate; revises & provides requirements for transferring ownership interest; specifies that certain information is public record; provides requirements related to security interest in vessel; provides for rights of vessel purchasers; provides for repeal of certain provisions on specified dates; provides that principles & law of equity supplement provisions of act; authorizes DHSMV to adopt rules; provides construction & applicability regarding transactions, certificates of title, & records entered into or created, actions or proceedings commenced, & security interests perfected before effective date of act. Effective Date: July 1, 2022
3/15/2019 HOUSE On Committee agenda - Transportation & Tourism Appropriations Subcommittee, 03/19/19, 8:00 am, 102 H
- HB 485** **Prohibited Discrimination** Webb
Prohibited Discrimination: Provides that sexual orientation & gender identity are impermissible grounds for discrimination in public lodging establishments & public food service establishments; revises provisions of Florida Civil Rights Act of

1992 & Fair Housing Act to include sexual orientation & gender identity; provides exception for constitutionally protected free exercise of religion. Effective Date: July 1, 2019
1/30/2019 HOUSE Now in Civil Justice Subcommittee

- HB 493** **Social Media Accounts Privacy** Hart
Social Media Accounts Privacy: Prohibits employer from requesting or requiring access to social media account of employee or prospective employee; prohibits employer from taking retaliatory personnel action against employee or failing or refusing to hire prospective employee as result of employee's refusal to allow access to his or her social media account; provides for civil action; requires that civil action be brought within specified timeframe; provides for fees & costs. Effective Date: October 1, 2019
1/30/2019 HOUSE Now in Workforce Development & Tourism Subcommittee
- HB 497** **Sanitary Sewer Laterals** Webb
Sanitary Sewer Laterals: Defines "sanitary sewer lateral"; requires districts to notify homeowners if they discover leaky sanitary sewer lateral on homeowner's property; specifies that homeowner is not required to take action; requires districts to notify specified homeowners for past discoveries of leaky sanitary sewer laterals; requires certain districts to create publicly accessible databases for certain purposes; provides that certain districts are not liable for failure to maintain records of notifications. Effective Date: July 1, 2019
1/30/2019 HOUSE Now in Local, Federal & Veterans Affairs Subcommittee
- HB 507** **Annual Business Organization Reports and Fees** Hage
Annual Business Organization Reports and Fees: Authorizes domestic & foreign limited liability companies, corporations, corporations not for profit, limited partnerships, & limited liability corporations to submit biennial reports to DOS; establishes biennial report filing fee & biennial supplemental corporate fee; authorizes DOS to escrow amount necessary to annualize revenues collected from biennial report filing fees & biennial supplemental corporate fees. Effective Date: July 1, 2019
1/30/2019 HOUSE Now in Business & Professions Subcommittee
- HB 517** **Minimum Wage** Jacquet
Minimum Wage: Revises formula for adjusted state minimum wage. Effective Date: July 1, 2019
1/30/2019 HOUSE Now in Workforce Development & Tourism Subcommittee
- HB 521** **Wetland Mitigation** McClure
Wetland Mitigation: Authorizes local government to allow certain permittee-responsible mitigation on lands purchased & owned by local government for conservation purposes; provides exception to provisions prohibiting governmental entity from creating or providing mitigation for project other than its own unless certain conditions are met. Effective Date: July 1, 2019
3/15/2019 HOUSE Now in State Affairs Committee
- HB 529** **Use of Vessel Registration Fees** Mariano
Use of Vessel Registration Fees: Authorizes portion of county or municipal vessel registration fees to be used for specified purposes. Effective Date: July 1, 2019
3/12/2019 HOUSE Now in State Affairs Committee
- SB 532** **Wetland Mitigation** Lee
Wetland Mitigation; Revising the conditions under which a governmental entity may create or provide mitigation for a project other than its own under certain circumstances, etc. Effective Date: 7/1/2019
3/14/2019 SENATE On Committee agenda - Appropriations Subcommittee on Agriculture, Environment and General Government, 03/19/19, 10:00 am, 110 S
- HB 555** **Land Acquisition Trust Fund** Drake
Land Acquisition Trust Fund: Requires that certain funds distributed into Land Acquisition Trust Fund be used for conservation & management projects in certain counties; provides types of projects for which DEP may use such funds. Effective Date: July 1, 2019
2/6/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee
- SB 564** **Truth In Millage Notices** Hooper
Truth In Millage Notices; Authorizing property appraisers to make notices of proposed property taxes available on their websites in lieu of mailing the notices; authorizing property appraisers to use electronic technology and devices for certain formatting purposes; revising timeframes for filing petitions with the value adjustment board as to valuation issues, etc. Effective Date: 7/1/2019
2/8/2019 SENATE Referred to Community Affairs; Finance and Tax; Appropriations
- SB 568** **Assessment of Property** Diaz
Assessment of Property; Authorizing counties and municipalities to enter into agreements with property owners to record certain restrictive covenants running with the land; authorizing property owners and the county or municipality to amend the covenant under certain circumstances; providing requirements for counties and municipalities in recording covenants and in providing property appraisers with a list of agreements, etc. Effective Date: 7/1/2019
3/14/2019 SENATE Now in Finance and Tax

- HB 573** **Strategic Fuel Reserve** Casello
 Strategic Fuel Reserve: Creates Florida Strategic Fuel Reserve Task Force within DEM to develop strategic fuel reserve plan for emergencies or disasters; requires DEM to provide administrative & support services; specifies membership of task force; requires task force to elect chair & vice chair; requires task force to submit recommended plan to Governor & Legislature. Effective Date: July 1, 2019.
 2/6/2019 HOUSE Now in Transportation & Infrastructure Subcommittee
- SB 580** **Taxation of Aircraft Sales and Leases** Bean
 Taxation of Aircraft Sales and Leases; Decreasing the sales tax rate on aircraft sales and leases; decreasing the maximum applicable sales tax rate under the flyable aircraft partial sales tax exemption, etc. Effective Date: 7/1/2019
 3/12/2019 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 03/15/19, 1:30 pm, 117 K (No Votes Will Be Taken)
- SB 608** **Railroad-highway Grade Crossings** Bean
 Railroad-highway Grade Crossings; Prohibiting a railroad train from blocking a public highway, street, or road at a railroad-highway grade crossing for more than a specified time; exempting certain persons from liability for violations under certain circumstances, etc. Effective Date: 7/1/2019
 2/15/2019 SENATE Referred to Infrastructure and Security; Judiciary; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations
- SB 628** **Water Resources** Albritton
 Water Resources; Revising requirements for the Office of Economic and Demographic Research's annual assessment of this state's water resources and conservation lands; requiring the office to consult with the Department of Environmental Protection; requiring the assessment to be submitted to the Legislature by a specified date, etc. Effective Date: 7/1/2019
 2/15/2019 SENATE Referred to Environment and Natural Resources; Infrastructure and Security; Appropriations
- HB 641** **Community Development District Bond Financing** Andrade
 Community Development District Bond Financing: Requires district boards to authorize bonds by two-thirds majority vote. Effective Date: October 1, 2019
 3/12/2019 HOUSE Now in State Affairs Committee
- HB 645** **Disaster Recovery** Trumbull
 Disaster Recovery: Authorizes specified counties to levy discretionary sales surtax; authorizes political subdivisions to declare local emergency irrespective of number of political subdivisions it affects; revises number of days each state of emergency is effective; specifies conditions & areas in which certain counties or their authorized collectors may remove debris as result of declared local or state emergency. Effective Date: upon becoming a law
 2/21/2019 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 02/22/19, 1:30 pm, 117 K (No Votes Will Be Taken)
- SB 660** **Transportation** Brandes
 Transportation; Requiring the Department of Transportation to consist of a central office that establishes policies and procedures and districts that carry out projects as authorized or required under the policies and procedures of the central office; prohibiting the driver of any vehicle from following another vehicle more closely than is reasonable and prudent given certain circumstances; revising the number of times that certain persons may elect to attend a basic driver improvement course; providing requirements, beginning on a specified date, for license plates, cab cards, and validation stickers for vehicles registered in accordance with the International Registration Plan; directing the department to implement protocols for issuing an optional electronic credential and to procure a related technology system, etc. Effective Date: Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect October 1, 2019
 2/15/2019 SENATE Referred to Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations
- SB 676** **Certificates of Title for Vessels** Hooper
 Certificates of Title for Vessels; Designating the "Uniform Certificate of Title for Vessels Act"; revising requirements for application for, and information to be included in, a certificate of title for a vessel; requiring the Department of Highway Safety and Motor Vehicles to retain certain information relating to ownership and titling of vessels; providing duties of the department relating to creation, issuance, refusal to issue, or cancellation of a certificate of title; providing for the rights of a purchaser of a vessel who is not a secured party; providing rules for the transfer of ownership in a vessel, etc. Effective Date: 10/1/2019
 3/15/2019 SENATE On Committee agenda - Infrastructure and Security, 03/20/19, 4:00 pm, 110 S
- SB 690** **Single Subject Limitation for Taxation and Budget Reform Commission** Rodriguez (J)
 Single Subject Limitation for Taxation and Budget Reform Commission; Proposing an amendment to the State Constitution to require that any proposals to revise the State Constitution, or any part thereof, filed by the Taxation and Budget Reform Commission be limited to a single subject, etc.
 3/12/2019 SENATE Now in Rules
- SB 692** **Employment Practices** Cruz
 Employment Practices; Creating the "Florida Family Leave Act"; requiring an employer to allow certain employees to take paid family leave to bond with a new child upon the child's birth, adoption, or foster care placement; requiring that family

leave be taken concurrently with any leave taken pursuant to federal family and medical leave provisions; requiring an employer to provide notice to employees of the right to paid family leave, etc. Effective Date: 7/1/2019

2/15/2019 SENATE Referred to Commerce and Tourism; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

HB 707

Drug-free Workplaces

DiCeglie

Drug-free Workplaces: Revises contents of employer policy statement with respect to employee drug use; revises frequency of followup testing; revises specimen collection, verification, & documentation procedures; revises requirements for confirmation testing. Effective Date: July 1, 2019

2/13/2019 HOUSE Now in Workforce Development & Tourism Subcommittee

SB 708

Sale of Sunscreen

Stewart

Sale of Sunscreen; Prohibiting the sale, offer for sale, or distribution of certain sunscreen products to a consumer who does not have a prescription for such product, etc. Effective Date: 7/1/2019

2/15/2019 SENATE Referred to Environment and Natural Resources; Commerce and Tourism; Rules

SB 728

Growth Management

Lee

Growth Management; Authorizing sufficiently contiguous lands located within the county or municipality which a petitioner anticipates adding to the boundaries of a new community development district to also be identified in a petition to establish the new district under certain circumstances; providing requirements for the petition; providing notification requirements for the petition, etc. Effective Date: Upon becoming a law

3/13/2019 SENATE Now in Infrastructure and Security

SB 736

Nontransferable Tickets

Hutson

Nontransferable Tickets; Authorizing a ticket issuer to employ a nontransferable ticketing system only under specified circumstances; prohibiting a ticket buyer or seller from being penalized, discriminated against, or denied access to an event under certain circumstances, etc. Effective Date: 7/1/2019

2/15/2019 SENATE Referred to Innovation, Industry, and Technology; Judiciary; Rules

HB 757

Lakes and Lagoons

Massullo, Jr.

Lakes and Lagoons: Excludes manmade lakes & lagoons over certain size from definitions of terms "public swimming pool" & "swimming pool" for certain purposes. Effective Date: July 1, 2019

2/20/2019 HOUSE Now in Health Quality Subcommittee

SB 826

Towing-storage Operator Liens

Rouson

Towing-storage Operator Liens; Requiring that certain lien notices be sent through an electronic third-party mailing service; requiring electronic third-party mailing services to apply to the Department of Highway Safety and Motor Vehicles for approval; requiring an electronic third-party mailing service to maintain certain records for a specified timeframe and to allow inspection of such records by the department, etc. Effective Date: 7/1/2019

3/13/2019 SENATE On Committee agenda - Judiciary, 03/18/19, 4:00 pm, 110 S

HB 829

Attorney Fees and Costs

Sabatini

Attorney Fees and Costs: Provides that local governments may enact legislation on any subject unless expressly preempted to state; provides for award of attorney fees & costs in successful actions challenging local legislation as preempted to state; provides for withdrawal of motion for attorney fees if challenged legislation is withdrawn or corrected within specified period. Effective Date: July 1, 2019

2/20/2019 HOUSE Now in Civil Justice Subcommittee

HB 847

Preemption of Conditions of Employment

Rommel

Preemption of Conditions of Employment: Preempts to state the right to regulate conditions of employment by an employer; voids existing ordinance, regulation, or policy that is preempted by act. Effective Date: upon becoming a law

3/15/2019 HOUSE On Committee agenda - Workforce Development & Tourism Subcommittee, 03/19/19, 4:00 pm, 12 H

SB 866

Workplace Sexual Harassment and Sexual Assault

Berman

Workplace Sexual Harassment and Sexual Assault; Prohibiting an employer from requiring an employee to sign a nondisclosure agreement, waiver, or other document, as a condition of employment, to prevent the employee from disclosing sexual harassment or sexual assault; prohibiting an employer from discharging or retaliating against an employee for disclosing or discussing workplace sexual harassment or sexual assault, etc. Effective Date: 10/1/2019

2/19/2019 SENATE Referred to Commerce and Tourism; Judiciary; Rules

SB 890

Drug-free Workplaces

Baxley

Drug-free Workplaces; Revising the contents of an employer policy statement with respect to employee drug use; revising the frequency of followup testing; revising specimen collection, verification, and documentation procedures, etc. Effective Date: 7/1/2019

3/13/2019 SENATE On Committee agenda - Commerce and Tourism, 03/18/19, 1:30 pm, 110 S

SB 944

Land Acquisition Trust Fund

Stewart

Land Acquisition Trust Fund; Requiring a specified annual appropriation to the Florida Forever Trust Fund; prohibiting moneys from the Land Acquisition Trust Fund from being used for specified costs, etc. Effective Date: 7/1/2019

- SB 946** **Background Screening** Powell
Background Screening; Prohibiting employers from excluding applicants from an initial interview for employment under certain conditions; requiring the Department of Economic Opportunity to enforce the act, etc. Effective Date: 7/1/2019
2/19/2019 SENATE Referred to Commerce and Tourism; Governmental Oversight and Accountability; Appropriations
- HB 957** **Petroleum Restoration** Perez
Petroleum Restoration: Requires limited contamination assessment reports & Petroleum Cleanup Participation Program site rehabilitation agreements to include cost savings; removes requirements for demonstration & determination of copayment & assessment report requirements; requires advanced cleanup applications to include agreements for continued program participation & conceptual proposed courses of actions; removes provisions prohibiting refund of contamination assessment report costs from Inland Protection Trust Fund; requires selected agency term contractors to submit scopes of work for limited contamination assessments to DEP; directs DEP to issue purchase orders. Effective Date: July 1, 2019
2/28/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee
- SB 974** **Damaged, Dismantled, Derelict, or Salvage Motor Vehicles** Perry
Damaged, Dismantled, Derelict, or Salvage Motor Vehicles; Authorizing a certain notice sent by certified mail that a motor vehicle is available for pickup to be sent by another commercially available delivery service that provides proof of delivery; requiring the notice to state that the owner has a specified period during which to pick up the vehicle; authorizing an independent entity to apply for a certificate of destruction or a certificate of title if the vehicle is not claimed within a specified time after the delivery or attempted delivery of the notice, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2019
3/14/2019 SENATE Now in Appropriations Subcommittee on Transportation, Tourism, and Economic Development
- HB 1053** **Department of Highway Safety and Motor Vehicles** Brannan III
Department of Highway Safety and Motor Vehicles: Revises & provides requirements relating to compliance with federal commercial motor vehicle regulations, investigations & inspections by DHSMV, apportionable vehicles, the International Registration Plan, identification cards & driver licenses, motor vehicle dealer licensing, crash reports, electronic transactions, & truancy reporting. Effective Date: July 1, 2019
3/15/2019 HOUSE Now in Transportation & Tourism Appropriations Subcommittee
- SB 1054** **Community Redevelopment Agencies** Lee
Community Redevelopment Agencies; Prohibiting a person from lobbying a community redevelopment agency until he or she has registered as a lobbyist with that agency; authorizing an agency to establish an annual lobbyist registration fee, not to exceed a specified amount; requiring ethics training for community redevelopment agency commissioners; revising the list of projects that are prohibited from being financed by increment revenues; specifying the level of tax increment financing that a governing body may establish for funding the redevelopment trust fund, etc. Effective Date: 7/1/2019
2/22/2019 SENATE Referred to Community Affairs; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations
- SB 1056** **Florida Disaster Resilience Task Force** Rodriguez (J)
Florida Disaster Resilience Task Force; Establishing the task force adjunct to the Department of Environmental Protection; providing the purpose and membership of the task force; requiring the appointees to be experts from specified subject areas, etc. Effective Date: 7/1/2019
2/22/2019 SENATE Referred to Environment and Natural Resources; Innovation, Industry, and Technology; Rules
- HB 1121** **Citizen Support Organizations** Altman
Citizen Support Organizations: Requires that contracts between DEP & citizen support organization include specified provision; requires DEP to submit report to Legislature; abrogates scheduled repeal of provisions governing DEP & FWCC citizen support organizations; authorizes court to order persons convicted of certain violations to pay additional assessment; authorizes specified citizen support organization to post certain rewards. Effective Date: July 1, 2019
3/13/2019 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee
- HB 1135** **Florida Red Tide Mitigation and Technology Development Initiative** Grant (M)
Florida Red Tide Mitigation and Technology Development Initiative: Establishes Florida Red Tide Mitigation & Technology Development Initiative; provides purpose & goal of initiative; provides for funding; requires initiative to submit annual report; establishes Initiative Technology Advisory Council; provides for meetings, membership, terms of office, & compensation of council; provides for expiration of initiative; provides appropriations. Effective Date: July 1, 2019
3/4/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee
- SB 1140** **Attorney Fees and Costs** Hutson
Attorney Fees and Costs; Waiving the sovereign immunity of local governments for liability for certain attorney fees and costs; providing for award of attorney fees and costs and damages in successful civil actions challenging local ordinances as being preempted by the State Constitution or state law; prohibiting an award of attorney fees and costs under certain circumstances, etc. Effective Date: 7/1/2019
3/13/2019 SENATE On Committee agenda - Judiciary, 03/18/19, 4:00 pm, 110 S

- SB 1148** **Vehicles for Rent or Lease** Perry
 Vehicles for Rent or Lease; Authorizing an electronic copy of certain rental or lease documentation to be in the possession of the vehicle operator or carried in the vehicle and to be exhibited upon demand of any authorized law enforcement officer or any agent of the Department of Highway Safety and Motor Vehicles; prohibiting a person from renting a motor vehicle to another person unless he or she has verified that the renter's driver license is unexpired, etc. Effective Date: 7/1/2019
 3/15/2019 SENATE On Committee agenda - Infrastructure and Security, 03/20/19, 4:00 pm, 110 S
- HB 1149** **Workforce Retention** Hattersley
 Workforce Retention: Requires employers intending to relocate out of state or cease operation to notify DBPR; provides penalty; requires DBPR to compile list of employers that relocate or cease operation; provides that such employers are ineligible for certain benefits for specified period; requires employers to remit certain funds to DBPR; requires each state agency head to ensure certain services are performed by state contractors within state. Effective Date: 240 days after becoming a law
 3/4/2019 HOUSE Now in Workforce Development & Tourism Subcommittee
- SB 1150** **Wildlife Protection** Pizzo
 Wildlife Protection; Prohibiting the import, sale, purchase, and distribution of ivory articles and rhinoceros horns; providing that it is unlawful to take, possess, injure, shoot, collect, or sell Florida black bears; providing that the illegal taking, possession, injuring, shooting, collecting, or selling of Florida black bears is a Level Four violation, which is subject to criminal and civil penalties, etc. Effective Date: 7/1/2019
 2/28/2019 SENATE Referred to Environment and Natural Resources; Criminal Justice; Rules
- HB 1199** **Water Resources** Jacobs
 Water Resources: Revises requirements for Office of Economic & Demographic Research's annual assessment of this state's water resources & conservation lands; requires office to consult with DEP; requires assessment to be submitted to Legislature by specified date. Effective Date: July 1, 2019
 3/8/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee
- HB 1221** **Anchored Vessels** Polsky
 Anchored Vessels: Directs FWCC to conduct study of impacts of long-term stored vessels on local communities & state & to submit report to Governor & Legislature; revises distribution of vessel registration fees to provide grants for derelict vessel removal; authorizes commission to use certain funds to remove, or pay private contractors to remove, derelict vessels; prohibits residing or dwelling on certain derelict vessels until certain conditions are met. Effective Date: July 1, 2019
 3/15/2019 HOUSE On Committee agenda - Agriculture & Natural Resources Subcommittee, 03/19/19, 12:00 pm, 12 H
- HB 1237** **Towing and Immobilizing of Vehicles and Vessels** McClain
 Towing and Immobilizing of Vehicles and Vessels: Authorizes local governments to enact rates to tow or immobilize vessels on private property & to remove & store vessels; prohibits local governments from enacting ordinances that impose charges on authorized wrecker operators or towing businesses; prohibits local governments from imposing charges on specified entities; authorizes certain persons to place liens on vehicles or vessels; requires persons who immobilize vehicles to be licensed; provides procedures for licensing; specifying prohibited activities and insurance coverages. Effective Date: July 1, 2019
 3/15/2019 HOUSE On Committee agenda - Local, Federal & Veterans Affairs Subcommittee, 03/19/19, 8:00 am, 12 H
- HB 1269** **Vehicle and Vessel Registration Data** Fernandez-Barquin
 Vehicle and Vessel Registration Data: Requires DHSMV to provide tax collectors & their agents with real-time access to certain vehicle & vessel registration data in same manner as provided to other third parties. Effective Date: July 1, 2019
 3/8/2019 HOUSE Now in Transportation & Infrastructure Subcommittee
- HB 1273** **Legislative Preemption** Goff-Marcil
 Legislative Preemption: Proposes s. 22 of Art. III of State Constitution to require supermajority of each house to approve general law preempting subject of legislation to state. Effective Date: Not Specified
 3/8/2019 HOUSE Now in Local, Federal & Veterans Affairs Subcommittee
- HB 1279** **Prohibited Discrimination** Fernández
 Prohibited Discrimination: Defines terms "gender identity" & "sexual orientation"; revises functions of Florida Commission on Human Relations; revises provisions regarding remedies for unlawful discrimination to include discrimination based on sexual orientation & gender identity in area of employment; adds sexual orientation & gender identity as impermissible grounds for discrimination with respect to specified unlawful employment practices; provides exception to specified provisions for constitutionally protected free exercise of religion. Effective Date: July 1, 2019
 3/8/2019 HOUSE Now in Civil Justice Subcommittee
- HB 1285** **Heat Illness Prevention** Smith (C)
 Heat Illness Prevention: Requires certain employers to provide drinking water, shade, & annual training to certain employees & supervisors; requires DACS to adopt rules. Effective Date: October 1, 2019

- HB 1291** **State Renewable Energy Goals** Eskamani
State Renewable Energy Goals: Directs Office of Energy within DACS to develop unified statewide plan to generate state's energy from renewable sources by specified dates; requires state & public entities to cooperate as requested; provides plan requirements; requires office to submit plan & updates to Governor & Legislature. Effective Date: July 1, 2019
3/8/2019 HOUSE Now in Energy & Utilities Subcommittee
- HB 1319** **Vessels** Diamond
Vessels: Requires vessel operators to reduce speed in specified hazardous situations; revises criteria for at-risk vessel determinations; requires that such vessels be moved after certain notice; provides penalties for failure to present certificate of title showing proper transfer of vessel ownership; revises civil penalties relating to certain at-risk vessels & prohibited anchoring or mooring; provides civil penalties for vessels creating special hazards. Effective Date: July 1, 2019
3/15/2019 HOUSE On Committee agenda - Agriculture & Natural Resources Subcommittee, 03/19/19, 12:00 pm, 12 H
- SB 1352** **Minimum Wage** Rodriguez (J)
Minimum Wage; Revising the formula for the adjusted state minimum wage; reducing over time the amount of tip credit an employer may claim; prohibiting an employer from claiming a tip credit beginning on a specified date, etc. Effective Date: 7/1/2019
3/4/2019 SENATE Referred to Commerce and Tourism; Innovation, Industry, and Technology; Rules
- SB 1404** **Fuel Taxes** Mayfield
Fuel Taxes; Requiring a specified percentage of certain state motor and diesel fuel taxes to be transferred to the Florida Forever Trust Fund; authorizing county and municipal governments to use certain local option motor and diesel fuel taxes to build, operate, and maintain stormwater systems, etc. Effective Date: 7/1/2019
2/26/2019 SENATE Withdrawn prior to introduction
- SB 1474** **Workforce Retention** Torres, Jr.
Workforce Retention; Citing this act as the "Florida Jobs Retention Act of 2019"; requiring certain employers that intend to relocate out of state or cease operation to notify the Department of Business and Professional Regulation within a specified period; requiring the department to compile a semiannual list of employers that relocate out of state or cease operation; providing that such employers are ineligible for state grants, loans, or tax benefits for a specified period, etc. Effective Date: 240 days after becoming a law
3/8/2019 SENATE Referred to Commerce and Tourism; Judiciary; Appropriations
- SB 1482** **Department of Highway Safety and Motor Vehicles** Stargel
The Department Of Highway Safety And Motor Vehicles; Authorizing the Department of Highway Safety and Motor Vehicles or its authorized agents to collect electronic mail addresses and use electronic mail for certain purposes; limiting the applications the department may accept by electronic or telephonic means; authorizing the department, instead of the Fish and Wildlife Conservation Commission, to accept certain applications by electronic or telephonic means, etc. Effective Date: 7/1/2019
3/8/2019 SENATE Referred to Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations
- SB 1502** **Department of Environmental Protection** Bradley
Department of Environmental Protection; Transferring and reassigning functions and responsibilities of the Division of Law Enforcement relating to investigators of environmental crimes within the Fish and Wildlife Conservation Commission to the Division of Law Enforcement of the Department of Environmental Protection; providing requirements for a memorandum of agreement between the department and the commission regarding the responsibilities of the department and the commission; establishing the Division of Law Enforcement within the department, etc. Effective Date: 7/1/2019
3/8/2019 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations
- SB 1530** **Vessels** Rouson
Vessels; Requiring vessel operators to reduce speed in specified hazardous situations; revising criteria for determining that a vessel is at risk of becoming derelict; providing criminal penalties for failure to present a certificate of title showing proper transfer of vessel ownership; revising civil penalties relating to certain at-risk vessels and prohibited anchoring or mooring, etc. Effective Date: 7/1/2019
3/8/2019 SENATE Referred to Environment and Natural Resources; Criminal Justice; Rules
- SB 1538** **Heat Illness Prevention** Torres, Jr.
Heat Illness Prevention; Providing applicability; providing definitions; providing responsibilities of certain employers and employees; requiring the Department of Agriculture and Consumer Services to adopt rules, etc. Effective Date: 10/1/2019
3/8/2019 SENATE Referred to Health Policy; Governmental Oversight and Accountability; Rules
- SB 1552** **Florida Red Tide Mitigation and Technology Development Initiative** Gruters
Florida Red Tide Mitigation and Technology Development Initiative; Establishing the Florida Red Tide Mitigation and

Technology Development Initiative; requiring the initiative to submit an annual 8 report by a specified date to the Governor, the Legislature, the Secretary of Environmental Protection, and the executive director of the Fish and Wildlife Conservation Commission; establishing the Initiative Technology Advisory Council, etc. APPROPRIATION: Indeterminate
Effective Date: 7/1/2019

3/15/2019 SENATE On Committee agenda - Environment and Natural Resources, 03/20/19, 4:00 pm, 37 S

- SB 1554** **Regulation of Oil and Gas Resources** Rodriguez (J)
Regulation of Oil and Gas Resources; Prohibiting the Division of Resource Management within the Department of Environmental Protection from granting permits for a gas or oil well within the Everglades Protection Area; prohibiting the department from issuing a permit for a structure intended for the drilling for, or production of, oil, gas, or other petroleum products within the Everglades Protection Area, etc. Effective Date: Upon becoming a law
3/8/2019 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations
- SB 1564** **Petroleum Cleanup** Albritton
Petroleum Cleanup; Revising requirements for a limited contamination assessment report in which a property owner, operator, or person otherwise responsible for site rehabilitation must provide to the Department of Environmental Protection for the Petroleum Cleanup Participation Program; revising the contents of an advanced cleanup application to include a specified property owner or responsible party agreement, etc. Effective Date: 7/1/2019
3/8/2019 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations
- SB 1580** **Workplace Sexual Harassment** Book
Workplace Sexual Harassment; Requiring the Florida Commission on Human Relations to create and publish a model sexual harassment prevention guidance document and sexual harassment prevention policy; requiring employers to adopt the model policy or one that equals or exceeds it; requiring the commission to produce a model sexual harassment prevention training program, etc. Effective Date: 1/1/2020
3/8/2019 SENATE Referred to Commerce and Tourism; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations
- SB 1614** **Lakes and Lagoons** Baxley
Lakes and Lagoons; Excluding manmade lakes and lagoons over a certain size from the definitions of the terms "public swimming pool" and "swimming pool," respectively, for certain purposes, etc. Effective Date: 7/1/2019
3/13/2019 SENATE On Committee agenda - Health Policy, 03/18/19, 1:30 pm, 412 K
- SB 1666** **Anchoring and Mooring of Vessels Outside of Public Mooring Fields** Flores
Anchoring and Mooring of Vessels Outside of Public Mooring Fields; Defining the terms "store" and "stored"; prohibiting the owner, operator, or person in charge of a vessel from anchoring or mooring outside of public mooring fields for longer than a specified period of time; requiring the relocation or removal from the water of vessels anchored or moored in violation of the prohibition; providing that such a violation is noncriminal and is punishable by a fine, etc. Effective Date: 7/1/2019
3/8/2019 SENATE Referred to Environment and Natural Resources; Community Affairs; Rules
- SB 1674** **Registration Data** Diaz
Registration Data; Requiring that the Department of Highway Safety and Motor Vehicles provide tax collectors and their agents with real-time access to data that other third parties receive from the department related to registration of vehicles, mobile homes, and vessels, etc. Effective Date: 7/1/2019
3/8/2019 SENATE Referred to Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations
- SB 1698** **Legislative Preemption** Berman
Legislative Preemption; Proposing amendments to the State Constitution to require a supermajority vote of each house of the Legislature to enact a general law preempting a subject of legislation to the state, etc.
3/8/2019 SENATE Referred to Community Affairs; Judiciary; Rules
- SB 1758** **Water Quality Improvements** Mayfield
Water Quality Improvements; Citing this act as the "Clean Waterways Act"; transferring the onsite sewage program of the Department of Health to the Department of Environmental Protection by a type two transfer; establishing a wastewater grant program within the Department of Environmental Protection; revising requirements for a basin management action plan; requiring a wastewater treatment plant to notify customers of unlawful discharges of raw or partially treated sewage into any waterway or aquifer within a specified timeframe, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2019
3/15/2019 SENATE On Committee agenda - Environment and Natural Resources, 03/20/19, 4:00 pm, 37 S
- SB 1762** **State Renewable Energy Goals** Rodriguez (J)
State Renewable Energy Goals; Directing the Office of Energy within the Department of Agriculture and Consumer Services, in consultation with other state agencies, state colleges and universities, public utilities, and other private and public entities, to develop a unified statewide plan to generate the state's energy from renewable sources by specified dates, etc. Effective Date: 7/1/2019
3/8/2019 SENATE Referred to Innovation, Industry, and Technology; Governmental Oversight and Accountability;

Rules

<u>SB 1792</u>	<p>Towing and Immobilizing of Vehicles and Vessels</p> <p>Towing and Immobilizing of Vehicles and Vessels; Specifying that local governments may enact rates to tow or immobilize vessels on private property and to remove and store vessels under specified circumstances; prohibiting counties and municipalities, respectively, from enacting certain ordinances or rules that impose fees or charges on authorized wrecker operators, towing businesses, or vehicle immobilization services; authorizing certain persons to place liens on vehicles or vessels to recover specified fees or charges; authorizing vehicle immobilization devices to be used on trespassing motor vehicles, etc. Effective Date: 7/1/2019</p> <p>3/8/2019 SENATE Referred to Community Affairs; Infrastructure and Security; Rules</p>	<p>Gruters</p>
<u>HB 3191</u>	<p>Florida Gulf Coast University - Red Tide Initiative</p> <p>Florida Gulf Coast University - Red Tide Initiative: Provides an appropriation for the Florida Gulf Coast University - Red Tide Initiative. Effective Date: July 1, 2019</p> <p>3/14/2019 HOUSE Now in Appropriations Committee</p>	<p>Rommel</p>
<u>SB 7022</u>	<p>Fish and Wildlife Conservation Commission Citizen Support Organizations</p> <p>Fish and Wildlife Conservation Commission Citizen Support Organizations; Abrogating the scheduled repeal of provisions governing citizen support organizations established under the Fish and Wildlife Conservation Commission; authorizing a court to order persons convicted of certain violations to pay an additional assessment; authorizing a specified citizen support organization to post certain rewards, etc. Effective Date: 7/1/2019</p> <p>3/7/2019 SENATE Now in Appropriations</p>	<p>Environment and Natural Resources</p>
<u>SB 7024</u>	<p>Department of Environmental Protection Citizen Support Organizations</p> <p>Department of Environmental Protection Citizen Support Organizations; Requiring that contracts between the department and a citizen support organization include a specified provision; abrogating the scheduled repeal of provisions governing citizen support organizations established under the department, etc. Effective Date: 7/1/2019</p> <p>3/7/2019 SENATE Now in Appropriations</p>	<p>Environment and Natural Resources</p>
<u>HB 7029</u>	<p>Fracking</p> <p>Fracking: Prohibits fracking; provides applicability of permits to drill & operate wells; requires well operators to provide written notice to DEP before performing specified activities. Effective Date: upon becoming a law</p> <p>2/18/2019 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee</p>	<p>Agriculture & Natural Resources Subcommittee</p>
<u>SB 7064</u>	<p>Oil Drilling</p> <p>Oil Drilling; Defining the term "fracking"; requiring specified amounts for bonds for certain operations in the Everglades Protection Area; prohibiting fracking in this state; requiring an applicant for certain explorations for and extraction of minerals to post a specified surety bond for projects in the Everglades Protection Area; prohibiting the refining of oil within the Everglades Protection Area; prohibiting the use of flowback fluid for crop irrigation in this state, etc. Effective Date: 7/1/2019</p> <p>3/13/2019 SENATE Referred to Innovation, Industry, and Technology; Environment and Natural Resources; Appropriations</p>	<p>Agriculture</p>
<u>ANR1</u>	<p>Department of Environmental Protection</p> <p>PCB ANR 19-01 -- Department of Environmental Protection</p> <p>3/15/2019 HOUSE On Committee agenda - Agriculture & Natural Resources Appropriations Subcommittee, 03/19/19, 9:00 am, 17 H</p>	<p>Agriculture & Natural Resources Appropriations Subcommittee</p>