

WEEK 3 REPORT

// 2019 LEGISLATIVE SESSION

+ MARINE INDUSTRIES ASSOCIATION OF FLORIDA
MARCH 18 - 22, 2019



// WEEK 3 REPORT

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The third week is complete. There are six weeks left in the 2019 Legislative Session and several of the bills we are tracking are moving and moving quickly.

Not only are bills moving, the House and Senate have released their proposed budgets. The fourth week of Session will be full of action for Marine Industries Association of Florida, as we have several bills of interest on agendas and have several budget appropriations to watch through the budget amendatory process.

In short, the third week was a busy week for us. As of Monday morning, your team hit the ground running regarding needed changes to HB 1221 and HB 1319. Both bills were amended significantly in their first committees. We have continued to work with all parties to seek just a few more changes to these bills. CS/HB 1221 is up again this week and is a priority for Chair Raschein. We appreciate her and Representative Polsky for working with us on changes. We are truly grateful for their willingness to work with us on CS/HB 1221.

Below are updates on CS/HB 1221 and CS/HB 1319, as well as many other bills moving that impact boating. Also, please know we have also included for you the House and Senate proposed budget items and the Governor's budget recommendations for reference.

As always, thank you for allowing us to represent you in Tallahassee.

HB 529 by Mariano and SB 436 by Hooper - Use of Vessel Registration Fees. These bills continue to move quickly. HB 529 passed the House Transportation and Infrastructure Subcommittee back in February, 11-0. The bill passed the House Local, Federal and Veterans Affairs Subcommittee, 13-0. The bill passed House State Affairs, 22-0. The bill is now on the House Calendar and available for Special Order.

Senate Bill 436 passed the Senate Community Affairs agenda on March 3rd. The bill passed, 5-0. The bill is on the Senate Environment and Natural Resources agenda this week. The bill will be heard March 26th.

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 passed the House Transportation and Tourism Appropriations Subcommittee as a committee substitute, 11-0. The bill is now in House State Affairs.

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 was temporarily postponed on March 20th in the Senate Infrastructure and Security Committee. The bill has been rescheduled for March 26th.

HB 1319 by Diamond and SB 1530 by Rouson - Vessels. HB 1319 has been referred to House Agriculture and Natural Resources Subcommittee, House Agriculture and Natural Resources Appropriations Subcommittee, House State Affairs Committee. The bill was significantly amended in House Agriculture and Natural Resources Subcommittee. Marine Industries still has one simple issue with regard to a few words with unintended consequences, but we are currently working with all parties to resolve the issue.

SB 1530 also has three references. The committees are Senate Environment and Natural Resources, Senate Criminal Justice and Senate Rules. The bill is not scheduled to be heard this week, but we anticipate movement since it passed the first House committee.

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. House Bill 1237 passed the House Local, Federal and Veterans Affairs Subcommittee on March 19th, 12-1. The bill is currently scheduled to be heard in the House Business and Professions Subcommittee on March 26th.

Senate Bill 1792 was referred to Community Affairs, Infrastructure and Security and Rules. SB 1792 is scheduled to be heard in Senate Community Affairs March 26th.

HB 1221 by Polsky and SB 1666 by Flores - Anchoring and Mooring of Vessels Outside of Public Mooring Fields. Again, I must remind you that these bills are not linked in the computer system; however, they are considered companion bills. The bills are different, and we believe they will become much closer after amendments are filed this week in committee.

House Bill 1221 was referred to House Agriculture and Natural Resources Subcommittee, House Agriculture and Natural Resources Appropriations Subcommittee and House State Affairs. HB 1221 passed the House Agriculture and Natural Resources Subcommittee as a committee substitute 15-0. The bill is currently scheduled to be heard in House Agriculture and Natural Resources Appropriations Subcommittee March 26th. We anticipate amendments to be filed to the bill.

Senate Bill 1666 was referred to Senate Environmental and Natural Resources, Senate Community Affairs and Senate Rules. This bill is scheduled to be heard March 26th in the Senate Environmental and Natural Resources Committee. Again, we anticipate amendments to be filed. We will forward them as soon as we receive them.

HB 1395 by Raschein and SB 1758 by Mayfield - Water Quality Improvements. The bills 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. As of the writing of this report, the bill has not been heard.

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 1758 passed the Senate Environment and Natural Resources Committee as a committee substitute. The bill passed, 5-0.

HB 5401 by House Agriculture and Natural Resources Subcommittee, Raschein, 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 scheduled to be heard in the Senate Environment and Natural Resources Committee on March 26th.

Committee bill ANR 19-01 is now referred to as HB 5401. This is now the companion bill to SB 1502. HB 5401 is now waiting to be heard in House Appropriations.

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

A handwritten signature in black ink, appearing to read "Margaret Timmins". The signature is stylized with a large, sweeping flourish at the end.

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: On Committee agenda - Environment and Natural Resources, 03/26/19, 4:00 pm

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 State Affairs Committee; 23 Yeas, 0 Nays; Placed on Calendar, on 2nd reading

Attached documents: SB 436 (as filed) + staff analysis; 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. Jayer Williamson // Referred to: Transportation & Infrastructure Subcommittee; Transportation & Tourism Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

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

Generally, the bill:

- Defines numerous terms relating to titling of vessels.
- Provides requirements for applications for certificates of titles for vessels, including their detailed content, and provides exceptions from the requirement to apply for a certificate.
- Provides responsibilities of an owner and insurer of a hull-damaged vessel, and of the DHSMV when creating a certificate of title.
- Specifies that possession of a certificate of title does not by itself provide a right to obtain possession of a vessel, but nothing prohibits enforcement of a security interest in, levy on, or foreclosure of a statutory or common-law lien on a vessel.
- Provides the DHSMV with duties relating to creation, issuance, refusal to issue, or cancellation of a certificate of title, and provides additional requirements for obtaining a duplicate certificate of title.
- Sets out requirements for the determination and perfection of a security interest in a vessel and for the delivery of a statement of the termination of a security interest.
- Provides for the rights of a purchaser of a vessel who is not a secured party, and for rights of a purchaser who is a secured party.
- Repeals provisions replaced by the bill's provisions
- Specifies circumstances by which the DHSMV may create a new certificate of title after the receipt of an application for a transfer of ownership or termination of a security interest, without the applicant providing a certificate of title.
- Provides rules for the voluntary transfer of vessel title ownership, transfer by a secured party, and transfer by operation of law.
- Sets out "grandfathering" provisions, provides for application, and makes technical and conforming changes.

The bill appears to have an indeterminate, negative fiscal impact on resources of the DHSMV.

The bill takes effect October 1, 2019.

Most Recent Action: Temporarily postponed by Infrastructure and Security; On Committee agenda - Infrastructure and Security, 03/26/19, 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: Favorable with CS by Transportation & Tourism Appropriations Subcommittee; 11 Yeas, 0 Nays

Attached documents: SB 676 (as filed) + delete everything amendment + staff analysis; 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: *SIMILAR*

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.

The bill requires vessel operators to reduce to slow speed, minimum wake upon: 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 when workers are present and 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 and the owner is unable to provide documentation of vessel repair may be deemed at risk for becoming derelict.

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: Favorable with CS by Agriculture & Natural Resources Subcommittee; 13 Yeas, 0 Nays;

Attached documents: CS/HB 1319 + 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: On Committee agenda - Community Affairs, 03/26/19, 4:00 pm

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: Favorable by Local, Federal & Veterans Affairs Subcommittee; 12 Yeas, 1 Nay; On Committee agenda - Business & Professions Subcommittee, 03/26/19, 12:00 pm

Attached documents: SB 1792 (as filed); HB 1237 (as filed) + staff analysis

// 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: On Committee agenda - Environment and Natural Resources, 03/26/19, 4:00 pm

Attached documents: SB 1666 (as filed)

// 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 is not under the supervision and control of a person capable of operating, maintaining, or moving it from one location to another and that has remained anchored or moored outside of a public mooring field for at least 30 days out of a 60-day period.

The bill requires the Florida Fish and Wildlife Conservation Commission (FWC) to conduct, for no longer than two years, 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 and vessels

anchored or moored outside of public mooring fields for more than 30 days contribute to the number of derelict and abandoned vessels on the waters of the state; investigate the impacts of long-term stored vessels, vessels anchored or moored outside of public mooring fields for more than 30 days, 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 and vessels anchored or moored outside of public mooring fields for more than 30 days to mitigate any identified negative impacts. The bill further requires FWC to submit a report of its findings to the Governor and the Legislature within six months after the date the study is completed.

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: Favorable with CS by Agriculture & Natural Resources Subcommittee; 15 Yeas, 0 Nays; On Committee agenda - Agriculture & Natural Resources Appropriations Subcommittee, 03/26/19, 8:30 am

Attached documents: CS/HB 1221 + 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: Placed on Calendar, on 2nd reading

Attached documents: None

// 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: CS/SB 1758 creates the “Clean Waterways Act,” including a grant program, subject to

appropriation, for wastewater treatment facility or onsite sewage treatment and disposal system (OSTDS) improvements or connections within a basin management action plan (BMAP) or alternative restoration plan. The bill requires the Department of Environmental Protection (DEP) and the Department of Health (DOH) to develop a report on the impacts of a type two transfer of the OSTDS program.

The bill revises the requirements for all BMAPs. The bill:

- Requires that each BMAP include a plan, with specific timelines, to be submitted by each local government within the BMAP area for each wastewater treatment plant project and each OSTDS remediation plan.
- Expands and revises the OSTDS remediation plans required for the Outstanding Florida Springs to apply to all BMAPs.
- Imposes penalties for a local government’s failure to meet the deadlines required under

the plan, including a moratorium on local government approval of building permits for new construction, a moratorium on DOH approval of new OSTDSs, and existing civil and criminal penalties for pollution. However, the bill authorizes DEP to grant an extension of time upon a showing of good cause or to reduce penalties based on expenditures for improvements and upgrades.

- Requires local governments within a BMAP or with impaired waters to adopt the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes.

The bill requires a wastewater treatment facility that unlawfully discharges raw or partially treated sewage into a waterway or aquifer to provide notification to its customers within 24 hours after discovering the discharge. Effective July 1, 2024, the bill prohibits sanitary sewage disposal into Indian River Lagoon without providing advanced waste treatment.

Most Recent Action: Favorable with CS by Environment and Natural Resources; 5 Yeas, 0 Nays

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: CS/SB 1758 + staff analysis

// 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 Bill 5401 // Agriculture & Natural Resources Appropriations Subcommittee; Rep. Holly Raschein // Referred to: Appropriations Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

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: On Committee agenda - Environment and Natural Resources, 03/26/19, 4:00 pm

House Bill 5401: The Department of Environmental Protection (department) does not currently employ sworn law enforcement officers. The Florida Fish and Wildlife Conservation Commission (commission) provides law enforcement activities for the department. The department transfers funding to the commission to compensate for these law enforcement services.

The bill makes the following changes:

- Transfers the primary responsibility and powers for investigation and law enforcement of certain environmental crimes from the commission to the department. A new memorandum of agreement will be developed between the commission and the department to detail the responsibilities of both agencies.
- Creates the Division of Law Enforcement in the department and reassigns all personnel and equipment from the department's Office of Emergency Response to the Division of Law Enforcement.
- Establishes a transition advisory workgroup for the purpose of identifying any administrative rules that need to be amended as a result of this consolidation.
- Allows any commission employees who are transferred to the department to retain their leave and current position status.
- Gives the department law enforcement authority in areas of environmental law enforcement where the commission currently has authority. The commission retains its authority.
- Adds the department to the Joint Task Force on State Agency Law Enforcement Communications.

There may be an insignificant negative fiscal impact on state government. The bill conforms to the Proposed House General Appropriations Act for Fiscal Year 2019-2020.

The bill has an effective date of July 1, 2019.

Most Recent Action: Filed (Formerly PCB ANR1); Referred to Appropriations Committee

Attached documents: SB 1502 (as filed); HB 5401 (as filed) + staff analysis

// BOATING-RELATED APPROPRIATIONS

Boating Appropriations Highlights

House Proposed Budget (PCB 19-01)

Fiscal Year 2019-20

1755	SPECIAL CATEGORIES FLORIDA RESILIENT COASTLINE INITIATIVE	
	FROM GENERAL REVENUE FUND	2,600,000
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	
FROM FEDERAL GRANTS TRUST FUND		3,000,000

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

Senate Proposed Budget (SPB 2500)

Fiscal Year 19-20

1755 SPECIAL CATEGORIES	FLORIDA RESILIENT COASTLINE INITIATIVE	
FROM GENERAL REVENUE FUND	2,600,000	

From the funds in Specific Appropriation 1755, \$2,600,000 in recurring 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.

The department shall perform an analysis for each assessment and planning grant provided to local communities during the 2018-2019 fiscal year. The analysis shall include for each grant; an accounting of grant expenditures, descriptions of goals and objectives, and project recommendations and estimated costs of those projects. The analysis shall be submitted to the chair of the Senate Appropriations Committee, the chair of the House of Representatives Appropriations Committee, and the Executive Office of the Governor's Office of Policy and Budget by October 1, 2019.

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
1826 SPECIAL CATEGORIES DERELICT VESSEL REMOVAL PROGRAM		
FROM FEDERAL GRANTS TRUST FUND . . .	3,000,000	
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 MARINE RESOURCES CONSERVATION TRUST 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 FEDERAL GRANTS TRUST FUND . . .	300,000	
FROM MARINE RESOURCES CONSERVATION TRUST FUND		300,000

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

APPENDIX

// USE OF VESSEL REGISTRATION FEES

SB 436 (as filed) + Staff Analysis
HB 529 (as filed) + Staff Analysis

// CERTIFICATES OF TITLES FOR VESSELS

SB 676 (as filed) + Delete-Everything Amendment + Staff Analysis
CS/HB 475 + Staff Analysis

// VESSELS

CS/HB 1319 + 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

SB 1666 (as filed)

// ANCHORED VESSELS

CS/HB 1221 + Staff Analysis

// COASTAL MANAGEMENT

No attachments

// WATER QUALITY IMPROVEMENTS

CS/SB 1758 + Staff Analysis

// DEPARTMENT OF ENVIRONMENTAL PROTECTION

SB 1502 (as filed)
HB 5401 (as filed) + Staff Analysis

// CURRENT BILL TRACKING LIST

By Senator Hooper

16-00829A-19

2019436__

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 additional purposes; providing an
6 effective 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

16-00829A-19

2019436__

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.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 436

INTRODUCER: Senator Hooper

SUBJECT: Use of Vessel Registration Fees

DATE: February 28, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Yeatman	CA	Favorable
2.			EN	
3.			RC	

I. Summary:

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.

II. Present Situation:

Vessel Registration

The term “vessel” is synonymous with boat as referenced in s. 1(b), Art. VII of the State Constitution¹ and includes every description of watercraft, barge, or airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.² Vessels operated, used, or stored on the waters of this state must be registered with the Department of Highway Safety and Motor Vehicles (DHSMV) as a commercial or recreational³ vessel, unless:

- The vessel is operated, used, and stored exclusively on private lakes and ponds;
- The vessel is owned by the U.S. Government;

¹ FLA. CONST. art. VII, s.1(b) provides that motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes, as defined by law, shall be subject to a license tax for their operation in the amounts and for the purposes prescribed by law, but shall not be subject to ad valorem taxes.

² Section 327.02(46), F.S.

³ Section 327.02(40), F.S., defines a “recreational vessel” as a vessel manufactured and used primarily for noncommercial purposes, or a vessel leased, rented, or chartered to a person for his or her noncommercial use.

- The vessel is used exclusively as a ship's lifeboat; or
- The vessel is non-motor-powered and less than 16 feet in length or a non-motor-powered canoe, kayak, racing shell, or rowing scull, regardless of length.⁴

Section 328.72(12), F.S., provides that vessel registration periods are for 12 or 24 months. An individual who owns a vessel is eligible to register the vessel for a 12 or 24 month period that begins the first day of the birth month of the owner and ends the last day of the month preceding the owner's birth month. The registration period for vessels owned by companies, corporations, governmental entities, and registrations issued to dealers and manufacturers is July 1 to June 30.⁵

The base registration fee for vessels is determined by the length of the vessel. The vessel registration fee for a 12-month period is as follows:⁶

- *Class A-1*: Less than 12 feet in length and all canoes to which propulsion motors have been attached, regardless of length: \$5.50;
- *Class A-2*: 12 feet or more and less than 16 feet in length: \$16.25;
- *Class 1*: 16 feet or more and less than 26 feet in length: \$28.75;
- *Class 2*: 26 feet or more and less than 40 feet in length: \$78.25;
- *Class 3*: 40 feet or more and less than 65 feet in length: \$127.75;
- *Class 4*: 65 feet or more and less than 110 feet in length: \$152.75;
- *Class 5*: 110 feet or more in length: \$189.75; and
- *Dealer Registration Certificate*: \$25.50.

A portion of state vessel registration fees goes to the counties, with priority given to counties with more than 35,000 registered vessels.⁷ The portion of money going to the counties must be used for specific boating-related purposes.⁸

Local Vessel Registration Fees

In addition to the state vessel registration fees above, 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 as provided in s. 328.72(1), F.S., and not the reduced vessel registration fee specified in s. 328.72(18), F.S.⁹ The first \$1 of every county registration fee must be remitted to the state for deposit into the Save the Manatee Trust Fund created within the Fish and Wildlife Conservation Commission.¹⁰ The remaining proceeds of the optional county fee is retained by the county where the vessel is registered and is to be used for patrol, regulation, and maintenance of the lakes, rivers, and waters and for other boating-related activities within the county.¹¹ A county which imposes a vessel registration fee

⁴ Section 328.48(2), F.S.

⁵ Section 328.72(12)(c)2., F.S.

⁶ Section 328.72(1)(a), F.S.

⁷ Section 328.72(15), F.S.

⁸ *Id.* The dredging of channels is prohibited as a use for the money by the counties.

⁹ State vessel registration fees are reduced for recreational vessels equipped with an emergency position-indicating radio beacon registered with the U.S. National Oceanic and Atmospheric Administration (NOAA) or whose owner owns a personal locator beacon registered with the NOAA.

¹⁰ Section 328.66(1), F.S.

¹¹ *Id.*

may share such proceeds with one or more municipalities within the county pursuant to an interlocal agreement to fund authorized boating-related projects.¹²

Currently, 15 counties have elected to impose the local vessel registration fee. The following chart¹³ summarizes the associated revenue by county for Fiscal Year (FY) 2018-2019.

County	FY 18-19
Broward	\$348,657.83
Charlotte	\$162,291.76
Collier	\$161,248.00
Hardee	\$ 4,314.81
Hillsborough	\$261,766.16
Lee	\$350,021.31
Manatee	\$137,603.99
Martin	\$145,050.98
Miami-Dade	\$575,512.73
Monroe	\$224,956.67
Palm Beach	\$270,853.06
Pinellas	\$335,436.88
Polk	\$184,755.27
Sarasota	\$153,898.38
Volusia	\$166,786.14
Grand Total	\$3,483,153.97

Regulation of Dredging

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 (Northwest Florida, Suwannee River, St. Johns River, Southwest Florida, and South Florida) 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 (Corps). 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

¹² Section 328.66(2), F.S.

¹³ Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: SB 436, (February 15, 2019) (Copy on file with the Senate Committee on Community Affairs).

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 on February 15, 2019).

¹⁵ *Id.*

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 328.66, F.S., to authorize a county to use a portion of vessel registration fees for additional purposes that may 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.

Section 2 provides that 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. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 328.66 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

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 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~~7~~ 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	23 Y, 0 N	Roth	Williamson

SUMMARY ANALYSIS

Vessels are registered and numbered uniformly throughout the state. Current law establishes state vessel registration fees, which are based on the length of the vessel. Current law also authorizes counties to impose an annual 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 and all other moneys received must be expended for the patrol, regulation, and maintenance of lakes, rivers, and waters and for other boating-related activities.

The bill specifies that a county or municipality may use its optional vessel registration fee for channel and other navigational dredging, the construction, expansion, or maintenance of public boat ramps and other public water access facilities, including associated engineering and permitting costs.

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

Vessels are registered and numbered uniformly throughout the state in order to make registration and numbering procedures for vessels similar to those of automobiles and airplanes. In addition, a vessel registration fee and certificate is provided to determine the ownership of vessels operated, used, or stored on the waters of this state and to aid in the advancement of maritime safety.¹

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 \$189.75.² 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.

A portion of state vessel registration fees goes to counties, with priority given to counties with more than 35,000 registered vessels.³ The portion going to the counties must be used for specific boating-related purposes.⁴

Local Vessel Registration Fees

In addition to the state vessel registration fees, each county may 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.^{5,6} The first \$1 of every optional registration fee is deposited in the Save the Manatee Trust Fund⁷ to be used only for specific purposes found in statute.^{8,9} 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 of such county

¹ Section 328.65, F.S.

² Section 328.72(1)(a), F.S.

³ Section 328.72(15), F.S.

⁴ *Id.* The dredging of channels is prohibited as a use for the money by the counties.

⁵ Section 328.66(1), F.S.

⁶ 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 fee is based on the registration fees for vessels without an emergency position-indicating radio beacon.

⁷ The Save the Manatee Trust Fund is created within the Fish and Wildlife Conservation Commission.

⁸ Section 379.2431(4), F.S., provides for annual funding of programs for marine mammals.

⁹ Section 328.66(1), F.S.

or municipality.¹⁰ Any county that imposes an annual registration fee may establish, by interlocal agreement with one or more of the municipalities located within 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.¹¹

Currently, 15 counties impose the local vessel registration fee. The following chart¹² 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
Howard	\$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

The term “dredging” means excavation in surface waters or wetlands or excavation in uplands that create wetlands or other surface waters.¹³ The term “filling” means deposition of any material, such as sand, dock pilings or seawalls, in wetlands or other surface waters.¹⁴

The Department of Environmental Protection (DEP) and the water management districts, through the Environmental Resources Permitting program, regulate dredging and filling activities on or over wetlands and other surface waters.¹⁵ The process is initiated by submitting a joint (interagency) application¹⁶ to DEP or the water management districts.¹⁷ The appropriate agency is determined by a division of responsibilities specified in Operating Agreements between the agencies.¹⁸ The federal government, under a separate program administered by the U.S. Army Corps of Engineers, also regulates dredging and filling.¹⁹

¹⁰ *Id.*

¹¹ Section 328.66(2), F.S.

¹² 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.

¹³ See s. 373.403(13), F.S.; see also Department of Environmental Protection, *ERP Dredging and Filling*, available at <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-dredging-and-filling> (last visited February 5, 2019).

¹⁴ Section 373.403(14), F.S.

¹⁵ See s. 373.4131, F.S.

¹⁶ Rule 62B-49.005, F.A.C.

¹⁷ See s. 373.046, F.S.

¹⁸ *Id.*

¹⁹ See s. 373.4144, F.S.

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 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.

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 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

None.

By Senator Hooper

16-01049A-19

2019676__

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

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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.



383990

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

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



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11 328.0015 Definitions.-

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

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

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

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

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

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

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

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

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

36 (i) "Documented vessel" means a vessel covered by a
37 certificate of documentation issued pursuant to 46 U.S.C. s.
38 12105. The term does not include a foreign-documented vessel.

39 (j) "Electronic" means relating to technology having



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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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



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127 calendar year.

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

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

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

135 1. A seaplane;

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

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

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

146 5. A stationary floating structure that:

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

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

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

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



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

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

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

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

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

165 (b) "Buyer in ordinary course of business" as defined in s.
166 671.201(9).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

182 328.01 Application for certificate of title.—

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



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

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

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

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

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

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

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

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

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

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

207 4. The overall length of the vessel;

208 5. The vessel type;

209 6. The hull material;

210 7. The propulsion type;

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

212 9. The fuel type, if any;

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



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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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



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

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

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



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359 ~~statement of such a lien, unless the application for a~~
360 ~~certificate of title is either accompanied by proper evidence of~~
361 ~~the satisfaction or extinction of the lien or contains a~~
362 ~~statement certifying that any lienholder named on the last-~~
363 ~~issued certificate of title has been sent notice by certified~~
364 ~~mail, at least 5 days before the application was filed, of the~~
365 ~~applicant's intention to seek a repossessed title. If such~~
366 ~~notice is given and no written protest to the department is~~
367 ~~presented by a subsequent lienholder within 15 days after the~~
368 ~~date on which the notice was mailed, the certificate of title~~
369 ~~shall be issued showing no liens. If the former owner or any~~
370 ~~subsequent lienholder files a written protest under oath within~~
371 ~~the 15-day period, the department shall not issue the~~
372 ~~repossessed certificate for 10 days thereafter. If, within the~~
373 ~~10-day period, no injunction or other order of a court of~~
374 ~~competent jurisdiction has been served on the department~~
375 ~~commanding it not to deliver the certificate, the department~~
376 ~~shall deliver the repossessed certificate to the applicant, or~~
377 ~~as is otherwise directed in the application, showing no other~~
378 ~~liens than those shown in the application.~~

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



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

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

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

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

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



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

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

424

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

428 (8)~~(4)~~ If the owner cannot furnish the department ~~of~~
429 ~~Highway Safety and Motor Vehicles~~ with all the required
430 ownership documentation, the department may, at its discretion,
431 issue a title conditioned on the owner's agreement to indemnify
432 the department and its agents and defend the title against all
433 claims or actions arising out of such issuance.

434 (9)~~(5)~~ (a) An application for an initial title or a title
435 transfer shall include payment of the applicable state sales tax
436 or proof of payment of such tax.

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



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446 tax.

447 ~~(10)(6)~~ The department of ~~Highway Safety and Motor Vehicles~~
448 shall prescribe and provide suitable forms for applications,
449 certificates of title, notices of security interests, and other
450 notices and forms necessary to carry out the provisions of this
451 chapter.

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

454 328.015 Duties and operation of the department.—

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

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

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



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

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

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

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

486 or

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

488 (b) With respect to the vessel:

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

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

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

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

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



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504 in a record that is self-authenticating.

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

507 328.02 Law governing vessel covered by certificate of
508 title.-

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

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

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

523 328.03 Certificate of title required.-

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

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

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



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533 (2) An application for a certificate of title is not
534 required for chapter, unless it is:
535 (a) A documented vessel;
536 (b) A foreign-documented vessel;
537 (c) A barge;
538 (d) A vessel before delivery if the vessel is under
539 construction or completed pursuant to contract;
540 (e) A vessel held by a dealer for sale or lease;
541 (f) A vessel used solely for demonstration, testing, or
542 sales promotional purposes by the manufacturer or dealer;
543 (g)-(a) A vessel operated, used, or stored exclusively on
544 private lakes and ponds;
545 (h)-(b) A vessel owned by the United States Government;
546 ~~(c) A non-motor-powered vessel less than 16 feet in length;~~
547 ~~(d) A federally documented vessel;~~
548 (i)-(e) A vessel already covered by a registration number in
549 full force and effect which was awarded to it pursuant to a
550 federally approved numbering system of another state or by the
551 United States Coast Guard in a state without a federally
552 approved numbering system, if the vessel is not located in this
553 state for a period in excess of 90 consecutive days; or
554 (j)-(f) A vessel from a country other than the United States
555 temporarily used, operated, or stored on the waters of this
556 state for a period that is not in excess of 90 days;
557 ~~(g) An amphibious vessel for which a vehicle title is~~
558 ~~issued by the Department of Highway Safety and Motor Vehicles;~~
559 ~~(h) A vessel used solely for demonstration, testing, or~~
560 ~~sales promotional purposes by the manufacturer or dealer; or~~
561 ~~(i) A vessel owned and operated by the state or a political~~



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562 ~~subdivision thereof.~~

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

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

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

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

590 (5)~~(4)~~ A certificate of title is prima facie evidence of of



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

606 (6)~~(5)~~ The department ~~of Highway Safety and Motor Vehicles~~
607 shall provide labeled places on the title where the seller's
608 price shall be indicated when a vessel is sold and where a
609 selling dealer shall record his or her valid sales tax
610 certificate of registration number.

611 (7)~~(6)~~(a) The department ~~of Highway Safety and Motor~~
612 ~~Vehicles~~ shall charge a fee of \$5.25 for issuing each
613 certificate of title. The tax collector shall be entitled to
614 retain \$3.75 of the fee.

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



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620 certificate.

621 (8) ~~(7)~~ The department ~~of Highway Safety and Motor Vehicles~~
622 shall charge a fee of \$4 in addition to that charged in
623 subsection (7) ~~(6)~~ for each initial certificate of title issued
624 for a vessel previously registered outside this state.

625 (9) ~~(8)~~ The department ~~of Highway Safety and Motor Vehicles~~
626 shall make regulations necessary and convenient to carry out the
627 provisions of this chapter.

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

630 328.04 Content of certificate of title.-

631 (1) A certificate of title must contain:

632 (a) The date the certificate was created;

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

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

637 (d) The hull identification number;

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

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

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

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



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649 on a certificate of title the name and mailing address of a
650 secured party that is not a secured party of record.

651 (3) For each title brand indicated on a certificate of
652 title, the certificate must identify the jurisdiction under
653 whose law the title brand was created or the jurisdiction that
654 created the certificate on which the title brand was indicated.
655 If the meaning of a title brand is not easily ascertainable or
656 cannot be accommodated on the certificate, the certificate may
657 state: "Previously branded in (insert the jurisdiction under
658 whose law the title brand was created or whose certificate of
659 title previously indicated the title brand)."

660 (4) If the files of the department indicate that a vessel
661 was previously registered or titled in a foreign country, the
662 department shall indicate on the certificate of title that the
663 vessel was registered or titled in that country.

664 (5) A written certificate of title must contain a form that
665 all owners indicated on the certificate may sign to evidence
666 consent to a transfer of an ownership interest to another
667 person. The form must include a certification, signed under
668 penalty of perjury, that the statements made are true and
669 correct to the best of each owner's knowledge, information, and
670 belief.

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

674 Section 8. Section 328.045, Florida Statutes, is created to
675 read:

676 328.045 Title brands.—

677 (1) Unless subsection (3) applies, at or before the time



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678 the owner of record transfers an ownership interest in a hull-
679 damaged vessel that is covered by a certificate of title created
680 by the department, if the damage occurred while that person was
681 an owner of the vessel and the person has notice of the damage
682 at the time of the transfer, the owner shall:

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

686 (b) Indicate on the certificate in the place designated for
687 that purpose that the vessel is hull damaged and deliver the
688 certificate to the transferee.

689 (2) Not later than 30 days after delivery of the
690 application under paragraph (1)(a) or the certificate of title
691 under paragraph (1)(b), the department shall create a new
692 certificate that indicates that the vessel is branded "Hull
693 Damaged."

694 (3) Before an insurer transfers an ownership interest in a
695 hull-damaged vessel that is covered by a certificate of title
696 created by the department, the insurer shall deliver to the
697 department an application for a new certificate that complies
698 with s. 328.01 and includes the title brand designation "Hull
699 Damaged." Not later than 30 days after delivery of the
700 application to the department, the department shall create a new
701 certificate that indicates that the vessel is branded "Hull
702 Damaged."

703 (4) An owner of record who fails to comply with subsection
704 (1), a person who solicits or colludes in a failure by an owner
705 of record to comply with subsection (1), or an insurer that
706 fails to comply with subsection (3) commits a noncriminal



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707 infraction under s. 327.73(1) for which the penalty is \$5,000
708 for the first offense, \$15,000 for a second offense, and \$25,000
709 for each subsequent offense.

710 Section 9. Section 328.055, Florida Statutes, is created to
711 read:

712 328.055 Maintenance of and access to files.—

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

715 (a) Ascertain or assign the hull identification number for
716 the vessel;

717 (b) Maintain the hull identification number and all the
718 information submitted with the application pursuant to s.
719 328.01(2) to which the record relates, including the date and
720 time the record was delivered to the department;

721 (c) Maintain the files for public inspection subject to
722 subsection (5); and

723 (d) Index the files of the department as required by
724 subsection (2).

725 (2) The department shall maintain in its files the
726 information contained in all certificates of title created under
727 this part. The information in the files of the department must
728 be searchable by the hull identification number of the vessel,
729 the vessel number, the name of the owner of record, and any
730 other method used by the department.

731 (3) The department shall maintain in its files, for each
732 vessel for which it has created a certificate of title, all
733 title brands known to the department, the name of each secured
734 party known to the department, the name of each person known to
735 the department to be claiming an ownership interest, and all



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736 stolen property reports the department has received.

737 (4) Upon request, for safety, security, or law enforcement
738 purposes, the department shall provide to federal, state, or
739 local government the information in its files relating to any
740 vessel for which the department has issued a certificate of
741 title.

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

745 Section 10. Section 328.06, Florida Statutes, is created to
746 read:

747 328.06 Action required on creation of certificate of
748 title.-

749 (1) On creation of a written certificate of title, the
750 department shall promptly send the certificate to the secured
751 party of record or, if none, to the owner of record at the
752 address indicated for that person in the files of the
753 department. On creation of an electronic certificate of title,
754 the department shall promptly send a record evidencing the
755 certificate to the owner of record and, if there is one, to the
756 secured party of record at the address indicated for each person
757 in the files of the department. The department may send the
758 record to the person's mailing address or, if indicated in the
759 files of the department, an electronic address.

760 (2) If the department creates a written certificate of
761 title, any electronic certificate of title for the vessel is
762 canceled and replaced by the written certificate. The department
763 shall maintain in the files of the department the date and time
764 of cancellation.



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765 (3) Before the department creates an electronic certificate
766 of title, any written certificate for the vessel must be
767 surrendered to the department. If the department creates an
768 electronic certificate, the department shall destroy or
769 otherwise cancel the written certificate for the vessel which
770 has been surrendered to the department and maintain in the files
771 of the department the date and time of destruction or other
772 cancellation. If a written certificate being canceled is not
773 destroyed, the department shall indicate on the face of the
774 certificate that it has been canceled.

775 Section 11. Section 328.065, Florida Statutes, is created
776 to read:

777 328.065 Effect of possession of certificate of title;
778 judicial process.—Possession of a certificate of title does not
779 by itself provide a right to obtain possession of a vessel.
780 Garnishment, attachment, levy, replevin, or other judicial
781 process against the certificate is not effective to determine
782 possessory rights to the vessel. This part does not prohibit
783 enforcement under the laws of this state of a security interest
784 in, levy on, or foreclosure of a statutory or common-law lien on
785 a vessel. Absence of an indication of a statutory or common-law
786 lien on a certificate does not invalidate the lien.

787 Section 12. Section 328.09, Florida Statutes, is amended to
788 read:

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

791 328.09 Refusal to issue and authority to cancel a
792 certificate of title or registration.—

793 (1) Unless an application for a certificate of title is



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794 rejected under subsection (3) or subsection (4), the department
795 shall create a certificate for the vessel in accordance with
796 subsection (2) not later than 30 days after delivery to the
797 department of an application that complies with s. 328.01.

798 (2) If the department creates electronic certificates of
799 title, the department shall create an electronic certificate
800 unless in the application the secured party of record or, if
801 none, the owner of record requests that the department create a
802 written certificate.

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

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

807 (b) The application does not contain documentation
808 sufficient for the department to determine whether the applicant
809 is entitled to a certificate;

810 (c) There is a reasonable basis for concluding that the
811 application is fraudulent or issuance of a certificate would
812 facilitate a fraudulent or illegal act; or

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

815 (4) The department shall reject an application for a
816 certificate of title for a vessel that is a documented vessel or
817 a foreign-documented vessel.

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

820 (a) Could have rejected the application for the certificate
821 under subsection (3);

822 (b) Is required to cancel the certificate under another



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823 provision of this part; or

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

826 (6) The decision by the department to reject an application
827 for a certificate of title or cancel a certificate of title
828 pursuant to this section is subject to a hearing pursuant to ss.
829 120.569 and 120.57 at which the owner and any other interested
830 party may present evidence in support of or opposition to the
831 rejection of the application for a certificate of title or the
832 cancellation of a certificate of title.

833 Section 13. Section 328.101, Florida Statutes, is created
834 to read:

835 328.101 Effect of missing or incorrect information.—Except
836 as otherwise provided in s. 679.337, a certificate of title or
837 other record required or authorized by this part is effective
838 even if it contains unintended scrivener's errors or does not
839 contain certain required information if such missing information
840 is determined by the department to be inconsequential to the
841 issuing of a certificate of title or other record.

842 Section 14. Section 328.11, Florida Statutes, is amended to
843 read:

844 328.11 Duplicate certificate of title.—

845 (1) If a written certificate of title is lost, stolen,
846 mutilated, destroyed, or otherwise becomes unavailable or
847 illegible, the secured party of record or, if no secured party
848 is indicated in the files of the department, the owner of record
849 may apply for and, by furnishing information satisfactory to the
850 department, obtain a duplicate certificate in the name of the
851 owner of record.



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852 (2) An applicant for a duplicate certificate of title must
853 sign the application, and, except as otherwise permitted by the
854 department, the application must comply with s. 328.01. The
855 application must include the existing certificate unless the
856 certificate is lost, stolen, mutilated, destroyed, or otherwise
857 unavailable.

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

861 (4) If a person receiving a duplicate certificate of title
862 subsequently obtains possession of the original written
863 certificate, the person shall promptly destroy the original
864 certificate of title.

865 ~~(5)(1) The Department of Highway Safety and Motor Vehicles~~
866 ~~may issue a duplicate certificate of title upon application by~~
867 ~~the person entitled to hold such a certificate if the department~~
868 ~~is satisfied that the original certificate has been lost,~~
869 ~~destroyed, or mutilated.~~ The department shall charge a fee of \$6
870 for issuing a duplicate certificate.

871 (6)(2) In addition to the fee imposed by subsection (5)
872 ~~(1)~~, the department of Highway Safety and Motor Vehicles shall
873 charge a fee of \$5 for expedited service in issuing a duplicate
874 certificate of title. Application for such expedited service may
875 be made by mail or in person. The department shall issue each
876 certificate of title applied for under this subsection within 5
877 working days after receipt of a proper application or shall
878 refund the additional \$5 fee upon written request by the
879 applicant.

880 ~~(3) If, following the issuance of an original, duplicate,~~



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881 ~~or corrected certificate of title by the department, the~~
882 ~~certificate is lost in transit and is not delivered to the~~
883 ~~addressee, the owner of the vessel or the holder of a lien~~
884 ~~thereon may, within 180 days after the date of issuance of the~~
885 ~~title, apply to the department for reissuance of the certificate~~
886 ~~of title. An additional fee may not be charged for reissuance~~
887 ~~under this subsection.~~

888 (7)-(4) The department shall implement a system to verify
889 that the application is signed by a person authorized to receive
890 a duplicate title certificate under this section if the address
891 shown on the application is different from the address shown for
892 the applicant on the records of the department.

893 Section 15. Section 328.12, Florida Statutes, is created to
894 read:

895 328.12 Perfection of security interest.—

896 (1) Except as otherwise provided in this section, a
897 security interest in a vessel may be perfected only by delivery
898 to the department of an application for a certificate of title
899 that identifies the secured party and otherwise complies with s.
900 328.01. The security interest is perfected on the later of
901 delivery to the department of the application and the applicable
902 fee or attachment of the security interest under s. 679.2031.

903 (2) If the interest of a person named as owner, lessor,
904 consignor, or bailor in an application for a certificate of
905 title delivered to the department is a security interest, the
906 application sufficiently identifies the person as a secured
907 party. Identification on the application for a certificate of a
908 person as owner, lessor, consignor, or bailor is not by itself a
909 factor in determining whether the person's interest is a



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910 security interest.

911 (3) If the department has created a certificate of title
912 for a vessel, a security interest in the vessel may be perfected
913 by delivery to the department of an application, on a form the
914 department may require, to have the security interest added to
915 the certificate. The application must be signed by an owner of
916 the vessel or by the secured party and must include:

- 917 (a) The name of the owner of record;
918 (b) The name and mailing address of the secured party;
919 (c) The hull identification number for the vessel; and
920 (d) If the department has created a written certificate of
921 title for the vessel, the certificate.

922 (4) A security interest perfected under subsection (3) is
923 perfected on the later of delivery to the department of the
924 application and all applicable fees or attachment of the
925 security interest under s. 679.2031.

926 (5) On delivery of an application that complies with
927 subsection (3) and payment of all applicable fees, the
928 department shall create a new certificate of title pursuant to
929 s. 328.09 and deliver the new certificate or a record evidencing
930 an electronic certificate pursuant to s. 328.06. The department
931 shall maintain in the files of the department the date and time
932 of delivery of the application to the department.

933 (6) If a secured party assigns a perfected security
934 interest in a vessel, the receipt by the department of a
935 statement providing the name of the assignee as secured party is
936 not required to continue the perfected status of the security
937 interest against creditors of and transferees from the original
938 debtor. A purchaser of a vessel subject to a security interest



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939 who obtains a release from the secured party indicated in the
940 files of the department or on the certificate takes free of the
941 security interest and of the rights of a transferee unless the
942 transfer is indicated in the files of the department or on the
943 certificate.

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

945 (a) Created in a vessel by a person during any period in
946 which the vessel is inventory held for sale or lease by the
947 person or is leased by the person as lessor if the person is in
948 the business of selling vessels;

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

951 (c) In a vessel before delivery if the vessel is under
952 construction, or completed, pursuant to contract and for which
953 no application for a certificate has been delivered to the
954 department.

955 (8) This subsection applies if a certificate of
956 documentation for a documented vessel is deleted or canceled. If
957 a security interest in the vessel was valid immediately before
958 deletion or cancellation against a third party as a result of
959 compliance with 46 U.S.C. s. 31321, the security interest is and
960 remains perfected until the earlier of 4 months after
961 cancellation of the certificate or the time the security
962 interest becomes perfected under this part.

963 (9) A security interest in a vessel arising under s.
964 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is
965 perfected when it attaches but becomes unperfected when the
966 debtor obtains possession of the vessel, unless the security
967 interest is perfected pursuant to subsection (1) or subsection



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968 (3) before the debtor obtains possession.
969 (10) A security interest in a vessel as proceeds of other
970 collateral is perfected to the extent provided in s. 679.3151.
971 (11) A security interest in a vessel perfected under the
972 law of another jurisdiction is perfected to the extent provided
973 in s. 679.3161(4).
974 Section 16. Section 328.125, Florida Statutes, is created
975 to read:
976 328.125 Termination statement.—
977 (1) A secured party indicated in the files of the
978 department as having a security interest in a vessel shall
979 deliver a termination statement to the department and, on the
980 debtor's request, to the debtor, by the earlier of:
981 (a) Twenty days after the secured party receives a signed
982 demand from an owner for a termination statement and there is no
983 obligation secured by the vessel subject to the security
984 interest and no commitment to make an advance, incur an
985 obligation, or otherwise give value secured by the vessel; or
986 (b) If the vessel is consumer goods, 30 days after there is
987 no obligation secured by the vessel and no commitment to make an
988 advance, incur an obligation, or otherwise give value secured by
989 the vessel.
990 (2) If a written certificate of title has been created and
991 delivered to a secured party and a termination statement is
992 required under subsection (1), the secured party, not later than
993 the date required by subsection (1), shall deliver the
994 certificate to the debtor or to the department with the
995 statement. If the certificate is lost, stolen, mutilated,
996 destroyed, or is otherwise unavailable or illegible, the secured



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

1000 (3) On delivery to the department of a termination
1001 statement authorized by the secured party, the security interest
1002 to which the statement relates ceases to be perfected. If the
1003 security interest to which the statement relates was indicated
1004 on the certificate of title, the department shall create a new
1005 certificate and deliver the new certificate or a record
1006 evidencing an electronic certificate. The department shall
1007 maintain in its files the date and time of delivery to the
1008 department of the statement.

1009 (4) A secured party that fails to comply with this section
1010 is liable for any loss that the secured party had reason to know
1011 might result from its failure to comply and which could not
1012 reasonably have been prevented and for the cost of an
1013 application for a certificate of title under s. 328.01 or s.
1014 328.11.

1015 Section 17. Section 328.14, Florida Statutes, is created to
1016 read:

1017 328.14 Rights of purchaser other than secured party.-

1018 (1) A buyer in ordinary course of business has the
1019 protections afforded by ss. 672.403(2) and 679.320(1) even if an
1020 existing certificate of title was not signed and delivered to
1021 the buyer or a new certificate listing the buyer as owner of
1022 record was not created.

1023 (2) Except as otherwise provided in ss. 328.145 and 328.22,
1024 the rights of a purchaser of a vessel who is not a buyer in
1025 ordinary course of business or a lien creditor are governed by



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1026 the Uniform Commercial Code.

1027 Section 18. Section 328.145, Florida Statutes, is created
1028 to read:

1029 328.145 Rights of secured party.-

1030 (1) Subject to subsection (2), the effect of perfection and
1031 nonperfection of a security interest and the priority of a
1032 perfected or unperfected security interest with respect to the
1033 rights of a purchaser or creditor, including a lien creditor, is
1034 governed by the Uniform Commercial Code.

1035 (2) If, while a security interest in a vessel is perfected
1036 by any method under this part, the department creates a
1037 certificate of title that does not indicate that the vessel is
1038 subject to the security interest or contain a statement that it
1039 may be subject to security interests not indicated on the
1040 certificate:

1041 (a) A buyer of the vessel, other than a person in the
1042 business of selling or leasing vessels of that kind, takes free
1043 of the security interest if the buyer, acting in good faith and
1044 without knowledge of the security interest, gives value and
1045 receives possession of the vessel; and

1046 (b) The security interest is subordinate to a conflicting
1047 security interest in the vessel that is perfected under s.
1048 328.12 after creation of the certificate and without the
1049 conflicting secured party's knowledge of the security interest.

1050 Section 19. Section 328.15, Florida Statutes, is amended to
1051 read:

1052 328.15 Notice of lien on vessel; recording.-

1053 ~~(1) No lien for purchase money or as security for a debt in~~
1054 ~~the form of retain title contract, conditional bill of sale,~~



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1055 ~~chattel mortgage, or otherwise on a vessel shall be enforceable~~
1056 ~~in any of the courts of this state against creditors or~~
1057 ~~subsequent purchasers for a valuable consideration and without~~
1058 ~~notice unless a sworn notice of such lien is recorded. The lien~~
1059 ~~certificate shall contain the following information:~~

- 1060 ~~(a) Name and address of the registered owner;~~
- 1061 ~~(b) Date of lien;~~
- 1062 ~~(c) Description of the vessel to include make, type, motor~~
1063 ~~and serial number; and~~
- 1064 ~~(d) Name and address of lienholder.~~

1065
1066 ~~The lien shall be recorded by the Department of Highway Safety~~
1067 ~~and Motor Vehicles and shall be effective as constructive notice~~
1068 ~~when filed. The date of filing of the notice of lien is the date~~
1069 ~~of its receipt by the department's central office in~~
1070 ~~Tallahassee, if first filed there, or otherwise by the office of~~
1071 ~~a county tax collector or of the tax collector's agent.~~

1072 ~~(2) (a) The Department of Highway Safety and Motor Vehicles~~
1073 ~~shall not enter any lien upon its lien records, whether it is a~~
1074 ~~first lien or a subordinate lien, unless the official~~
1075 ~~certificate of title issued for the vessel is furnished with the~~
1076 ~~notice of lien, so that the record of lien, whether original or~~
1077 ~~subordinate, may be noted upon the face thereof. After the~~
1078 ~~department records the lien, it shall send the certificate of~~
1079 ~~title to the holder of the first lien who shall hold such~~
1080 ~~certificate until the lien is satisfied in full.~~

1081 ~~(b) When a vessel is registered in the names of two or more~~
1082 ~~persons as coowners in the alternative by the use of the word~~
1083 ~~"or," whether or not the coowners are husband and wife, each~~



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1084 ~~coowner is considered to have granted to any other coowner the~~
1085 ~~absolute right to place a lien or encumbrance on the vessel, and~~
1086 ~~the signature of one coowner constitutes proper execution of the~~
1087 ~~notice of lien. When a vessel is registered in the names of two~~
1088 ~~or more persons as coowners in the conjunctive by the use of the~~
1089 ~~word "and," the signature of each coowner is required in order~~
1090 ~~to place a lien or encumbrance on the vessel.~~

1091 ~~(c) If the owner of the vessel as shown on the title~~
1092 ~~certificate or the director of the state child support~~
1093 ~~enforcement program desires to place a second or subsequent lien~~
1094 ~~or encumbrance against the vessel when the title certificate is~~
1095 ~~in the possession of the first lienholder, the owner shall send~~
1096 ~~a written request to the first lienholder by certified mail and~~
1097 ~~such first lienholder shall forward the certificate to the~~
1098 ~~department for endorsement. The department shall return the~~
1099 ~~certificate to the first lienholder, as indicated in the notice~~
1100 ~~of lien filed by the first lienholder, after endorsing the~~
1101 ~~second or subsequent lien on the certificate and on the~~
1102 ~~duplicate. If the first lienholder fails, neglects, or refuses~~
1103 ~~to forward the certificate of title to the department within 10~~
1104 ~~days after the date of the owner's or the director's request,~~
1105 ~~the department, on written request of the subsequent lienholder~~
1106 ~~or an assignee thereof, shall demand of the first lienholder the~~
1107 ~~return of such certificate for the notation of the second or~~
1108 ~~subsequent lien or encumbrance.~~

1109 ~~(1)-(3)~~ Upon the payment of a ~~any~~ such lien, the debtor or
1110 the registered owner of the motorboat shall be entitled to
1111 demand and receive from the lienholder a satisfaction of the
1112 lien which shall likewise be filed with the Department of



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1113 Highway Safety and Motor Vehicles.

1114 ~~(2)-(4)~~ The Department of Highway Safety and Motor Vehicles
1115 under precautionary rules and regulations to be promulgated by
1116 it may permit the use, in substitution of the formal
1117 satisfaction of lien, of other methods of satisfaction, such as
1118 perforation, appropriate stamp, or otherwise, as it deems
1119 reasonable and adequate.

1120 ~~(3)-(5)~~(a) The Department of Highway Safety and Motor
1121 Vehicles shall adopt rules to administer this section. The
1122 department may by rule require that a notice of satisfaction of
1123 a lien be notarized. The department shall prepare the forms of
1124 the notice of lien and the satisfaction of lien to be supplied,
1125 at a charge not to exceed 50 percent more than cost, to
1126 applicants for recording the liens or satisfactions and shall
1127 keep a record of such notices of lien and satisfactions
1128 available for inspection by the public at all reasonable times.
1129 The division may furnish certified copies of such satisfactions
1130 for a fee of \$1, which are admissible in evidence in all courts
1131 of this state under the same conditions and to the same effect
1132 as certified copies of other public records.

1133 (b) The department shall establish and administer an
1134 electronic titling program that requires the recording of vessel
1135 title information for new, transferred, and corrected
1136 certificates of title. Lienholders shall electronically transmit
1137 liens and lien satisfactions to the department in a format
1138 determined by the department. Individuals and lienholders who
1139 the department determines are not normally engaged in the
1140 business or practice of financing vessels are not required to
1141 participate in the electronic titling program.



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1142 ~~(6) The Department of Highway Safety and Motor Vehicles is~~
1143 ~~entitled to a fee of \$1 for the recording of each notice of~~
1144 ~~lien. No fee shall be charged for recording the satisfaction of~~
1145 ~~a lien. All of the fees collected shall be paid into the Marine~~
1146 ~~Resources Conservation Trust Fund.~~

1147 (4)~~(7)~~(a) Should any person, firm, or corporation holding
1148 such lien, which has been recorded by the Department of Highway
1149 Safety and Motor Vehicles, upon payment of such lien and on
1150 demand, fail or refuse, within 30 days after such payment and
1151 demand, to furnish the debtor or the registered owner of such
1152 vessel a satisfaction of the lien, then, in that event, such
1153 person, firm, or corporation shall be held liable for all costs,
1154 damages, and expenses, including reasonable attorney ~~attorney's~~
1155 fees, lawfully incurred by the debtor or the registered owner of
1156 such vessel in any suit which may be brought in the courts of
1157 this state for the cancellation of such lien.

1158 (b) Following satisfaction of a lien, the lienholder shall
1159 enter a satisfaction thereof in the space provided on the face
1160 of the certificate of title. If there are no subsequent liens
1161 shown thereon, the certificate shall be delivered by the
1162 lienholder to the person satisfying the lien or encumbrance and
1163 an executed satisfaction on a form provided by the department
1164 shall be forwarded to the department by the lienholder within 10
1165 days after satisfaction of the lien.

1166 (c) If the certificate of title shows a subsequent lien not
1167 then being discharged, an executed satisfaction of the first
1168 lien shall be delivered by the lienholder to the person
1169 satisfying the lien and the certificate of title showing
1170 satisfaction of the first lien shall be forwarded by the



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1171 lienholder to the department within 10 days after satisfaction
1172 of the lien.

1173 (d) If, upon receipt of a title certificate showing
1174 satisfaction of the first lien, the department determines from
1175 its records that there are no subsequent liens or encumbrances
1176 upon the vessel, the department shall forward to the owner, as
1177 shown on the face of the title, a corrected certificate showing
1178 no liens or encumbrances. If there is a subsequent lien not
1179 being discharged, the certificate of title shall be reissued
1180 showing the second or subsequent lienholder as the first
1181 lienholder and shall be delivered to the new first lienholder.
1182 The first lienholder shall be entitled to retain the certificate
1183 of title until his or her lien is satisfied. Upon satisfaction
1184 of the lien, the lienholder shall be subject to the procedures
1185 required of a first lienholder in this subsection ~~and in~~
1186 ~~subsection (2)~~.

1187 ~~(5)(8)~~ When the original certificate of title cannot be
1188 returned to the department by the lienholder and evidence
1189 satisfactory to the department is produced that all liens or
1190 encumbrances have been satisfied, upon application by the owner
1191 for a duplicate copy of the certificate of title, upon the form
1192 prescribed by the department, accompanied by the fee prescribed
1193 in this chapter, a duplicate copy of the certificate of title
1194 without statement of liens or encumbrances shall be issued by
1195 the department and delivered to the owner.

1196 ~~(6)(9)~~ Any person who fails, within 10 days after receipt
1197 of a demand by the department by certified mail, to return a
1198 certificate of title to the department ~~as required by paragraph~~
1199 ~~(2)(c)~~ or who, upon satisfaction of a lien, fails within 10 days



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1200 after receipt of such demand to forward the appropriate document
1201 to the department as required by paragraph (4) (b) ~~(7) (b)~~ or
1202 paragraph (4) (c) ~~(7) (e)~~ commits a misdemeanor of the second
1203 degree, punishable as provided in s. 775.082 or s. 775.083.

1204 (7) (10) The department shall use the last known address as
1205 shown by its records when sending any notice required by this
1206 section.

1207 (8) (11) If the original lienholder sells and assigns his or
1208 her lien to some other person, and if the assignee desires to
1209 have his or her name substituted on the certificate of title as
1210 the holder of the lien, he or she may, after delivering the
1211 original certificate of title to the department and providing a
1212 sworn statement of the assignment, have his or her name
1213 substituted as a lienholder. Upon substitution of the assignee's
1214 name as lienholder, the department shall deliver the certificate
1215 of title to the assignee as the first lienholder.

1216 (9) Subsections (1), (2), and (4)-(8) shall expire October
1217 1, 2026.

1218 Section 20. Section 328.16, Florida Statutes, is amended to
1219 read:

1220 328.16 Issuance in duplicate; delivery; liens, security
1221 interests, and encumbrances.-

1222 (1) The department shall assign a number to each
1223 certificate of title and shall issue each certificate of title
1224 and each corrected certificate in duplicate. The database record
1225 shall serve as the duplicate title certificate.

1226 (2) An authorized person must sign the original certificate
1227 of title and each corrected certificate and, if there are no
1228 liens, security interests, or encumbrances on the vessel, as



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1229 shown in the records of the department or as shown in the
1230 application, must deliver the certificate to the applicant or to
1231 another person as directed by the applicant or person, agent, or
1232 attorney submitting the application. If there are one or more
1233 liens, security interests, or encumbrances on the vessel, the
1234 department must deliver the certificate to the first lienholder
1235 or secured party as shown by department records. The department
1236 shall deliver to the first lienholder or secured party, along
1237 with the certificate, a form to be subsequently used by the
1238 lienholder or secured party as a satisfaction. If the
1239 application for certificate of title shows the name of a first
1240 lienholder or secured party which is different from the name of
1241 the first lienholder or secured party as shown by the records of
1242 the department, the certificate shall not be issued to any
1243 person until after the department notifies all parties who
1244 appear to hold a lien or a security interest and the applicant
1245 for the certificate, in writing by certified mail. If the
1246 parties do not amicably resolve the conflict within 10 days
1247 after the date the notice was mailed, the department shall serve
1248 notice in writing by certified mail on all persons that appear
1249 to hold liens or security interests on that particular vessel,
1250 including the applicant for the certificate, to show cause
1251 within 15 days after the date the notice is mailed why it should
1252 not issue and deliver the certificate to the secured party of
1253 record or person indicated in the notice of lien filed by the
1254 lienholder whose name appears in the application as the first
1255 lienholder without showing any lien or liens as outstanding
1256 other than those appearing in the application or those filed
1257 subsequent to the filing of the application for the certificate



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1258 of title. If, within the 15-day period, any person other than
1259 the lienholder or secured party of record shown in the
1260 application or a party filing a subsequent lien or security
1261 interest, in answer to the notice to show cause, appears in
1262 person or by a representative, or responds in writing, and files
1263 a written statement under oath that his or her lien or security
1264 interest on that particular vessel is still outstanding, the
1265 department shall not issue the certificate to anyone until after
1266 the conflict has been settled by the lien or security interest
1267 claimants involved or by a court of competent jurisdiction. If
1268 the conflict is not settled amicably within 10 days after the
1269 final date for filing an answer to the notice to show cause, the
1270 complaining party shall have 10 days to obtain a ruling, or a
1271 stay order, from a court of competent jurisdiction. If a ruling
1272 or stay order is not issued and served on the department within
1273 the 10-day period, the department shall issue the certificate
1274 showing no liens or security interests, except those shown in
1275 the application or thereafter filed, to the original applicant
1276 if there are no liens or security interests shown in the
1277 application and none are thereafter filed, or to the person
1278 indicated as the secured party of record or in the notice of
1279 lien filed by the lienholder whose name appears in the
1280 application as the first lienholder if there are liens shown in
1281 the application or thereafter filed. A duplicate certificate or
1282 corrected certificate must show only such security interest or
1283 interests or lien or liens as were shown in the application and
1284 subsequently filed liens or security interests that may be
1285 outstanding.

1286 (3) ~~Except as provided in s. 328.15(11),~~ The certificate of



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1287 title shall be retained by the first lienholder or secured party
1288 of record. The first lienholder or secured party of record is
1289 entitled to retain the certificate until the first lien or
1290 security interest is satisfied.

1291 (4) Notwithstanding any requirements in this section ~~or in~~
1292 ~~s. 328.15~~ indicating that a lien or security interest on a
1293 vessel shall be noted on the face of the Florida certificate of
1294 title, if there are one or more liens, security interests, or
1295 encumbrances on a vessel, the department shall electronically
1296 transmit the lien or security interest to the first lienholder
1297 or secured party and notify the first lienholder or secured
1298 party of any additional liens or security interests. Subsequent
1299 lien or security interest satisfactions shall be electronically
1300 transmitted to the department and must include the name and
1301 address of the person or entity satisfying the lien or security
1302 interest. When electronic transmission of liens or security
1303 interests and lien satisfactions or security interests are used,
1304 the issuance of a certificate of title may be waived until the
1305 last lien or security interest is satisfied and a clear
1306 certificate of title is issued to the owner of the vessel.

1307 (5) The owner of a vessel, upon which a lien or security
1308 interest has been filed with the department or noted upon a
1309 certificate of title for a period of 5 years, may apply to the
1310 department in writing for such lien or security interest to be
1311 removed from the department files or from the certificate of
1312 title. The application must be accompanied by evidence
1313 satisfactory to the department that the applicant has notified
1314 the lienholder or secured party by certified mail, not less than
1315 20 days before ~~prior to~~ the date of the application, of his or



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1316 her intention to apply to the department for removal of the lien
1317 or security interest. Ten days after receipt of the application,
1318 the department may remove the lien or security interest from its
1319 files or from the certificate of title, as the case may be, if
1320 no statement in writing protesting removal of the lien or
1321 security interest is received by the department from the
1322 lienholder or secured party within the 10-day period. However,
1323 if the lienholder or secured party files with the department,
1324 within the 10-day period, a written statement that the lien or
1325 security interest is still outstanding, the department may not
1326 remove the lien or security interest until the lienholder or
1327 secured party presents a satisfaction of lien or satisfaction of
1328 security interest to the department.

1329 Section 21. Subsection (1) of section 328.165, Florida
1330 Statutes, is amended to read:

1331 328.165 Cancellation of certificates.—

1332 (1) If it appears that a certificate of title has been
1333 improperly issued, the department shall cancel the certificate.
1334 Upon cancellation of any certificate of title, the department
1335 shall notify the person to whom the certificate of title was
1336 issued, and any lienholders or secured parties appearing
1337 thereon, of the cancellation and shall demand the surrender of
1338 the certificate of title; however, the cancellation does not
1339 affect the validity of any lien or security interest noted
1340 thereon. The holder of the certificate of title shall
1341 immediately return it to the department. If a certificate of
1342 registration has been issued to the holder of a certificate of
1343 title so canceled, the department shall immediately cancel the
1344 certificate of registration and demand the return of the



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1345 certificate of registration, and the holder of such certificate
1346 of registration shall immediately return it to the department.

1347 Section 22. Section 328.215, Florida Statutes, is created
1348 to read:

1349 328.215 Application for transfer of ownership or
1350 termination of security interest without certificate of title.-

1351 (1) Except as otherwise provided in s. 328.23 or s. 328.24,
1352 if the department receives, unaccompanied by a signed
1353 certificate of title, an application for a new certificate that
1354 includes an indication of a transfer of ownership or a
1355 termination statement, the department may create a new
1356 certificate under this section only if:

1357 (a) All other requirements under ss. 328.01 and 328.09 are
1358 met;

1359 (b) The applicant provides an affidavit stating facts
1360 showing the applicant is entitled to a transfer of ownership or
1361 termination statement;

1362 (c) The applicant provides the department with satisfactory
1363 evidence that notification of the application has been sent to
1364 the owner of record and all persons indicated in the files of
1365 the department as having an interest, including a security
1366 interest, in the vessel; at least 45 days have passed since the
1367 notification was sent; and the department has not received an
1368 objection from any of those persons; and

1369 (d) The applicant submits any other information required by
1370 the department as evidence of the applicant's ownership or right
1371 to terminate the security interest, and the department has no
1372 credible information indicating theft, fraud, or an undisclosed
1373 or unsatisfied security interest, lien, or other claim to an



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1374 interest in the vessel.

1375 (2) The department may indicate in a certificate of title
1376 created under subsection (1) that the certificate was created
1377 without submission of a signed certificate or termination
1378 statement. Unless credible information indicating theft, fraud,
1379 or an undisclosed or unsatisfied security interest, lien, or
1380 other claim to an interest in the vessel is delivered to the
1381 department not later than 1 year after creation of the
1382 certificate, on request in a form and manner required by the
1383 department, the department shall remove the indication from the
1384 certificate.

1385 (3) Before the department creates a certificate of title
1386 under subsection (1), the department may require the applicant
1387 to post a reasonable bond or provide an equivalent source of
1388 indemnity or security. The bond, indemnity, or other security
1389 must be in a form required by the department and provide for
1390 indemnification of any owner, purchaser, or other claimant for
1391 any expense, loss, delay, or damage, including reasonable
1392 attorney fees and costs, but not including incidental or
1393 consequential damages, resulting from creation or amendment of
1394 the certificate.

1395 (4) Unless the department receives a claim for indemnity
1396 not later than 1 year after creation of a certificate of title
1397 under subsection (1), on request in a form and manner required
1398 by the department, the department shall release any bond,
1399 indemnity, or other security. The department is not liable to a
1400 person or entity for creating a certificate of title under this
1401 section when the department issues the certificate of title in
1402 good faith based on the information provided by an applicant. An



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1403 applicant that submits erroneous or fraudulent information with
1404 the intent to mislead the department into issuing a certificate
1405 of title under this section is subject to the penalties
1406 established in s. 328.045(4) in addition to any other criminal
1407 or civil penalties provided by law.

1408 Section 23. Section 328.22, Florida Statutes, is created to
1409 read:

1410 328.22 Transfer of ownership.—

1411 (1) On voluntary transfer of an ownership interest in a
1412 vessel covered by a certificate of title, the following
1413 requirements apply:

1414 (a) If the certificate is a written certificate of title
1415 and the transferor's interest is noted on the certificate, the
1416 transferor shall promptly sign the certificate and deliver it to
1417 the transferee. If the transferor does not have possession of
1418 the certificate, the person in possession of the certificate has
1419 a duty to facilitate the transferor's compliance with this
1420 paragraph. A secured party does not have a duty to facilitate
1421 the transferor's compliance with this paragraph if the proposed
1422 transfer is prohibited by the security agreement.

1423 (b) If the certificate of title is an electronic
1424 certificate of title, the transferor shall promptly sign by
1425 hand, or electronically if available, and deliver to the
1426 transferee a record evidencing the transfer of ownership to the
1427 transferee.

1428 (c) The transferee has a right enforceable by specific
1429 performance to require the transferor to comply with paragraph
1430 (a) or paragraph (b).

1431 (2) The creation of a certificate of title identifying the



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1432 transferee as owner of record satisfies subsection (1).

1433 (3) A failure to comply with subsection (1) or to apply for
1434 a new certificate of title does not render a transfer of
1435 ownership of a vessel ineffective between the parties. Except as
1436 otherwise provided in s. 328.101, s. 328.14(1), s. 328.145, or
1437 s. 328.23, a transfer of ownership without compliance with
1438 subsection (1) is not effective against another person claiming
1439 an interest in the vessel.

1440 (4) A transferor that complies with subsection (1) is not
1441 liable as owner of the vessel for an event occurring after the
1442 transfer, regardless of whether the transferee applies for a new
1443 certificate of title.

1444 Section 24. Section 328.23, Florida Statutes, is created to
1445 read:

1446 328.23 Transfer of ownership by secured party's transfer
1447 statement.—

1448 (1) For the purposes of this section, "secured party's
1449 transfer statement" means a record signed by the secured party
1450 of record stating:

1451 (a) That there has been a default on an obligation secured
1452 by the vessel;

1453 (b) That the secured party of record is exercising or has
1454 exercised post-default remedies with respect to the vessel;

1455 (c) That by reason of the exercise, the secured party of
1456 record has the right to transfer the ownership interest of an
1457 owner, and the name of the owner;

1458 (d) The name and last known mailing address of the owner of
1459 record and the secured party of record;

1460 (e) The name of the transferee;



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1461 (f) Other information required by s. 328.01(2); and
1462 (g) One of the following:
1463 1. The certificate of title is an electronic certificate.
1464 2. The secured party does not have possession of the
1465 written certificate of title created in the name of the owner of
1466 record.
1467 3. The secured party is delivering the written certificate
1468 of title to the department with the secured party's transfer
1469 statement.
1470 (2) Unless the department rejects a secured party's
1471 transfer statement for a reason stated in s. 328.09(3), not
1472 later than 30 days after delivery to the department of the
1473 statement and payment of fees and taxes payable under the laws
1474 of this state, other than this part, in connection with the
1475 statement or the acquisition or use of the vessel, the
1476 department shall:
1477 (a) Accept the statement;
1478 (b) Amend the files of the department to reflect the
1479 transfer; and
1480 (c) If the name of the owner whose ownership interest is
1481 being transferred is indicated on the certificate of title:
1482 1. Cancel the certificate even if the certificate has not
1483 been delivered to the department;
1484 2. Create a new certificate indicating the transferee as
1485 owner; and
1486 3. Deliver the new certificate or a record evidencing an
1487 electronic certificate.
1488 (3) An application under subsection (1) or the creation of
1489 a certificate of title under subsection (2) is not by itself a



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1490 disposition of the vessel and does not by itself relieve the
1491 secured party of its duties under chapter 679.

1492 Section 25. Section 328.24, Florida Statutes, is created to
1493 read:

1494 328.24 Transfer by operation of law.-

1495 (1) For the purposes of this section, "by operation of law"
1496 means pursuant to a law or judicial order affecting ownership of
1497 a vessel:

1498 (a) Because of death, divorce, or other family law
1499 proceeding, merger, consolidation, dissolution, or bankruptcy;

1500 (b) Through the exercise of the rights of a lien creditor
1501 or a person having a lien created by statute or rule of law; or

1502 (c) Through other legal process.

1503 (2) A transfer-by-law statement must contain:

1504 (a) The name and last known mailing address of the owner of
1505 record and the transferee and the other information required by
1506 s. 328.01;

1507 (b) Documentation sufficient to establish the transferee's
1508 ownership interest or right to acquire the ownership interest;

1509 (c) A statement that:

1510 1. The certificate of title is an electronic certificate of
1511 title;

1512 2. The transferee does not have possession of the written
1513 certificate of title created in the name of the owner of record;

1514 or

1515 3. The transferee is delivering the written certificate to
1516 the department with the transfer-by-law statement; and

1517 (d) Except for a transfer described in paragraph (1) (a),
1518 evidence that notification of the transfer and the intent to



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1519 file the transfer-by-law statement has been sent to all persons
1520 indicated in the files of the department as having an interest,
1521 including a security interest, in the vessel.

1522 (3) Unless the department rejects a transfer-by-law
1523 statement for a reason stated in s. 328.09(3) or because the
1524 statement does not include documentation satisfactory to the
1525 department as to the transferee's ownership interest or right to
1526 acquire the ownership interest, not later than 30 days after
1527 delivery to the department of the statement and payment of fees
1528 and taxes payable under the law of this state, other than this
1529 part, in connection with the statement or with the acquisition
1530 or use of the vessel, the department shall:

1531 (a) Accept the statement;

1532 (b) Amend the files of the department to reflect the
1533 transfer; and

1534 (c) If the name of the owner whose ownership interest is
1535 being transferred is indicated on the certificate of title:

1536 1. Cancel the certificate even if the certificate has not
1537 been delivered to the department;

1538 2. Create a new certificate indicating the transferee as
1539 owner;

1540 3. Indicate on the new certificate any security interest
1541 indicated on the canceled certificate, unless a court order
1542 provides otherwise; and

1543 4. Deliver the new certificate or a record evidencing an
1544 electronic certificate.

1545 (4) This section does not apply to a transfer of an
1546 interest in a vessel by a secured party under part VI of chapter
1547 679.



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1548 Section 26. Section 328.25, Florida Statutes, is created to
1549 read:

1550 328.25 Supplemental principles of law and equity.—Unless
1551 displaced by a provision of this part, the principles of law and
1552 equity supplement its provisions.

1553 Section 27. Section 328.41, Florida Statutes, is created to
1554 read:

1555 328.41 Rulemaking.—The department may adopt rules pursuant
1556 to ss. 120.536(1) and 120.54 to implement this part.

1557 Section 28. Section 409.2575, Florida Statutes, is amended
1558 to read:

1559 409.2575 Liens on motor vehicles and vessels.—

1560 (1) The director of the state IV-D program, or the
1561 director's designee, may cause a lien for unpaid and delinquent
1562 support to be placed upon motor vehicles, as defined in chapter
1563 320, and upon vessels, as defined in chapter 327, that are
1564 registered in the name of an obligor who is delinquent in
1565 support payments, if the title to the property is held by a
1566 lienholder, in the manner provided in chapter 319 or, if
1567 applicable in accordance with s. 328.15(9), chapter 328. Notice
1568 of lien shall not be mailed unless the delinquency in support
1569 exceeds \$600.

1570 (2) If the first lienholder fails, neglects, or refuses to
1571 forward the certificate of title to the appropriate department
1572 as requested pursuant to s. 319.24 or, if applicable in
1573 accordance with s. 328.15(9), s. 328.15, the director of the IV-
1574 D program, or the director's designee, may apply to the circuit
1575 court for an order to enforce the requirements of s. 319.24 or
1576 s. 328.15, whichever applies.



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1577 Section 29. Subsection (2) of section 705.103, Florida
1578 Statutes, is amended to read:
1579 705.103 Procedure for abandoned or lost property.—
1580 (2) Whenever a law enforcement officer ascertains that an
1581 article of lost or abandoned property is present on public
1582 property and is of such nature that it cannot be easily removed,
1583 the officer shall cause a notice to be placed upon such article
1584 in substantially the following form:
1585 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
1586 PROPERTY. This property, to wit: ...(setting forth brief
1587 description)... is unlawfully upon public property known as
1588 ...(setting forth brief description of location)... and must be
1589 removed within 5 days; otherwise, it will be removed and
1590 disposed of pursuant to chapter 705, Florida Statutes. The owner
1591 will be liable for the costs of removal, storage, and
1592 publication of notice. Dated this: ...(setting forth the date of
1593 posting of notice)..., signed: ...(setting forth name, title,
1594 address, and telephone number of law enforcement officer)....
1595 Such notice shall be not less than 8 inches by 10 inches and
1596 shall be sufficiently weatherproof to withstand normal exposure
1597 to the elements. In addition to posting, the law enforcement
1598 officer shall make a reasonable effort to ascertain the name and
1599 address of the owner. If such is reasonably available to the
1600 officer, she or he shall mail a copy of such notice to the owner
1601 on or before the date of posting. If the property is a motor
1602 vehicle as defined in s. 320.01(1) or a vessel as defined in s.
1603 327.02, the law enforcement agency shall contact the Department
1604 of Highway Safety and Motor Vehicles in order to determine the
1605 name and address of the owner and any person who has filed a



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1606 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)
1607 ~~or s. 328.15(1)~~. On receipt of this information, the law
1608 enforcement agency shall mail a copy of the notice by certified
1609 mail, return receipt requested, to the owner and to the
1610 lienholder, if any, except that a law enforcement officer who
1611 has issued a citation for a violation of s. 823.11 to the owner
1612 of a derelict vessel is not required to mail a copy of the
1613 notice by certified mail, return receipt requested, to the
1614 owner. If, at the end of 5 days after posting the notice and
1615 mailing such notice, if required, the owner or any person
1616 interested in the lost or abandoned article or articles
1617 described has not removed the article or articles from public
1618 property or shown reasonable cause for failure to do so, the
1619 following shall apply:

1620 (a) For abandoned property, the law enforcement agency may
1621 retain any or all of the property for its own use or for use by
1622 the state or unit of local government, trade such property to
1623 another unit of local government or state agency, donate the
1624 property to a charitable organization, sell the property, or
1625 notify the appropriate refuse removal service.

1626 (b) For lost property, the officer shall take custody and
1627 the agency shall retain custody of the property for 90 days. The
1628 agency shall publish notice of the intended disposition of the
1629 property, as provided in this section, during the first 45 days
1630 of this time period.

1631 1. If the agency elects to retain the property for use by
1632 the unit of government, donate the property to a charitable
1633 organization, surrender such property to the finder, sell the
1634 property, or trade the property to another unit of local



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1635 government or state agency, notice of such election shall be
1636 given by an advertisement published once a week for 2
1637 consecutive weeks in a newspaper of general circulation in the
1638 county where the property was found if the value of the property
1639 is more than \$100. If the value of the property is \$100 or less,
1640 notice shall be given by posting a description of the property
1641 at the law enforcement agency where the property was turned in.
1642 The notice must be posted for not less than 2 consecutive weeks
1643 in a public place designated by the law enforcement agency. The
1644 notice must describe the property in a manner reasonably
1645 adequate to permit the rightful owner of the property to claim
1646 it.

1647 2. If the agency elects to sell the property, it must do so
1648 at public sale by competitive bidding. Notice of the time and
1649 place of the sale shall be given by an advertisement of the sale
1650 published once a week for 2 consecutive weeks in a newspaper of
1651 general circulation in the county where the sale is to be held.
1652 The notice shall include a statement that the sale shall be
1653 subject to any and all liens. The sale must be held at the
1654 nearest suitable place to that where the lost or abandoned
1655 property is held or stored. The advertisement must include a
1656 description of the goods and the time and place of the sale. The
1657 sale may take place no earlier than 10 days after the final
1658 publication. If there is no newspaper of general circulation in
1659 the county where the sale is to be held, the advertisement shall
1660 be posted at the door of the courthouse and at three other
1661 public places in the county at least 10 days prior to sale.
1662 Notice of the agency's intended disposition shall describe the
1663 property in a manner reasonably adequate to permit the rightful



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1664 owner of the property to identify it.

1665 Section 30. Paragraph (c) of subsection (2) of section
1666 721.08, Florida Statutes, is amended to read:

1667 721.08 Escrow accounts; nondisturbance instruments;
1668 alternate security arrangements; transfer of legal title.-

1669 (2) One hundred percent of all funds or other property
1670 which is received from or on behalf of purchasers of the
1671 timeshare plan or timeshare interest prior to the occurrence of
1672 events required in this subsection shall be deposited pursuant
1673 to an escrow agreement approved by the division. The funds or
1674 other property may be released from escrow only as follows:

1675 (c) *Compliance with conditions.-*

1676 1. Timeshare licenses.-If the timeshare plan is one in
1677 which timeshare licenses are to be sold and no cancellation or
1678 default has occurred, the escrow agent may release the escrowed
1679 funds or other property to or on the order of the developer upon
1680 presentation of:

1681 a. An affidavit by the developer that all of the following
1682 conditions have been met:

1683 (I) Expiration of the cancellation period.

1684 (II) Completion of construction.

1685 (III) Closing.

1686 (IV) Either:

1687 (A) Execution, delivery, and recordation by each
1688 interestholder of the nondisturbance and notice to creditors
1689 instrument, as described in this section; or

1690 (B) Transfer by the developer of legal title to the subject
1691 accommodations and facilities, or all use rights therein, into a
1692 trust satisfying the requirements of subparagraph 4. and the



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1693 execution, delivery, and recordation by each other
1694 interestholder of the nondisturbance and notice to creditors
1695 instrument, as described in this section.

1696 b. A certified copy of each recorded nondisturbance and
1697 notice to creditors instrument.

1698 c. One of the following:

1699 (I) A copy of a memorandum of agreement, as defined in s.
1700 721.05, together with satisfactory evidence that the original
1701 memorandum of agreement has been irretrievably delivered for
1702 recording to the appropriate official responsible for
1703 maintaining the public records in the county in which the
1704 subject accommodations and facilities are located. The original
1705 memorandum of agreement must be recorded within 180 days after
1706 the date on which the purchaser executed her or his purchase
1707 agreement.

1708 (II) A notice delivered for recording to the appropriate
1709 official responsible for maintaining the public records in each
1710 county in which the subject accommodations and facilities are
1711 located notifying all persons of the identity of an independent
1712 escrow agent or trustee satisfying the requirements of
1713 subparagraph 4. that shall maintain separate books and records,
1714 in accordance with good accounting practices, for the timeshare
1715 plan in which timeshare licenses are to be sold. The books and
1716 records shall indicate each accommodation and facility that is
1717 subject to such a timeshare plan and each purchaser of a
1718 timeshare license in the timeshare plan.

1719 2. Timeshare estates.—If the timeshare plan is one in which
1720 timeshare estates are to be sold and no cancellation or default
1721 has occurred, the escrow agent may release the escrowed funds or



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1722 other property to or on the order of the developer upon
1723 presentation of:

1724 a. An affidavit by the developer that all of the following
1725 conditions have been met:

1726 (I) Expiration of the cancellation period.
1727 (II) Completion of construction.
1728 (III) Closing.

1729 b. If the timeshare estate is sold by agreement for deed, a
1730 certified copy of the recorded nondisturbance and notice to
1731 creditors instrument, as described in this section.

1732 c. Evidence that each accommodation and facility:

1733 (I) Is free and clear of the claims of any interestholders,
1734 other than the claims of interestholders that, through a
1735 recorded instrument, are irrevocably made subject to the
1736 timeshare instrument and the use rights of purchasers made
1737 available through the timeshare instrument;

1738 (II) Is the subject of a recorded nondisturbance and notice
1739 to creditors instrument that complies with subsection (3) and s.
1740 721.17; or

1741 (III) Has been transferred into a trust satisfying the
1742 requirements of subparagraph 4.

1743 d. Evidence that the timeshare estate:

1744 (I) Is free and clear of the claims of any interestholders,
1745 other than the claims of interestholders that, through a
1746 recorded instrument, are irrevocably made subject to the
1747 timeshare instrument and the use rights of purchasers made
1748 available through the timeshare instrument; or

1749 (II) Is the subject of a recorded nondisturbance and notice
1750 to creditors instrument that complies with subsection (3) and s.



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1751 721.17.

1752 3. Personal property timeshare interests.—If the timeshare
1753 plan is one in which personal property timeshare interests are
1754 to be sold and no cancellation or default has occurred, the
1755 escrow agent may release the escrowed funds or other property to
1756 or on the order of the developer upon presentation of:

1757 a. An affidavit by the developer that all of the following
1758 conditions have been met:

1759 (I) Expiration of the cancellation period.

1760 (II) Completion of construction.

1761 (III) Closing.

1762 b. If the personal property timeshare interest is sold by
1763 agreement for transfer, evidence that the agreement for transfer
1764 complies fully with s. 721.06 and this section.

1765 c. Evidence that one of the following has occurred:

1766 (I) Transfer by the owner of the underlying personal
1767 property of legal title to the subject accommodations and
1768 facilities or all use rights therein into a trust satisfying the
1769 requirements of subparagraph 4.; or

1770 (II) Transfer by the owner of the underlying personal
1771 property of legal title to the subject accommodations and
1772 facilities or all use rights therein into an owners' association
1773 satisfying the requirements of subparagraph 5.

1774 d. Evidence of compliance with the provisions of
1775 subparagraph 6., if required.

1776 e. If a personal property timeshare plan is created with
1777 respect to accommodations and facilities that are located on or
1778 in an oceangoing vessel, including a "documented vessel" or a
1779 "foreign vessel," as defined and governed by 46 U.S.C. chapter



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1780 301:

1781 (I) In making the transfer required in sub-subparagraph c.,
1782 the developer shall use as its transfer instrument a document
1783 that establishes and protects the continuance of the use rights
1784 in the subject accommodations and facilities in a manner that is
1785 enforceable by the trust or owners' association.

1786 (II) The transfer instrument shall comply fully with the
1787 provisions of this chapter, shall be part of the timeshare
1788 instrument, and shall contain specific provisions that:

1789 (A) Prohibit the vessel owner, the developer, any manager
1790 or operator of the vessel, the owners' association or the
1791 trustee, the managing entity, or any other person from incurring
1792 any liens against the vessel except for liens that are required
1793 for the operation and upkeep of the vessel, including liens for
1794 fuel expenditures, repairs, crews' wages, and salvage, and
1795 except as provided in sub-sub-subparagraphs 4.b.(III) and
1796 5.b.(III). All expenses, fees, and taxes properly incurred in
1797 connection with the creation, satisfaction, and discharge of any
1798 such permitted lien, or a prorated portion thereof if less than
1799 all of the accommodations on the vessel are subject to the
1800 timeshare plan, shall be common expenses of the timeshare plan.

1801 (B) Grant a lien against the vessel in favor of the owners'
1802 association or trustee to secure the full and faithful
1803 performance of the vessel owner and developer of all of their
1804 obligations to the purchasers.

1805 (C) Establish governing law in a jurisdiction that
1806 recognizes and will enforce the timeshare instrument and the
1807 laws of the jurisdiction of registry of the vessel.

1808 (D) Require that a description of the use rights of



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1809 purchasers be posted and displayed on the vessel in a manner
1810 that will give notice of such rights to any party examining the
1811 vessel. This notice must identify the owners' association or
1812 trustee and include a statement disclosing the limitation on
1813 incurring liens against the vessel described in sub-sub-sub-
1814 subparagraph (A).

1815 (E) Include the nondisturbance and notice to creditors
1816 instrument for the vessel owner and any other interestholders.

1817 (F) The owners' association created under subparagraph 5.
1818 or trustee created under subparagraph 4. shall have access to
1819 any certificates of classification in accordance with the
1820 timeshare instrument.

1821 (III) If the vessel is a foreign vessel, the vessel must be
1822 registered in a jurisdiction that permits a filing evidencing
1823 the use rights of purchasers in the subject accommodations and
1824 facilities, offers protection for such use rights against
1825 unfiled and inferior claims, and recognizes the document or
1826 instrument creating such use rights as a lien against the
1827 vessel.

1828 (IV) In addition to the disclosures required by s.
1829 721.07(5), the public offering statement and purchase contract
1830 must contain a disclosure in conspicuous type in substantially
1831 the following form:

1832

1833 *The laws of the State of Florida govern the offering of this*
1834 *timeshare plan in this state. There are inherent risks in*
1835 *purchasing a timeshare interest in this timeshare plan because*
1836 *the accommodations and facilities of the timeshare plan are*
1837 *located on a vessel that will sail into international waters and*



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1838 *into waters governed by many different jurisdictions. Therefore,*
1839 *the laws of the State of Florida cannot fully protect your*
1840 *purchase of an interest in this timeshare plan. Specifically,*
1841 *management and operational issues may need to be addressed in*
1842 *the jurisdiction in which the vessel is registered, which is*
1843 *(insert jurisdiction in which vessel is registered). Concerns of*
1844 *purchasers may be sent to (insert name of applicable regulatory*
1845 *agency and address).*

1846

1847 4. Trust.—

1848 a. If the subject accommodations or facilities, or all use
1849 rights therein, are to be transferred into a trust in order to
1850 comply with this paragraph, such transfer shall take place
1851 pursuant to this subparagraph. If the accommodations or
1852 facilities included in such transfer are subject to a lease, the
1853 unexpired term of the lease must be disclosed as the term of the
1854 timeshare plan pursuant to s. 721.07(5)(f)4.

1855 b. Prior to the transfer of the subject accommodations and
1856 facilities, or all use rights therein, to a trust, any lien or
1857 other encumbrance against such accommodations and facilities, or
1858 use rights therein, shall be made subject to a nondisturbance
1859 and notice to creditors instrument pursuant to subsection (3).
1860 No transfer pursuant to this subparagraph shall become effective
1861 until the trustee accepts such transfer and the responsibilities
1862 set forth herein. A trust established pursuant to this
1863 subparagraph shall comply with the following provisions:

1864 (I) The trustee shall be an individual or a business entity
1865 authorized and qualified to conduct trust business in this
1866 state. Any corporation authorized to do business in this state



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1867 may act as trustee in connection with a timeshare plan pursuant
1868 to this chapter. The trustee must be independent from any
1869 developer or managing entity of the timeshare plan or any
1870 interestholder of any accommodation or facility of such plan.

1871 (II) The trust shall be irrevocable so long as any
1872 purchaser has a right to occupy any portion of the timeshare
1873 property pursuant to the timeshare plan.

1874 (III) The trustee shall not convey, hypothecate, mortgage,
1875 assign, lease, or otherwise transfer or encumber in any fashion
1876 any interest in or portion of the timeshare property with
1877 respect to which any purchaser has a right of use or occupancy
1878 unless the timeshare plan is terminated pursuant to the
1879 timeshare instrument, or such conveyance, hypothecation,
1880 mortgage, assignment, lease, transfer, or encumbrance is
1881 approved by a vote of two-thirds of all voting interests of the
1882 timeshare plan. Subject to s. 721.552, a vote of the voting
1883 interests of the timeshare plan is not required for substitution
1884 or automatic deletion of accommodations or facilities.

1885 (IV) All purchasers of the timeshare plan or the owners'
1886 association of the timeshare plan shall be the express
1887 beneficiaries of the trust. The trustee shall act as a fiduciary
1888 to the beneficiaries of the trust. The personal liability of the
1889 trustee shall be governed by ss. 736.08125, 736.08163, 736.1013,
1890 and 736.1015. The agreement establishing the trust shall set
1891 forth the duties of the trustee. The trustee shall be required
1892 to furnish promptly to the division upon request a copy of the
1893 complete list of the names and addresses of the owners in the
1894 timeshare plan and a copy of any other books and records of the
1895 timeshare plan required to be maintained pursuant to s. 721.13



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1896 that are in the possession, custody, or control of the trustee.
1897 All expenses reasonably incurred by the trustee in the
1898 performance of its duties, together with any reasonable
1899 compensation of the trustee, shall be common expenses of the
1900 timeshare plan.

1901 (V) The trustee shall not resign upon less than 90 days'
1902 prior written notice to the managing entity and the division. No
1903 resignation shall become effective until a substitute trustee,
1904 approved by the division, is appointed by the managing entity
1905 and accepts the appointment.

1906 (VI) The documents establishing the trust arrangement shall
1907 constitute a part of the timeshare instrument.

1908 (VII) For trusts holding property in a timeshare plan
1909 located outside this state, the trust and trustee holding such
1910 property shall be deemed in compliance with the requirements of
1911 this subparagraph if such trust and trustee are authorized and
1912 qualified to conduct trust business under the laws of such
1913 jurisdiction and the agreement or law governing such trust
1914 arrangement provides substantially similar protections for the
1915 purchaser as are required in this subparagraph for trusts
1916 holding property in a timeshare plan in this state.

1917 (VIII) The trustee shall have appointed a registered agent
1918 in this state for service of process. In the event such a
1919 registered agent is not appointed, service of process may be
1920 served pursuant to s. 721.265.

1921 5. Owners' association.—

1922 a. If the subject accommodations or facilities, or all use
1923 rights therein, are to be transferred into an owners'
1924 association in order to comply with this paragraph, such



1925 transfer shall take place pursuant to this subparagraph.
1926 b. Before the transfer of the subject accommodations and
1927 facilities, or all use rights therein, to an owners'
1928 association, any lien or other encumbrance against such
1929 accommodations and facilities, or use rights therein, shall be
1930 made subject to a nondisturbance and notice to creditors
1931 instrument pursuant to subsection (3). No transfer pursuant to
1932 this subparagraph shall become effective until the owners'
1933 association accepts such transfer and the responsibilities set
1934 forth herein. An owners' association established pursuant to
1935 this subparagraph shall comply with the following provisions:
1936 (I) The owners' association shall be a business entity
1937 authorized and qualified to conduct business in this state.
1938 Control of the board of directors of the owners' association
1939 must be independent from any developer or managing entity of the
1940 timeshare plan or any interestholder.
1941 (II) The bylaws of the owners' association shall provide
1942 that the corporation may not be voluntarily dissolved without
1943 the unanimous vote of all owners of personal property timeshare
1944 interests so long as any purchaser has a right to occupy any
1945 portion of the timeshare property pursuant to the timeshare
1946 plan.
1947 (III) The owners' association shall not convey,
1948 hypothecate, mortgage, assign, lease, or otherwise transfer or
1949 encumber in any fashion any interest in or portion of the
1950 timeshare property with respect to which any purchaser has a
1951 right of use or occupancy, unless the timeshare plan is
1952 terminated pursuant to the timeshare instrument, or unless such
1953 conveyance, hypothecation, mortgage, assignment, lease,



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1954 transfer, or encumbrance is approved by a vote of two-thirds of
1955 all voting interests of the association and such decision is
1956 declared by a court of competent jurisdiction to be in the best
1957 interests of the purchasers of the timeshare plan. The owners'
1958 association shall notify the division in writing within 10 days
1959 after receiving notice of the filing of any petition relating to
1960 obtaining such a court order. The division shall have standing
1961 to advise the court of the division's interpretation of the
1962 statute as it relates to the petition.

1963 (IV) All purchasers of the timeshare plan shall be members
1964 of the owners' association and shall be entitled to vote on
1965 matters requiring a vote of the owners' association as provided
1966 in this chapter or the timeshare instrument. The owners'
1967 association shall act as a fiduciary to the purchasers of the
1968 timeshare plan. The articles of incorporation establishing the
1969 owners' association shall set forth the duties of the owners'
1970 association. All expenses reasonably incurred by the owners'
1971 association in the performance of its duties, together with any
1972 reasonable compensation of the officers or directors of the
1973 owners' association, shall be common expenses of the timeshare
1974 plan.

1975 (V) The documents establishing the owners' association
1976 shall constitute a part of the timeshare instrument.

1977 (VI) For owners' associations holding property in a
1978 timeshare plan located outside this state, the owners'
1979 association holding such property shall be deemed in compliance
1980 with the requirements of this subparagraph if such owners'
1981 association is authorized and qualified to conduct owners'
1982 association business under the laws of such jurisdiction and the



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1983 agreement or law governing such arrangement provides
1984 substantially similar protections for the purchaser as are
1985 required in this subparagraph for owners' associations holding
1986 property in a timeshare plan in this state.

1987 (VII) The owners' association shall have appointed a
1988 registered agent in this state for service of process. In the
1989 event such a registered agent cannot be located, service of
1990 process may be made pursuant to s. 721.265.

1991 6. Personal property subject to certificate of title.—If
1992 any personal property that is an accommodation or facility of a
1993 timeshare plan is subject to a certificate of title in this
1994 state pursuant to chapter 319 or chapter 328, the following
1995 notation must be made on such certificate of title pursuant to
1996 s. 319.27(1) or s. 328.15 ~~s. 328.15(1)~~:

1997
1998 *The further transfer or encumbrance of the property subject to*
1999 *this certificate of title, or any lien or encumbrance thereon,*
2000 *is subject to the requirements of section 721.17, Florida*
2001 *Statutes, and the transferee or lienor agrees to be bound by all*
2002 *of the obligations set forth therein.*

2003
2004 7. If the developer has previously provided a certified
2005 copy of any document required by this paragraph, she or he may
2006 for all subsequent disbursements substitute a true and correct
2007 copy of the certified copy, provided no changes to the document
2008 have been made or are required to be made.

2009 8. In the event that use rights relating to an
2010 accommodation or facility are transferred into a trust pursuant
2011 to subparagraph 4. or into an owners' association pursuant to



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2012 subparagraph 5., all other interestholders, including the owner
2013 of the underlying fee or underlying personal property, must
2014 execute a nondisturbance and notice to creditors instrument
2015 pursuant to subsection (3).

2016 Section 31. (1) The rights, duties, and interests flowing
2017 from a transaction, certificate of title, or record relating to
2018 a vessel which was validly entered into or created before the
2019 effective date of this act and would be subject to this act if
2020 it had been entered into or created on or after the effective
2021 date of this act remain valid on and after the effective date of
2022 this act.

2023 (2) This act does not affect an action or a proceeding
2024 commenced before the effective date of this act.

2025 (3) Except as otherwise provided in subsection (4), a
2026 security interest that is enforceable immediately before the
2027 effective date of this act and would have priority over the
2028 rights of a person who becomes a lien creditor at that time is a
2029 perfected security interest under this act.

2030 (4) A security interest perfected immediately before the
2031 effective date of this act remains perfected until the earlier
2032 of:

2033 (a) The time perfection would have ceased under the law
2034 under which the security interest was perfected; or

2035 (b) Three years after the effective date of this act.

2036 (5) This act does not affect the priority of a security
2037 interest in a vessel if immediately before the effective date of
2038 this act the security interest is enforceable and perfected, and
2039 that priority is established.

2040 Section 32. Subject to section 25, this act applies to any



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2041 transaction, certificate of title, or record relating to a
2042 vessel, even if the transaction, certificate of title, or record
2043 was entered into or created before the effective date of this
2044 act.

2045 Section 33. This act shall take effect July 1, 2023.

2046
2047 ===== T I T L E A M E N D M E N T =====

2048 And the title is amended as follows:

2049 Delete everything before the enacting clause
2050 and insert:

2051 A bill to be entitled
2052 An act relating to certificates of title for vessels;
2053 creating s. 328.001, F.S.; providing a short title;
2054 creating s. 328.0015, F.S.; providing definitions;
2055 amending s. 328.01, F.S.; revising requirements for
2056 application for, and information to be included in, a
2057 certificate of title for a vessel; creating s.
2058 328.015, F.S.; requiring the Department of Highway
2059 Safety and Motor Vehicles to retain certain
2060 information relating to ownership and titling of
2061 vessels; requiring the department to furnish certain
2062 information upon request; creating s. 328.02, F.S.;
2063 providing that the law of the state under which a
2064 vessel's certificate of title is covered governs all
2065 issues relating to a certificate of title; specifying
2066 when a vessel becomes covered by such certificate;
2067 amending s. 328.03, F.S.; requiring a vessel owner to
2068 deliver an application for certificate of title to the
2069 department by a specified time; revising circumstances



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2070 under which a vessel must be titled by this state;
2071 providing requirements for issuing, transferring, or
2072 renewing the number of an undocumented vessel issued
2073 under certain federal provisions; deleting provisions
2074 relating to operation, use, or storage of a vessel;
2075 deleting provisions relating to selling, assigning, or
2076 transferring a vessel; specifying that a certificate
2077 of title is prima facie evidence of the accuracy of
2078 the information in the record that constitutes the
2079 certificate; creating s. 328.04, F.S.; providing
2080 requirements for the contents of a certificate of
2081 title; creating s. 328.045, F.S.; providing
2082 responsibilities of an owner and insurer of a hull-
2083 damaged vessel when transferring an ownership interest
2084 in the vessel; requiring the department to create a
2085 new certificate indicating such damage; providing
2086 civil penalties; creating s. 328.055, F.S.; requiring
2087 the department to maintain certain information in its
2088 files and to provide certain information to
2089 governmental entities; specifying that certain
2090 information is a public record; creating s. 328.06,
2091 F.S.; providing responsibilities of the department
2092 when creating a certificate of title; creating s.
2093 328.065, F.S.; specifying effect of possession of a
2094 certificate of title; providing construction; amending
2095 s. 328.09, F.S.; providing duties of the department
2096 relating to creation, issuance, refusal to issue, or
2097 cancellation of a certificate of title; providing for
2098 a hearing; creating s. 328.101, F.S.; specifying that



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2099 a certificate of title and certain other records are
2100 effective despite missing or incorrect information;
2101 amending s. 328.11, F.S.; providing requirements for
2102 obtaining a duplicate certificate of title; creating
2103 s. 328.12, F.S.; providing requirements for
2104 determination and perfection of a security interest in
2105 a vessel; providing applicability; creating s.
2106 328.125, F.S.; providing requirements for the delivery
2107 of a statement of termination of a security interest;
2108 providing duties of the department; providing
2109 liability for noncompliance; creating s. 328.14, F.S.;
2110 providing for the rights of a purchaser of a vessel
2111 who is not a secured party; creating s. 328.145, F.S.;
2112 providing for the rights of a secured party; amending
2113 s. 328.15, F.S.; deleting certain provisions relating
2114 to notice of a lien; providing for future expiration
2115 of certain provisions; amending ss. 328.16 and
2116 328.165, F.S.; conforming provisions to changes made
2117 by the act; creating s. 328.215, F.S.; specifying
2118 circumstances under which the department may create a
2119 new certificate of title after receipt of an
2120 application for a transfer of ownership or termination
2121 of a security interest unaccompanied by a certificate
2122 of title; authorizing the department to indicate
2123 certain information on the new certificate;
2124 authorizing the department to require a bond,
2125 indemnity, or other security; providing for the
2126 release of such bond, indemnity, or other security;
2127 providing that the department is not liable for



2128 creating a certificate of title based on erroneous or
2129 fraudulent information; providing penalties; creating
2130 s. 328.22, F.S.; providing requirements for the
2131 transfer of ownership in a vessel; providing effect of
2132 noncompliance; creating s. 328.23, F.S.; providing a
2133 definition; providing duties of the department upon
2134 receipt of a secured party's transfer statement;
2135 providing construction; creating s. 328.24, F.S.;
2136 providing a definition; providing requirements for a
2137 transfer of ownership by operation of law; providing
2138 duties of the department; providing applicability;
2139 creating s. 328.25, F.S.; providing that the
2140 principles and law of equity supplement the provisions
2141 of the act; creating s. 328.41, F.S.; authorizing the
2142 department to adopt rules to implement vessel
2143 registration provisions; amending ss. 409.2575,
2144 705.103, and 721.08, F.S.; conforming provisions and
2145 cross-references to changes made by the act; providing
2146 construction and applicability regarding transactions,
2147 certificates of title, and records entered into or
2148 created, actions or proceedings commenced, and
2149 security interests perfected before the effective date
2150 of the act; providing applicability; providing an
2151 effective date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 676

INTRODUCER: Senator Hooper

SUBJECT: Certificates of Title for Vessels

DATE: March 19, 2019 REVISED: _____

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

I. Summary:

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

Generally, the bill:

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

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

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

The bill takes effect October 1, 2019.

II. Present Situation:

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

III. Effect of Proposed Changes:

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

Current Situation

Vessel Titling

Application for Certificate of Title

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

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

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

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

² Section 328.01(1)(a), F.S.

³ Section 328.01(2)(a)&(b), F.S.

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

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

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

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

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

Certificate of Title Required

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

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

⁴ Section 328.01(2)(c), F.S.

⁵ Section 328.01(2)(d), F.S.

⁶ Section 328.01(2)(e), F.S.

⁷ Section 328.01(3)(a)&(b), F.S.

⁸ Section 328.01(3)(c), F.S.

⁹ Section 328.01(3)(d), F.S.

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

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

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

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

Duplicate Certificate of Title

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

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

¹⁰ Section 328.03(1), F.S.

¹¹ Section 328.03(2), F.S.

¹² Section 328.03(3), F.S.

¹³ Section 328.03(4), F.S.

¹⁴ Section 328.09, F.S.

¹⁵ Section 328.11(1)-(2), F.S.

¹⁶ Section 328.11(3)-(4), F.S.

Notice of Lien on Vessel and Recording

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

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

The lien must be recorded by DHSMV.¹⁷

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

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

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

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

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

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

¹⁷ Section 328.15(1), F.S.

¹⁸ Section 328.15(2)(a), F.S.

¹⁹ Section 328.15(2)(b), F.S.

²⁰ Section 328.15(2)(c), F.S.

²¹ Section 328.15(3), F.S.

²² Section 328.15(4), F.S.

²³ Section 328.15(6), F.S.

²⁴ Section 328.15(7), F.S.

²⁵ Section 328.15(9), F.S.

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

Uniform Law Commission

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

Uniform Certificate of Title for Vessels Act

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

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

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

²⁶ Section 328.15(8), F.S.

²⁷ Section 328.15(11), F.S.

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

²⁹ *Id.*

³⁰ *Id.*

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

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

Effect of Proposed Changes

Short Title

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

Definitions

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

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

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

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

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

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

Application for Certificate of Title

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

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

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

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

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

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

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

DHSMV Records

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

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

- Whether the DHSMV's files indicate, as of the a date specified by the DHSMV but no earlier than three days before the request is received, a copy of any certificate of title, security interest, termination statement, or title brand that relates to a vessel;
 - Identified by a hull identification number designated in the request;
 - Identified by a vessel number designated in the request; or
 - Owned by a person designated in the request.

- With respect to the vessel:
 - The name and address of any owner and the secured party as indicated in the DHSMV's files;
 - A copy of any termination statement indicated in the DHSMV's files and the statement's effective date; and
 - A copy of any certificate of origin, secured party transfer statement, transfer-by-law statement, and other evidence of previous or current transfers of ownership.

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

Governing Vessel Law

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

³³ Section 320.05(3)(b)2., F.S.

Certificate of Title Required

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

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

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

The bill also deletes the following current exceptions:

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

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

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

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

Certificate of Title Content

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

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

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

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

Title Brands for Hull-Damaged Vehicles

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

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

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

Maintenance and Access to Vessel Title Files

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

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

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

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

Creation of Title

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

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

Effect of Possession of Title

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

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

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

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

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

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

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

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

Effect of Missing or Incorrect Information

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

Duplicate Certificates of Title

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

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

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

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

Perfection of Security Interests

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

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

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

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

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

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

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

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

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

Termination Statements

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

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

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

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

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

Rights of a Purchaser Other Than Secured Party

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

Rights of Secured Party

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

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

Notice of Vessel Lien

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

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

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

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

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

Applications for Transfer of Ownership or Termination of Security Interest

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

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

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

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

Transfer of Ownership

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

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

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

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

Transfer of Ownership by Secured Party

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

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

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

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

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

Transfer by Operation of Law

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

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

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

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

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

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

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

Supplemental Principles of Law and Equity

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

“Grandfather” Provisions

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

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

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

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

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

Retroactive Application

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

Technical Revisions

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

Effective Date

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

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

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

B. Private Sector Impact:

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

C. Government Sector Impact:

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

VI. Technical Deficiencies:

None.

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

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

VII. Related Issues:

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

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

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

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

VIII. Statutes Affected:

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

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

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

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

None.

B. Amendments:

None.

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

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

³⁸ Conversation with DOR staff, March 18, 2019.

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

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

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

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

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

101 effective date.

102

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

104

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

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

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

111 328.0015 Definitions.—

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

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

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

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

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

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

126 include a builder's certificate.

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

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

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

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

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

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

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

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

151 of reasonable commercial standards of fair dealing.

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

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

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

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

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

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

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

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

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

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

176 instrumentality, or any other legal or commercial entity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

235 1. A seaplane;

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

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

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

246 5. A stationary floating structure that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

283 328.01 Application for certificate of title.—

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

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

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

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

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

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

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

326 | the date of the transfer; and

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

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

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

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

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

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

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

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

351 as the owner; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

451 ~~title to the new owner.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

556 328.015 Duties and operation of the department.—

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

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

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

576 authorized by the department.

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

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

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

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

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

590 (b) With respect to the vessel:

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

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

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

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

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

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

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

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

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

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

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

625 328.03 Certificate of title required.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

734 328.04 Content of certificate of title.-

735 (1) A certificate of title must contain:

736 (a) The date the certificate was created;

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

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

741 (d) The hull identification number;

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

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

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

751 jurisdiction and delivered to the department.

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

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

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

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

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

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

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

780 328.045 Title brands.-

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

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

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

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

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

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

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

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

816 328.055 Maintenance of and access to files.—

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

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

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

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

826 subsection (5); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

948 328.11 Duplicate certificate of title.—

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

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

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

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

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

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

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

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

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

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

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

999 328.12 Perfection of security interest.—

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

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

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

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

1021 (a) The name of the owner of record;
1022 (b) The name and mailing address of the secured party;
1023 (c) The hull identification number for the vessel; and
1024 (d) If the department has created a written certificate of
1025 title for the vessel, the certificate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1080 328.125 Termination statement.—

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

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

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

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

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

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

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

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

1121 328.14 Rights of purchaser other than secured party.—

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

1126 record was not created.

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

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

1133 328.145 Rights of secured party.—

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

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

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

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

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

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

1156 328.15 Notice of lien on vessel; recording.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1276 | of the lien.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1435 | 328.165 Cancellation of certificates.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1514 328.22 Transfer of ownership.—

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

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

1526 transfer is prohibited by the security agreement.

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

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

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

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

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

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

1550 328.23 Transfer of ownership by secured party's transfer

1551 statement.—

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

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

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

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

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

1563 (e) The name of the transferee;

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

1565 (g) One of the following:

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

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

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

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

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

1580 (a) Accept the statement;

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

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

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

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

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

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

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

1597 328.24 Transfer by operation of law.—

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

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

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

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

1633 (a) Accept the statement;

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

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

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

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

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

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

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

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

1651 to read:

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

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

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

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

1661 409.2575 Liens on motor vehicles and vessels.—

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

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

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

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

1681 705.103 Procedure for abandoned or lost property.—

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

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

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

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

1722 (a) For abandoned property, the law enforcement agency may
1723 retain any or all of the property for its own use or for use by
1724 the state or unit of local government, trade such property to
1725 another unit of local government or state agency, donate the

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

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

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

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

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

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

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

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

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

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

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

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

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

1828 (I) Expiration of the cancellation period.
 1829 (II) Completion of construction.
 1830 (III) Closing.

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

1834 c. Evidence that each accommodation and facility:

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

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

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

1845 d. Evidence that the timeshare estate:

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

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

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

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

1861 (I) Expiration of the cancellation period.

1862 (II) Completion of construction.

1863 (III) Closing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1947 4. Trust.—

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

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

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

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

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

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

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

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

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

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

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

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

2021 5. Owners' association.—

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

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

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

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

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

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

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

2075 (V) The documents establishing the owners' association

2076 shall constitute a part of the timeshare instrument.

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

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

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

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

2101 of the obligations set forth therein.

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

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

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

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

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

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

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

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

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

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

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

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 475 Certificates of Title for Vessels

SPONSOR(S): Transportation & Tourism Appropriations Subcommittee, Transportation & Infrastructure Subcommittee, Williamson and others

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	11 Y, 0 N, As CS	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, 2023.

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, 2026, 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, 2023.

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, 2023.

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.

On March 19, 2019, the Transportation and Tourism Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Changed the repeal date of s. 328.15(1), (2), and (4) – (8) to October 1, 2026.
- Changed the effective date to July 1, 2023.

This analysis is drafted to the committee substitute as passed by the Transportation and Tourism Appropriations 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; amending s. 327.73, F.S.; revising civil
 8 penalties relating to certain at-risk vessels and
 9 prohibited anchoring or mooring; providing civil
 10 penalties relating to vessels that fail to reduce
 11 speed for special hazards; providing an effective
 12 date.

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

16 Section 1. Section 327.332, Florida Statutes, is created
 17 to read:

18 327.332 Special hazards requiring slow speed.-

19 (1) A vessel operator must reduce to slow speed, minimum
 20 wake upon approaching within 300 feet of any emergency vessel,
 21 including, but not limited to, a law enforcement vessel, United
 22 States Coast Guard vessel or auxiliary vessel, fire vessel, or
 23 tow vessel, with its emergency lights activated.

24 (2) A vessel operator must reduce to slow speed, minimum
 25 wake upon approaching within 300 feet of any construction vessel

26 | or barge when workers are present and actively engaged in
27 | operations and an orange flag or yellow flashing light is
28 | displayed from the tallest portion of the vessel or barge.

29 | (3) A vessel operator found in violation of this section
30 | is guilty of a noncriminal infraction as provided in s. 327.73.

31 | Section 2. Paragraph (e) of subsection (2) of section
32 | 327.4107, Florida Statutes, is amended to read:

33 | 327.4107 Vessels at risk of becoming derelict on waters of
34 | this state.—

35 | (2) An officer of the commission or of a law enforcement
36 | agency specified in s. 327.70 may determine that a vessel is at
37 | risk of becoming derelict if any of the following conditions
38 | exist:

39 | (e) The vessel does not have or is unable to demonstrate
40 | an effective means of propulsion for safe navigation within 72
41 | hours after the vessel owner or operator receives telephonic or
42 | written notice, which may be provided by facsimile, electronic
43 | mail, or other electronic means, stating such from an officer,
44 | and the vessel owner or operator is unable to provide a receipt,
45 | proof of purchase, or other documentation of having ordered
46 | necessary parts for vessel repair. The commission may adopt
47 | rules to implement this paragraph.

48 | Section 3. Paragraphs (aa) and (bb) of subsection (1) of
49 | section 327.73, Florida Statutes, are amended, and paragraph
50 | (cc) is added to that subsection, to read:

51 327.73 Noncriminal infractions.—

52 (1) Violations of the following provisions of the vessel
53 laws of this state are noncriminal infractions:

54 (aa) Section 327.4107, relating to vessels at risk of
55 becoming derelict on waters of this state, for which the civil
56 penalty is:

- 57 1. For a first offense, \$50.
- 58 2. For a second offense occurring 30 days or more after a
59 first offense, \$250 ~~\$100~~.
- 60 3. For a third or subsequent offense occurring 30 days or
61 more after a previous offense, \$500 ~~\$250~~.

62 (bb) Section 327.4109, relating to vessels anchoring or
63 mooring in a prohibited area, for which the penalty is:

- 64 1. For a first offense, up to a maximum of \$50.
- 65 2. For a second offense, up to a maximum of \$250 ~~\$100~~.
- 66 3. For a third or subsequent offense, up to a maximum of
67 \$500 ~~\$250~~.

68 (cc) Section 327.332, relating to vessels failing to
69 reduce speed for special hazards, for which the penalty is:

- 70 1. For a first offense, \$50.
- 71 2. For a second offense occurring within 12 months after a
72 prior conviction, \$250.
- 73 3. For a third offense occurring within 36 months after a
74 prior conviction, \$500.
- 75 4. For a fourth or subsequent offense occurring within 72

76 months after a prior conviction, \$1,000.

77

78 Any person cited for a violation of any provision of this
79 subsection shall be deemed to be charged with a noncriminal
80 infraction, shall be cited for such an infraction, and shall be
81 cited to appear before the county court. The civil penalty for
82 any such infraction is \$50, except as otherwise provided in this
83 section. Any person who fails to appear or otherwise properly
84 respond to a uniform boating citation shall, in addition to the
85 charge relating to the violation of the boating laws of this
86 state, be charged with the offense of failing to respond to such
87 citation and, upon conviction, be guilty of a misdemeanor of the
88 second degree, punishable as provided in s. 775.082 or s.
89 775.083. A written warning to this effect shall be provided at
90 the time such uniform boating citation is issued.

91 Section 4. This act shall take effect July 1, 2019.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1319 Vessels
SPONSOR(S): Agriculture & Natural Resources Subcommittee, Diamond
TIED BILLS: IDEN./SIM. **BILLS:** SB 1530

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	13 Y, 0 N, As CS	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.

The bill requires vessel operators to reduce to slow speed, minimum wake upon: 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 when workers are present and 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 and the owner is unable to provide documentation of vessel repair may be deemed at risk for becoming derelict.

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

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 wake¹⁷ upon 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; or any construction vessel or barge when workers are present and 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.

⁹ Section 705.103(4), F.S.

¹⁰ FWC, Agency Analysis of 2016 House Bill 7025, p. 3 (Jan. 8, 2016).

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 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).

The bill provides that a vessel that does not have or is unable to demonstrate an effective means of propulsion and the owner is unable to provide documentation of vessel repair may be deemed at risk of becoming derelict.

The bill amends s. 327.73, F.S., to increase the civil penalties for a vessel deemed at risk of becoming derelict 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 second offense from a maximum of \$100 to \$250 and for a third offense from \$250 to \$500. 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.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.

Section 4 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 increased 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:

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

On March 19, 2019, the Agriculture & Natural Resources Subcommittee adopted a strikeall amendment and reported the bill favorably as a committee substitute. The amendment removed reference to an undefined term, removed the requirement that a destination be declared upon inquiry of a law enforcement officer, removed the requirement that a vessel be moved three miles within 90 days of the date of notice to the owner, and removed penalties for the failure to present certificate of title to the department with the new owner information.

This analysis is drafted to the committee substitute as passed by the Agriculture & Natural Resources Subcommittee.

By Senator Gruters

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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 specifying that local governments may enact rates to
5 tow or immobilize vessels on private property and to
6 remove and store vessels under specified
7 circumstances; defining the term "immobilize";
8 creating ss. 125.01047 and 166.04465, F.S.;
9 prohibiting counties and municipalities, respectively,
10 from enacting certain ordinances or rules that impose
11 fees or charges on authorized wrecker operators,
12 towing businesses, or vehicle immobilization services;
13 defining the term "towing business"; providing
14 exceptions; amending s. 323.002, F.S.; prohibiting
15 counties or municipalities from imposing charges,
16 costs, expenses, fines, fees, or penalties on
17 registered owners, other legally authorized persons in
18 custody or in control, or lienholders of vehicles or
19 vessels under certain conditions; providing an
20 exception; amending s. 713.78, F.S.; authorizing
21 certain persons to place liens on vehicles or vessels
22 to recover specified fees or charges; amending s.
23 715.07, F.S.; revising certain notice requirements;
24 revising requirements relating to towing and to
25 removing vehicles or vessels to include persons who
26 are in custody of a vehicle or of a vessel; deleting a
27 requirement related to liability for improper removal
28 of a vehicle or of a vessel; creating s. 715.08, F.S.;
29 defining terms; authorizing vehicle immobilization

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30 devices to be used on trespassing motor vehicles;
31 prohibiting persons from acting as operators of a
32 vehicle immobilization service in this state unless
33 specified requirements are met; providing requirements
34 for such operators and persons acting on behalf of
35 such operators; authorizing an operator to conduct
36 vehicle immobilization at any time; providing notice
37 requirements for immobilization of a vehicle;
38 prohibiting a vehicle immobilization service or
39 operator from taking specified actions; providing
40 requirements for a certain receipt of payment;
41 providing liability requirements under certain
42 circumstances; providing insurance requirements for
43 the operator; prohibiting the operator from engaging
44 in specified activities; providing signage
45 requirements; authorizing a certain local government
46 to impose a fine upon an operator and to revoke,
47 suspend, or not renew an operator's license for due
48 cause; providing notice and hearing requirements for
49 adverse actions regarding certain licenses; requiring
50 disqualification from reapplying for a certain license
51 for a specified period under certain circumstances;
52 authorizing the revocation of an operator's license
53 under certain circumstances; providing maximum
54 specified fines and suspension of license for certain
55 violations; providing an effective date.

56
57 Be It Enacted by the Legislature of the State of Florida:
58

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59 Section 1. Paragraphs (b) and (c) of subsection (1) of
60 section 125.0103, Florida Statutes, are amended to read:

61 125.0103 Ordinances and rules imposing price controls;
62 findings required; procedures.—

63 (1)

64 (b) ~~The provisions of~~ This section does ~~shall~~ not prevent
65 the enactment by local governments of public service rates
66 otherwise authorized by law, including water, sewer, solid
67 waste, public transportation, taxicab, or port rates, rates for
68 towing of vehicles or vessels from, or immobilization of
69 vehicles or vessels on, private property, or rates for removal
70 and storage of wrecked or disabled vehicles or vessels from an
71 accident scene or the removal and storage of vehicles or vessels
72 in the event the owner or operator is incapacitated,
73 unavailable, leaves the procurement of wrecker service to the
74 law enforcement officer at the scene, or otherwise does not
75 consent to the removal of the vehicle or vessel.

76 (c) Counties must establish maximum rates that ~~which~~ may be
77 charged for ~~on~~ the towing of vehicles or vessels from, or
78 immobilization of vehicles or vessels on, private property, the
79 removal and storage of wrecked or disabled vehicles or vessels
80 from an accident scene or ~~for~~ the removal and storage of
81 vehicles or vessels, in the event the owner or operator is
82 incapacitated, unavailable, leaves the procurement of wrecker
83 service to the law enforcement officer at the scene, or
84 otherwise does not consent to the removal of the vehicle or
85 vessel. However, if a municipality chooses to enact an ordinance
86 establishing the maximum rates ~~fees~~ for the towing or
87 immobilization of vehicles or vessels as described in paragraph

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88 (b), the county's ordinance does ~~shall~~ not apply within such
89 municipality. For purposes of this paragraph, the term
90 "immobilize" means the act of rendering a vehicle or vessel
91 inoperable by the use of a device such as a "boot" or "club,"
92 the "Barnacle," or any other device that renders a vehicle or
93 vessel inoperable.

94 Section 2. Section 125.01047, Florida Statutes, is created
95 to read:

96 125.01047 Rules and ordinances relating to towing and to
97 vehicle immobilization services.-

98 (1) A county may not enact an ordinance or rule that would
99 impose a fee or charge on an authorized wrecker operator as
100 defined in s. 323.002(1); a towing business for towing,
101 impounding, or storing a vehicle or vessel; or a vehicle
102 immobilization service as defined in s. 715.08. As used in this
103 section, the term "towing business" means a business that
104 provides towing services for monetary gain.

105 (2) The prohibition imposed in subsection (1) does not
106 affect a county's authority to:

107 (a) Levy a reasonable business tax under s. 205.0315, s.
108 205.033, or s. 205.0535.

109 (b) Impose on and collect from the registered owner or
110 other legally authorized person in control of a vehicle or
111 vessel, or the lienholder of a vehicle or vessel, a reasonable
112 administrative fee or charge not to exceed 25 percent of the
113 maximum towing or of the immobilization rate, to cover the cost
114 of enforcement, including parking enforcement, by the county
115 when the vehicle or vessel is towed from or immobilized on
116 public property. However, an authorized wrecker operator, towing

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117 business, or vehicle immobilization service may impose and
 118 collect the administrative fee or charge on behalf of the county
 119 and shall remit such fee or charge to the county after it is
 120 collected.

121 Section 3. Paragraphs (b) and (c) of subsection (1) of
 122 section 166.043, Florida Statutes, are amended to read:

123 166.043 Ordinances and rules imposing price controls;
 124 findings required; procedures.—

125 (1)

126 (b) ~~The provisions of~~ This section does shall not prevent
 127 the enactment by local governments of public service rates
 128 otherwise authorized by law, including water, sewer, solid
 129 waste, public transportation, taxicab, or port rates, rates for
 130 towing of vehicles or vessels from, or immobilization of
 131 vehicles or vessels on, private property, or rates for removal
 132 and storage of wrecked or disabled vehicles or vessels from an
 133 accident scene or the removal and storage of vehicles or vessels
 134 in the event the owner or operator is incapacitated,
 135 unavailable, leaves the procurement of wrecker service to the
 136 law enforcement officer at the scene, or otherwise does not
 137 consent to the removal of the vehicle or vessel.

138 (c) Counties must establish maximum rates that ~~which~~ may be
 139 charged for ~~on~~ the towing of vehicles or vessels from, or
 140 immobilization of vehicles or vessels on, private property, the
 141 removal and storage of wrecked or disabled vehicles or vessels
 142 from an accident scene or ~~for~~ the removal and storage of
 143 vehicles or vessels, in the event the owner or operator is
 144 incapacitated, unavailable, leaves the procurement of wrecker
 145 service to the law enforcement officer at the scene, or

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146 otherwise does not consent to the removal of the vehicle or
147 vessel. However, if a municipality chooses to enact an ordinance
148 establishing the maximum rates fees for the towing or
149 immobilization of vehicles or vessels as described in paragraph
150 (b), the county's ordinance established under s. 125.0103 does
151 ~~shall~~ not apply within such municipality. For purposes of this
152 paragraph, the term "immobilize" means the act of rendering a
153 vehicle or a vessel inoperable by the use of a device such as a
154 "boot" or "club," the "Barnacle," or any other device that
155 renders the vehicle or the vessel inoperable.

156 Section 4. Section 166.04465, Florida Statutes, is created
157 to read:

158 166.04465 Rules and ordinances relating to towing or to
159 vehicle immobilization services.-

160 (1) A municipality may not enact an ordinance or rule that
161 would impose a fee or charge on an authorized wrecker operator
162 as defined in s. 323.002(1); on a towing business for towing,
163 impounding, or storing a vehicle or vessel; or a vehicle
164 immobilization service as defined in s. 715.08. As used in this
165 section, the term "towing business" means a business that
166 provides towing services for monetary gain.

167 (2) The prohibition imposed in subsection (1) does not
168 affect a municipality's authority to:

169 (a) Levy a reasonable business tax under s. 205.0315, s.
170 205.043, or s. 205.0535.

171 (b) Impose on and collect from the registered owner or
172 other legally authorized person in control of a vehicle or
173 vessel, or the lienholder of a vehicle or vessel, a reasonable
174 administrative fee or charge not to exceed 25 percent of the

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175 maximum towing or immobilization rate, to cover the cost of
176 enforcement, including parking enforcement, by the municipality
177 when the vehicle or vessel is towed from or immobilized on
178 public property. However, an authorized wrecker operator, towing
179 business, or vehicle immobilization service may impose and
180 collect the administrative fee or charge on behalf of the
181 municipality and shall remit such fee or charge to the
182 municipality after it is collected.

183 Section 5. Present subsection (4) of section 323.002,
184 Florida Statutes, is redesignated as subsection (5), and a new
185 subsection (4) is added to that section, to read:

186 323.002 County and municipal wrecker operator systems;
187 penalties for operation outside of system.—

188 (4) (a) Except as provided in paragraph (b), a county or
189 municipality may not adopt or maintain an ordinance or rule that
190 imposes a charge, cost, expense, fine, fee, or penalty on a
191 registered owner or other legally authorized person in custody
192 or in control of a vehicle or vessel, or the lienholder of a
193 vehicle or vessel, when the vehicle or vessel is towed by an
194 authorized wrecker operator under this chapter.

195 (b) A county or municipality may adopt or maintain an
196 ordinance or rule that imposes a reasonable administrative fee
197 or charge on the registered owner or other legally authorized
198 person in control of a vehicle or vessel, or the lienholder of a
199 vehicle or vessel, when the vehicle or vessel is towed by an
200 authorized wrecker operator. The fee or charge may not exceed 25
201 percent of the maximum towing rate, to cover the cost of
202 enforcement, including parking enforcement, by the county or
203 municipality when the vehicle or vessel is towed from public

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204 property. However, an authorized wrecker operator or towing
205 business may impose and collect the administrative fee or charge
206 on behalf of the county or municipality and shall remit such fee
207 or charge to the county or municipality after it is collected.

208 Section 6. Subsection (2) of section 713.78, Florida
209 Statutes, is amended to read:

210 713.78 Liens for recovering, towing, or storing vehicles
211 and vessels.—

212 (2) Whenever a person regularly engaged in the business of
213 transporting vehicles or vessels by wrecker, tow truck, or car
214 carrier recovers, removes, or stores a vehicle or vessel upon
215 instructions from:

216 (a) The owner thereof;

217 (b) The owner or lessor, or a person authorized by the
218 owner or lessor, of property on which such vehicle or vessel is
219 wrongfully parked, and the removal is done in compliance with s.
220 715.07;

221 (c) The landlord or a person authorized by the landlord,
222 when such motor vehicle or vessel remained on the premises after
223 the tenancy terminated and the removal is done in compliance
224 with s. 83.806 or s. 715.104; or

225 (d) Any law enforcement agency,

226
227 she or he shall have a lien on the vehicle or vessel for a
228 reasonable towing fee, for a reasonable administrative fee or
229 charge imposed by a county or a municipality, and for a
230 reasonable storage fee; except that a ~~no~~ storage fee may not
231 ~~shall~~ be charged if the vehicle or the vessel is stored for less
232 than 6 hours.

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233 Section 7. Subsection (2) and present subsection (4) of
234 section 715.07, Florida Statutes, are amended, and present
235 subsection (5) of that section is redesignated as subsection
236 (4), to read:

237 715.07 Vehicles or vessels parked on private property;
238 towing.—

239 (2) The owner or lessee of real property, or any person
240 authorized by the owner or lessee, which person may be the
241 designated representative of the condominium association if the
242 real property is a condominium, may cause any vehicle or vessel
243 parked on such property without her or his permission to be
244 removed by a person regularly engaged in the business of towing
245 vehicles or vessels, without liability for the costs of removal,
246 transportation, or storage or damages caused by such removal,
247 transportation, or storage, under any of the following
248 circumstances:

249 (a) The towing or removal of any vehicle or vessel from
250 private property without the consent of the registered owner or
251 other legally authorized person in control of that vehicle or
252 vessel is subject to strict compliance with the following
253 conditions and restrictions:

254 1.a. Any towed or removed vehicle or vessel must be stored
255 at a site within a 10-mile radius of the point of removal in any
256 county of 500,000 population or more, and within a 15-mile
257 radius of the point of removal in any county of less than
258 500,000 population. That site must be open for the purpose of
259 redemption of vehicles on any day that the person or firm towing
260 such vehicle or vessel is open for towing purposes, from 8:00
261 a.m. to 6:00 p.m., and, when closed, shall have prominently

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262 posted a sign indicating a telephone number where the operator
263 of the site can be reached at all times. Upon receipt of a
264 telephoned request to open the site to redeem a vehicle or
265 vessel, the operator shall return to the site within 1 hour or
266 she or he will be in violation of this section.

267 b. If no towing business providing such service is located
268 within the area of towing limitations set forth in sub-
269 subparagraph a., the following limitations apply: any towed or
270 removed vehicle or vessel must be stored at a site within a 20-
271 mile radius of the point of removal in any county of 500,000
272 population or more, and within a 30-mile radius of the point of
273 removal in any county of less than 500,000 population.

274 2. The person or firm towing or removing the vehicle or
275 vessel shall, within 30 minutes after completion of such towing
276 or removal, notify the municipal police department or, in an
277 unincorporated area, the sheriff, of such towing or removal, the
278 storage site, the time the vehicle or vessel was towed or
279 removed, and the make, model, color, and license plate number of
280 the vehicle or description and registration number of the vessel
281 and shall obtain the name of the person at that department to
282 whom such information was reported and note that name on the
283 trip record.

284 3. A person in the process of towing or removing a vehicle
285 or vessel from the premises or parking lot in which the vehicle
286 or vessel is not lawfully parked must stop when a person seeks
287 the return of the vehicle or vessel. The vehicle or vessel must
288 be returned upon the payment of a reasonable service fee of not
289 more than one-half of the posted rate for the towing or removal
290 service as provided in subparagraph 6. The vehicle or vessel may

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291 be towed or removed if, after a reasonable opportunity, the
292 owner or legally authorized person in control of the vehicle or
293 vessel is unable to pay the service fee. If the vehicle or
294 vessel is redeemed, a detailed signed receipt must be given to
295 the person redeeming the vehicle or vessel.

296 4. A person may not pay or accept money or other valuable
297 consideration for the privilege of towing or removing vehicles
298 or vessels from a particular location.

299 5. Except for property appurtenant to and obviously a part
300 of a single-family residence, and except for instances when
301 notice is personally given to the owner or other legally
302 authorized person in control of the vehicle or vessel that the
303 area in which that vehicle or vessel is parked is reserved or
304 otherwise unavailable for unauthorized vehicles or vessels and
305 that the vehicle or vessel is subject to being removed at the
306 owner's or operator's expense, any property owner or lessee, or
307 person authorized by the property owner or lessee, prior to
308 towing or removing any vehicle or vessel from private property
309 without the consent of the owner or other legally authorized
310 person in control of that vehicle or vessel, must post a notice
311 meeting the following requirements:

312 a. The notice must be prominently placed at each driveway
313 access or curb cut allowing vehicular access to the property,
314 ~~within 5 feet from the public right-of-way line.~~ If there are no
315 curbs or access barriers, the signs must be posted not less than
316 one sign for each 25 feet of lot frontage.

317 b. The notice must clearly indicate, ~~in not less than 2-~~
318 ~~inch high, light-reflective letters on a contrasting background,~~
319 that unauthorized vehicles will be towed away at the owner's

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320 expense. The words "tow-away zone" must be included on the sign
321 ~~in not less than 4-inch high letters.~~

322 c. The notice must also provide the name and current
323 telephone number of the person or firm towing or removing the
324 vehicles or vessels.

325 d. The sign structure containing the required notices must
326 be permanently installed with the words "tow-away zone" ~~not less~~
327 ~~than 3 feet and not more than 6 feet above ground level~~ and must
328 be continuously maintained on the property for not less than 24
329 hours prior to the towing or removal of any vehicles or vessels.

330 e. The local government may require permitting and
331 inspection of these signs prior to any towing or removal of
332 vehicles or vessels being authorized.

333 f. A business with 20 or fewer parking spaces satisfies the
334 notice requirements of this subparagraph by prominently
335 displaying a sign that clearly states ~~stating~~ "Reserved Parking
336 for Customers Only Unauthorized Vehicles or Vessels Will be
337 Towed Away At the Owner's Expense." ~~in not less than 4-inch~~
338 ~~high, light-reflective letters on a contrasting background.~~

339 g. A property owner towing or removing vessels from real
340 property must post notice, consistent with the requirements in
341 sub-subparagraphs a.-f., which apply to vehicles, that
342 unauthorized vehicles or vessels will be towed away at the
343 owner's expense.

344
345 A business owner or lessee may authorize the removal of a
346 vehicle or vessel by a towing company when the vehicle or vessel
347 is parked in such a manner that restricts the normal operation
348 of business; and if a vehicle or vessel parked on a public

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349 right-of-way obstructs access to a private driveway the owner,
350 lessee, or agent may have the vehicle or vessel removed by a
351 towing company upon signing an order that the vehicle or vessel
352 be removed without a posted tow-away zone sign.

353 6. Any person or firm that tows or removes vehicles or
354 vessels and proposes to require an owner, operator, or person in
355 custody or control of a vehicle or vessel to pay the costs of
356 towing and storage prior to redemption of the vehicle or vessel
357 must file and keep on record with the local law enforcement
358 agency a complete copy of the current rates to be charged for
359 such services and post at the storage site an identical rate
360 schedule and any written contracts with property owners,
361 lessees, or persons in control of property which authorize such
362 person or firm to remove vehicles or vessels as provided in this
363 section.

364 7. Any person or firm towing or removing any vehicles or
365 vessels from private property without the consent of the owner
366 or other legally authorized person in custody or control of the
367 vehicles or vessels shall, on any trucks, wreckers as defined in
368 s. 713.78(1)(c), or other vehicles used in the towing or
369 removal, have the name, address, and telephone number of the
370 company performing such service clearly printed ~~in contrasting~~
371 ~~colors~~ on the driver and passenger sides of the vehicle. ~~The~~
372 ~~name shall be in at least 3-inch permanently affixed letters,~~
373 ~~and the address and telephone number shall be in at least 1-inch~~
374 ~~permanently affixed letters.~~

375 8. Vehicle entry for the purpose of removing the vehicle or
376 vessel shall be allowed with reasonable care on the part of the
377 person or firm towing the vehicle or vessel. Such person or firm

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378 shall be liable for any damage occasioned to the vehicle or
379 vessel if such entry is not in accordance with the standard of
380 reasonable care.

381 9. When a vehicle or vessel has been towed or removed
382 pursuant to this section, it must be released to its owner or to
383 the person in custody or control ~~custodian~~ within one hour after
384 requested. Any vehicle or vessel owner or the person in custody
385 or control ~~agent~~ shall have the right to inspect the vehicle or
386 vessel before accepting its return, and no release or waiver of
387 any kind which would release the person or firm towing the
388 vehicle or vessel from liability for damages noted by the owner
389 or by the person in custody or control ~~other legally authorized~~
390 ~~person~~ at the time of the redemption may be required from any
391 vehicle or vessel owner, ~~custodian,~~ or person in custody or
392 control ~~agent~~ as a condition of release of the vehicle or vessel
393 to its owner. A detailed, signed receipt showing the legal name
394 of the company or person towing or removing the vehicle or
395 vessel must be given to the person paying towing or storage
396 charges at the time of payment, whether requested or not.

397 (b) These requirements are minimum standards and do not
398 preclude enactment of additional regulations by any municipality
399 or county, including the right to regulate rates when vehicles
400 or vessels are towed from private property.

401 ~~(4) When a person improperly causes a vehicle or vessel to~~
402 ~~be removed, such person shall be liable to the owner or lessee~~
403 ~~of the vehicle or vessel for the cost of removal,~~
404 ~~transportation, and storage; any damages resulting from the~~
405 ~~removal, transportation, or storage of the vehicle or vessel;~~
406 ~~attorney's fees; and court costs.~~

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407 Section 8. Section 715.08, Florida Statutes, is created to
408 read:

409 715.08 Vehicle immobilization services.-

410 (1) DEFINITIONS.-As used in this section, the term:

411 (a) "Immobilize" means the act of rendering a vehicle or a
412 vessel inoperable by the use of a vehicle immobilization device.

413 (b) "License" means a license, a permit, or other similar
414 grant of authority to operate issued to an operator by a local
415 government.

416 (c) "Operator" means any person, as defined in s. 1.01(3),
417 individual, or entity, including, but not limited to, a sole
418 proprietor, an independent contractor, a partnership, or a
419 similar business entity, offering or operating a vehicle
420 immobilization service.

421 (d) "Vehicle immobilization device" means any mechanical
422 device that is designed or used to be attached to a wheel, a
423 tire, or other part of a parked motor vehicle which includes,
424 but is not limited to, a "boot" or "club," the "Barnacle," or
425 any other device that renders a vehicle or vessel inoperable.

426 (e) "Vehicle immobilization service" means any service in
427 which vehicles are immobilized.

428 (2) VEHICLE IMMOBILIZATION OPERATIONS; REQUIREMENTS.-

429 (a) Vehicle immobilization devices may be used on
430 trespassing motor vehicles as provided for under this section.

431 (b) It is unlawful for any person to act as an operator
432 within this state unless the person is properly licensed or
433 approved by a local government.

434 (c) It is unlawful for any person to act as an operator if
435 the person also has ownership or any other valuable

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436 consideration in property or a lot being used for the business
437 of parking, or allowing for the parking of, motor vehicles or is
438 engaged in the business of parking lot or valet parking
439 operations.

440 (d) Each operator shall conduct vehicle immobilization
441 services using a name that is distinguishable from any other
442 existing operator.

443 (e)1. An operator shall issue all individuals under the
444 operator's employment, or who are acting on behalf of the
445 operator, including the operator himself or herself, or
446 partners, members, or officers of the operator, a photo
447 identification with the name of the operator. Such an individual
448 shall carry this operator-issued identification with him or her
449 at all times while performing vehicle immobilization services.

450 2. All individuals under an operator's employment, or who
451 are acting on behalf of the operator, including the operator
452 himself or herself, or partners, members, or officers of the
453 operator, shall wear a uniform that clearly identifies the name
454 of the operator while performing vehicle immobilization
455 services.

456 3. All vehicles being used by operators or individuals
457 under an operator's employment to perform vehicle immobilization
458 services must have prominently displayed on both sides of each
459 vehicle the name of the operator and that the operator performs
460 vehicle immobilization services, the address from which the
461 operator conducts business, and the telephone number of the
462 operator. The lettering must be in a contrasting color to the
463 color of the vehicle, or if a vehicle magnet or decal is used,
464 the lettering must be in a contrasting color to the color of the

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465 magnet or decal. The lettering must be at least one and one-half
466 inches in height.

467 (f)1. An operator may conduct vehicle immobilization
468 services 24 hours per day, 7 days per week, and 365 days per
469 year.

470 2. An operator shall maintain a telephone number that is
471 staffed by a live individual 24 hours per day and 365 days per
472 year to communicate immediately with a driver or owner of an
473 immobilized vehicle.

474 (g) An operator who has immobilized a vehicle shall
475 immediately affix a notice to the driver's side window
476 containing, at minimum, the following information:

477 1. A warning that any attempt to move the vehicle may
478 result in damage to the vehicle; and

479 2. The fee required to remove the immobilization device,
480 the name of the operator, and the telephone number to call to
481 have the immobilization device removed.

482 (h) It is unlawful for a vehicle immobilization service or
483 operator to:

484 1. Immobilize vehicles on any private property without
485 having entered into a valid written contract for vehicle
486 immobilization services with the private property owner, the
487 lawful lessee, the managing agent, or other person in control of
488 the property;

489 2. Fail to arrive on the site where a vehicle was
490 immobilized within 1 hour of being contacted by the owner, the
491 driver, or the person in custody or in control of the vehicle;

492 3. Fail to release a vehicle from immobilization within 1
493 hour after receipt of payment from the owner, the driver, or the

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494 person in charge of a vehicle that has been immobilized; and

495 4. Fail to provide a receipt of payment of the
496 immobilization fee to the owner, the driver, or the person in
497 custody or in control of an immobilized vehicle. The receipt
498 must have the name, address, and telephone number of the
499 operator; the name of the individual under the operator's
500 employment or the partner, member, or officer of such operator
501 who removed the immobilization device; and the operator's
502 license number as issued by the department.

503 (i)1. If the application of a vehicle immobilization device
504 damages a vehicle, the operator shall pay the cost of repairs
505 for that damage.

506 2. If the owner, the driver, or the person in charge of a
507 motor vehicle to which an immobilization device has been
508 installed attempts to operate such motor vehicle or to remove
509 the device, then the operator is not liable for any damage to
510 the vehicle resulting from such attempt. In such an instance,
511 the owner, the driver, or the person in charge of the
512 immobilized vehicle is liable to the operator for the cost of
513 damage to the vehicle immobilization device.

514 (j) An operator shall maintain minimum insurance coverage
515 in the amount of \$1 million in commercial general liability, \$1
516 million in commercial automobile liability, \$1 million in garage
517 liability, \$1 million in professional liability, and \$1 million
518 in umbrella coverage and shall have workers' compensation
519 coverage on all employees.

520 (3) PROHIBITED ACTIVITIES.—An operator may not do any of
521 the following:

522 (a) Procure a license issued by a local government by

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523 fraudulent conduct or by a false statement of a material fact.

524 (b) Pay, in the form of a gratuity or any other valuable
525 consideration, any person who does not have ownership in
526 property or in a lot being used for the business of parking, or
527 allowing for the parking of, motor vehicles for information as
528 to illegally parked vehicles.

529 (c) Make any payment or other valuable consideration to an
530 owner, an employee, an agent, or a person in possession of
531 property or a lot that is being used for the business of
532 parking, or allowing for the parking of, motor vehicles in
533 excess of the reasonable and customary fee ordinarily charged by
534 such person in possession of such property or lot for parking
535 thereon.

536 (d) Charge fees in excess of those provided for in this
537 section.

538 (e) Impound any vehicle located on any portion of a public
539 way within this state, unless such operator is contracted to do
540 so by a governmental agency.

541 (4) SIGNAGE; REQUIREMENTS.-

542 (a) It is unlawful for any operator to install or to attach
543 a device to any motor vehicle without posting signs meeting the
544 following requirements:

545 1. The operator shall install signs at each designated
546 entrance to a parking lot or parking area where parking
547 prohibitions are in effect. If there is no designated entrance,
548 the operator shall erect the signs so they are clearly visible
549 from every parking space;

550 2. Signs must be a minimum of 18 inches by 24 inches, or if
551 not allowed in such size, the maximum allowable size, with

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552 lettering a minimum height of one and one-half inches; and

553 3. Sign lettering must be in a solid color that contrasts
 554 with the sign's background.

555 (b) An operator's signs must clearly state the following,
 556 at a minimum:

557
 558 1. WARNING: IMMOBILIZATION ENFORCED 24/7.

559 2. UNAUTHORIZED VEHICLES MAY BE IMMOBILIZED AT OWNER'S RISK
 560 AND EXPENSE.

561 3. THE IMMOBILIZATION OPERATOR IS ... (insert name of
 562 vehicle immobilization service)....

563 4. THE TELEPHONE NUMBER FOR IMMOBILIZATION REMOVAL IS
 564 ... (insert operator's telephone number)....

565
 566 (c) No abbreviations may be used on signs required under
 567 this subsection.

568 (5) ADMINISTRATIVE ACTIONS; OPERATOR RIGHTS.—

569 (a) A local government that has jurisdiction over, and that
 570 issued a license to, an operator may impose a fine upon the
 571 operator and may revoke, suspend, or not renew the operator's
 572 license for due cause.

573 (b) Adverse actions may not be taken regarding any license
 574 issued pursuant to this section until and after notice has been
 575 provided and a hearing has been held by the local government.
 576 Notice of such hearing must be given in writing and served at
 577 least 30 days before the date of a hearing. The notice must
 578 state the grounds of the complaint against the holder of such
 579 license and must designate the time and place where such hearing
 580 will be held. The notice must be served upon the license holder

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581 via certified mail, signature required, addressed to the license
582 holder at the address provided on the operator's current
583 application.

584 (c) Any operator whose license has been revoked pursuant to
585 this section is disqualified from reapplying to the local
586 government for another license for 12 months immediately
587 following the revocation. The violation of any provision of this
588 section by any person with any ownership interest in the vehicle
589 immobilization service may result in the revocation of the
590 operator's license.

591 (d) The maximum fine for any violation of this section is
592 \$1,000. The maximum suspension of a license for any one
593 violation of this section is 30 days.

594 Section 9. This act shall take effect July 1, 2019.

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	12 Y, 1 N	Darden	Miller
2) Business & Professions Subcommittee		Thompson	Anstead
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.

By Senator Flores

39-01373-19

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1 A bill to be entitled
2 An act relating to the anchoring and mooring of
3 vessels outside of public mooring fields; creating s.
4 327.4106, F.S.; defining the terms "store" and
5 "stored"; prohibiting the owner, operator, or person
6 in charge of a vessel from anchoring or mooring
7 outside of public mooring fields for longer than a
8 specified period of time; requiring the relocation or
9 removal from the water of vessels anchored or moored
10 in violation of the prohibition; providing that such a
11 violation is noncriminal and is punishable by a fine;
12 amending s. 327.70, F.S.; providing for issuance of
13 uniform boating citations for such violations;
14 amending s. 327.73, F.S.; specifying the fines for
15 such violations; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 327.4106, Florida Statutes, is created
20 to read:

21 327.4106 Anchoring and mooring of vessels outside of public
22 mooring fields prohibited; penalties.-

23 (1) As used in this section, the term "store" or "stored"
24 means that a vessel is not under the supervision and control of
25 a person capable of operating and maintaining it or promptly
26 moving it from one location to another.

27 (2) The owner, operator, or person in charge of a vessel
28 may not store the vessel at anchor in one location on the public
29 waters of the state, outside of public mooring fields, for more

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30 than 60 consecutive days. The owner, operator, or person in
31 charge of the vessel that is stored beyond this 60-day limit
32 must relocate the vessel to another location that is at least 10
33 miles from its current location; relocate the vessel to a
34 permitted mooring, a marina slip, or a private dock; or remove
35 the vessel from the water.

36 (3) A violation of this section is a noncriminal
37 infraction, punishable as provided in s. 327.73(1)(cc).

38 Section 2. Subsection (3) of section 327.70, Florida
39 Statutes, is amended to read:

40 327.70 Enforcement of this chapter and chapter 328.—

41 (3) (a) Noncriminal violations of the following statutes may
42 be enforced by a uniform boating citation mailed to the
43 registered owner of an unattended vessel anchored, aground, or
44 moored on the waters of this state:

45 1. Section 327.33(3)(b), relating to navigation rules.

46 2. Section 327.44, relating to interference with
47 navigation.

48 3. Section 327.50(2), relating to required lights and
49 shapes.

50 4. Section 327.53, relating to marine sanitation.

51 5. Section 328.48(5), relating to display of decal.

52 6. Section 328.52(2), relating to display of number.

53 7. Section 327.4106, relating to prohibited anchoring or
54 mooring outside public mooring fields.

55 ~~8.7.~~ Section 327.4107, relating to vessels at risk of
56 becoming derelict.

57 ~~9.8.~~ Section 327.4109, relating to prohibited anchoring or
58 mooring.

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59 (b) Citations issued to livery vessels under this
60 subsection are the responsibility of the lessee of the vessel if
61 the livery has included a warning of this responsibility as a
62 part of the rental agreement and has provided to the agency
63 issuing the citation the name, address, and date of birth of the
64 lessee when requested by that agency. The livery is not
65 responsible for the payment of citations if the livery provides
66 the required warning and lessee information.

67 (c) A noncriminal violation of s. 327.4108 may be enforced
68 by a uniform boating citation issued to the operator of a vessel
69 unlawfully anchored in an anchoring limitation area.

70 (d) A noncriminal violation of s. 327.4109 may be enforced
71 by a uniform boating citation issued to the owner or operator of
72 a vessel or floating structure unlawfully anchored or moored in
73 a prohibited area.

74 (e) A noncriminal violation of s. 327.4106 may be enforced
75 by issuance of a uniform boating citation to the owner,
76 operator, or person in charge of a vessel unlawfully anchored or
77 moored outside of a public mooring field for more than 60
78 consecutive days.

79 Section 3. Paragraph (cc) is added to subsection (1) of
80 section 327.73, Florida Statutes, to read:

81 327.73 Noncriminal infractions.—

82 (1) Violations of the following provisions of the vessel
83 laws of this state are noncriminal infractions:

84 (cc) Section 327.4106, relating to anchoring or mooring
85 outside public mooring areas. Each day beyond the limit
86 constitutes a separate offense. The penalty for such a violation
87 is:

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- 88 1. For a first offense, \$50.
89 2. For a second offense, \$100.
90 3. For a third or subsequent offense, \$250.
91

92 Any person cited for a violation of any provision of this
93 subsection shall be deemed to be charged with a noncriminal
94 infraction, shall be cited for such an infraction, and shall be
95 cited to appear before the county court. The civil penalty for
96 any such infraction is \$50, except as otherwise provided in this
97 section. Any person who fails to appear or otherwise properly
98 respond to a uniform boating citation shall, in addition to the
99 charge relating to the violation of the boating laws of this
100 state, be charged with the offense of failing to respond to such
101 citation and, upon conviction, be guilty of a misdemeanor of the
102 second degree, punishable as provided in s. 775.082 or s.
103 775.083. A written warning to this effect shall be provided at
104 the time such uniform boating citation is issued.

105 Section 4. This act shall take effect July 1, 2019.

26 public mooring field for at least 30 days out of a 60-day
27 period.

28 (b) The commission shall conduct, or contract with a
29 private vendor to conduct, for no longer than 2 years, a study
30 of the impacts of long-term stored vessels on local communities
31 and the state.

32 (c) The study shall:

33 1. Investigate if and to what extent long-term stored
34 vessels and vessels anchored or moored outside of public mooring
35 fields for more than 30 days contribute to the number of
36 derelict and abandoned vessels on the waters of the state.

37 2. Investigate the impacts of long-term stored vessels,
38 vessels anchored or moored outside of public mooring fields for
39 more than 30 days, and vessels moored within public mooring
40 fields on the local and state economies, public safety, and the
41 environment during and after significant tropical storm and
42 hurricane events.

43 3. Provide recommendations for appropriate management
44 options for long-term stored vessels and vessels anchored or
45 moored outside of public mooring fields for more than 30 days to
46 mitigate any identified negative impacts to local communities
47 and the state.

48 (d) The commission shall submit a report of its findings
49 and recommendations to the Governor, the President of the
50 Senate, and the Speaker of the House of Representatives within 6

51 months after the date the study is completed.

52 (e) This subsection is contingent upon appropriation by
53 the Legislature.

54 (f) This subsection expires January 1, 2024.

55 Section 2. Subsection (6) is added to section 823.11,
56 Florida Statutes, to read:

57 823.11 Derelict vessels; relocation or removal; penalty.—

58 (6) If an owner or responsible party of a derelict vessel
59 has been charged by an officer of the commission or any law
60 enforcement agency or officer specified in s. 327.70 for a
61 violation of subsection (2) or a violation of s. 376.15(2), a
62 person may not reside or dwell on such vessel until the vessel
63 is removed from the waters of the state permanently or returned
64 to the waters of the state in a condition that is no longer
65 derelict.

66 Section 3. This act shall take effect July 1, 2019.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1221 Anchored Vessels
SPONSOR(S): Agriculture & Natural Resources Subcommittee, Polsky and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	15 Y, 0 N, As CS	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 is not under the supervision and control of a person capable of operating, maintaining, or moving it from one location to another and that has remained anchored or moored outside of a public mooring field for at least 30 days out of a 60-day period.

The bill requires the Florida Fish and Wildlife Conservation Commission (FWC) to conduct, for no longer than two years, 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 and vessels anchored or moored outside of public mooring fields for more than 30 days contribute to the number of derelict and abandoned vessels on the waters of the state; investigate the impacts of long-term stored vessels, vessels anchored or moored outside of public mooring fields for more than 30 days, 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 and vessels anchored or moored outside of public mooring fields for more than 30 days to mitigate any identified negative impacts. The bill further requires FWC to submit a report of its findings to the Governor and the Legislature within six months after the date the study is completed.

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(14), 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(22), 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 Analysis of 2016 House Bill 7025, p. 3 (Jan.8, 2016).

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

Effect of Proposed Changes

The bill defines “long-term stored vessel” as a vessel on the waters of the state that is not under the supervision and control of a person capable of operating, maintaining, or moving it from one location to another and that has remained anchored or moored outside of a public mooring field for at least 30 days out of a 60-day period.

The bill requires FWC, contingent upon appropriation, to conduct, for no longer than two years, 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 and vessels anchored or moored outside of public mooring fields for more than 30 days contribute to the number of derelict and abandoned vessels on the waters of the state;
- Investigate the impacts of long-term stored vessels, vessels anchored or moored outside of public mooring fields for more than 30 days, 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 and vessels anchored or moored outside of public mooring fields for more than 30 days to mitigate any identified negative impacts.

The bill further requires FWC to submit a report of its findings to the Governor and the Legislature within six months after the date the study is completed. The bill clarifies that the subsection governing the study expires January 1, 2024.

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.

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.

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. 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 3 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:

The bill may 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. 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

On March 19, 2019, the Agriculture & Natural Resources Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment made clarifications to the requirements and parameters of the study to be conducted by FWC and removed provisions regarding the redistribution of vessel registration fees and the local government derelict vessel removal grant program.

This analysis is drafted to the committee substitute as passed by the Agriculture & Natural Resources Subcommittee.

By the Committee on Environment and Natural Resources; and
Senators Mayfield, Simmons, and Harrell

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1 A bill to be entitled
2 An act relating to water quality improvements;
3 providing a short title; requiring the Department of
4 Environmental Protection, in coordination with the
5 Department of Health, to develop a report to be
6 submitted to the Legislature by a specified date on
7 the impacts of transferring the onsite sewage program
8 of the Department of Health to the Department of
9 Environmental Protection by a type two transfer;
10 providing an exception; amending s. 373.807, F.S.;
11 revising the requirements for a basin management
12 action plan for an Outstanding Florida Spring;
13 prohibiting a local government from approving building
14 permits within the plan area under certain
15 circumstances; providing penalties; requiring certain
16 agricultural operations that fail to adopt a basin
17 management action plan or alternative restoration plan
18 within a specified timeframe to sign a notice of
19 intent to implement certain practices, measures, or
20 monitoring; amending s. 373.811, F.S.; conforming a
21 cross-reference; amending s. 403.031, F.S.; defining
22 terms; creating s. 403.0616, F.S.; requiring the
23 department, subject to appropriation, to establish a
24 real-time water quality monitoring program;
25 encouraging the formation of public-private
26 partnerships; amending s. 403.067, F.S.; requiring
27 certain agricultural operations that fail to adopt a
28 basin management action plan or alternative
29 restoration plan within a specified timeframe to sign

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30 a notice of intent to implement certain practices,
31 measures, or monitoring; revising requirements for a
32 basin management action plan; requiring each local
33 government to develop a wastewater treatment plan that
34 meets certain requirements; prohibiting a local
35 government that does not meet certain requirements
36 relating to wastewater treatment plant project plans
37 or onsite sewage treatment and disposal system
38 remediation plans from approving any building permits
39 within a specified timeframe; prohibiting the
40 Department of Health from approving any new onsite
41 sewage treatment and disposal system within such an
42 area for a specified timeframe; providing penalties;
43 defining the term "onsite sewage treatment and
44 disposal system"; requiring a local government, in
45 cooperation with specified entities, to develop an
46 onsite sewage treatment and disposal system
47 remediation plan as part of the basin management
48 action plan under certain circumstances; providing
49 requirements for such plan; providing requirements for
50 a restoration plan for certain water bodies; creating
51 s. 403.0673, F.S.; establishing a wastewater grant
52 program within the Department of Environmental
53 Protection; authorizing the department to distribute
54 appropriated funds for certain projects; providing
55 requirements for the distribution; requiring the
56 department to coordinate with each water management
57 district to identify grant recipients; requiring an
58 annual report to the Governor and the Legislature by a

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59 specified date; creating s. 403.0771, F.S.; requiring
60 a wastewater treatment plant to notify customers of
61 unlawful discharges of raw or partially treated sewage
62 into any waterway or aquifer within a specified
63 timeframe; prohibiting a local government that owns
64 such a plant from approving any building permits
65 within a specified timeframe; prohibiting the
66 Department of Health from approving any new onsite
67 sewage treatment and disposal system within such an
68 area for a specified timeframe; providing penalties;
69 requiring the department to maintain a publicly
70 accessible website that contains certain information
71 relating to wastewater treatment facilities; amending
72 s. 403.086, F.S.; prohibiting facilities for sanitary
73 sewage disposal from disposing of any waste in the
74 Indian River Lagoon without first providing advanced
75 waste treatment; amending s. 403.9337, F.S.; providing
76 penalties for a local government that fails to adopt,
77 enact, and implement a specified ordinance by a
78 specified date; requiring the Department of
79 Environmental Protection to revise the basin
80 management action plan for the Indian River Lagoon and
81 other specified basin management action plans by a
82 specified date; authorizing the department to grant an
83 extension to a local government upon a showing of good
84 cause; providing a declaration of important state
85 interest; providing effective dates.

86
87 Be It Enacted by the Legislature of the State of Florida:

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88

89 Section 1. This act may be cited as the "Clean Waterways
90 Act."

91 Section 2. The Department of Environmental Protection, in
92 coordination with the Department of Health, shall develop a
93 report for presentation to the Legislature by July 1, 2020,
94 which addresses the impacts of a type two transfer of the
95 Department of Health's onsite sewage program to the Department
96 of Environmental Protection for the regulation of onsite sewage
97 treatment and disposal systems. The report must include
98 revisions to state law, including budgetary changes, which would
99 need to be addressed to complete the type two transfer. If the
100 Department of Environmental Protection is authorized to develop
101 a memorandum of agreement with the Department of Health
102 describing how the type two transfer would be implemented if the
103 Legislature authorized such a transfer, this report is not
104 required.

105 Section 3. Section 373.807, Florida Statutes, is amended to
106 read:

107 373.807 Protection of water quality in Outstanding Florida
108 Springs.—By July 1, 2016, the department shall initiate
109 assessment, pursuant to s. 403.067(3), of Outstanding Florida
110 Springs or spring systems for which an impairment determination
111 has not been made under the numeric nutrient standards in effect
112 for spring vents. Assessments must be completed by July 1, 2018.

113 (1)(a) Concurrent with the adoption of a nutrient total
114 maximum daily load for an Outstanding Florida Spring, the
115 department, or the department in conjunction with a water
116 management district, shall initiate development of a basin

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117 management action plan, as specified in s. 403.067. For an
118 Outstanding Florida Spring with a nutrient total maximum daily
119 load adopted before July 1, 2016, the department, or the
120 department in conjunction with a water management district,
121 shall initiate development of a basin management action plan by
122 July 1, 2016. During the development of a basin management
123 action plan, if the department identifies onsite sewage
124 treatment and disposal systems as contributors of at least 20
125 percent of nonpoint source nutrient ~~nitrogen~~ pollution or if the
126 department determines remediation is necessary to achieve the
127 total maximum daily load, the basin management action plan shall
128 include an onsite sewage treatment and disposal system
129 remediation plan pursuant to s. 403.067(7)(e) ~~subsection (3)~~ for
130 those systems identified as requiring remediation.

131 (b) A basin management action plan for an Outstanding
132 Florida Spring shall be adopted within 2 years after its
133 initiation and must include, at a minimum:

134 1. A list of all specific projects and programs identified
135 to implement a nutrient total maximum daily load;

136 2. A list of all specific projects identified in any
137 incorporated onsite sewage treatment and disposal system
138 remediation plan, if applicable;

139 3. A priority rank for each listed project. The priority
140 ranking shall be based on the estimated reduction in nutrient
141 load per project, project readiness, cost effectiveness, overall
142 environmental benefit, location within the plan area, local
143 matching funds, and water savings or quantity improvements;

144 4. For each listed project, a planning level cost estimate,
145 ~~and~~ the estimated date of completion, and a plan submitted by

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146 each local government within the plan area and approved by the
147 department for each wastewater treatment plant project as
148 specified in s. 403.067(7)(d) and onsite sewage treatment and
149 disposal system remediation plan as specified in s.
150 403.067(7)(e). Each plan must include deadlines and is subject
151 to penalties required under s. 403.067;

152 5. The source and amount of financial assistance to be made
153 available by the department, a water management district, or
154 other entity for each listed project;

155 6. An estimate of each listed project's nutrient load
156 reduction;

157 7. Identification of each point source or category of
158 nonpoint sources, including, but not limited to, urban turf
159 fertilizer, sports turf fertilizer, agricultural fertilizer,
160 onsite sewage treatment and disposal systems, wastewater
161 treatment facilities, animal wastes, and stormwater facilities.
162 An estimated allocation of the pollutant load must be provided
163 for each point source or category of nonpoint sources; and

164 8. An implementation plan designed with a target to achieve
165 the nutrient total maximum daily load no more than 20 years
166 after the adoption of a basin management action plan.

167
168 The department shall develop a schedule establishing 5-year, 10-
169 year, and 15-year targets for achieving the nutrient total
170 maximum daily load. The schedule shall be used to provide
171 guidance for planning and funding purposes and is exempt from
172 chapter 120.

173 (c) For a basin management action plan adopted before July
174 1, 2016, which addresses an Outstanding Florida Spring, the

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175 department or the department in conjunction with a water
176 management district must revise the plan if necessary to comply
177 with this section by July 1, 2018.

178 (d) A local government may apply to the department for a
179 single extension of up to 5 years for any project in an adopted
180 basin management action plan. A local government in a rural area
181 of opportunity, as defined in s. 288.0656, may apply for a
182 single extension of up to 10 years for such a project. The
183 department may grant the extension if the local government
184 provides to the department sufficient evidence that an extension
185 is in the best interest of the public.

186 (2) By July 1, 2020 ~~2017~~, each local government, as defined
187 in s. 373.802(2), that has not adopted an ordinance pursuant to
188 s. 403.9337, shall develop, enact, and implement an ordinance
189 pursuant to that section. It is the intent of the Legislature
190 that ordinances required to be adopted under this subsection
191 reflect the latest scientific information, advancements, and
192 technological improvements in the industry. A local government
193 that fails to adopt, enact, and implement this ordinance is
194 subject to a daily fine as provided in ss. 403.121, 403.141, and
195 403.161 and may not approve any building permit for new
196 construction within the plan area until such time as the
197 ordinance has been adopted, enacted, and implemented. In
198 implementing the ordinance, a local government shall conduct
199 educational campaigns, enforcement programs, and mandatory
200 notification of property owners subject to the ordinance, and
201 shall submit a report on its implementation efforts to the
202 department for publication on the department's website.

203 (3) If a basin management action plan or an alternative

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204 restoration plan has not been adopted within 90 days after the
205 adoption of a nutrient total maximum daily load for an
206 Outstanding Florida Spring, agricultural operations located
207 within the associated Water Body Identification Number shall
208 sign a notice of intent to implement the applicable agricultural
209 best management practices or other measures adopted by the
210 Department of Agriculture and Consumer Services pursuant to s.
211 403.067(7)(c) or conduct water quality monitoring as prescribed
212 by the department or a water management district. Such
213 agricultural operations may be subject to enforcement action by
214 the department or a water management district based upon a
215 failure to comply with this subsection.

216 ~~(3) As part of a basin management action plan that includes~~
217 ~~an Outstanding Florida Spring, the department, the Department of~~
218 ~~Health, relevant local governments, and relevant local public~~
219 ~~and private wastewater utilities shall develop an onsite sewage~~
220 ~~treatment and disposal system remediation plan for a spring if~~
221 ~~the department determines onsite sewage treatment and disposal~~
222 ~~systems within a priority focus area contribute at least 20~~
223 ~~percent of nonpoint source nitrogen pollution or if the~~
224 ~~department determines remediation is necessary to achieve the~~
225 ~~total maximum daily load. The plan shall identify cost-effective~~
226 ~~and financially feasible projects necessary to reduce the~~
227 ~~nutrient impacts from onsite sewage treatment and disposal~~
228 ~~systems and shall be completed and adopted as part of the basin~~
229 ~~management action plan no later than the first 5-year milestone~~
230 ~~required by subparagraph (1)(b)8. The department is the lead~~
231 ~~agency in coordinating the preparation of and the adoption of~~
232 ~~the plan. The department shall:~~

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233 ~~(a) Collect and evaluate credible scientific information on~~
234 ~~the effect of nutrients, particularly forms of nitrogen, on~~
235 ~~springs and springs systems; and~~

236 ~~(b) Develop a public education plan to provide area~~
237 ~~residents with reliable, understandable information about onsite~~
238 ~~sewage treatment and disposal systems and springs.~~

239
240 ~~In addition to the requirements in s. 403.067, the plan shall~~
241 ~~include options for repair, upgrade, replacement, drainfield~~
242 ~~modification, addition of effective nitrogen reducing features,~~
243 ~~connection to a central sewerage system, or other action for an~~
244 ~~onsite sewage treatment and disposal system or group of systems~~
245 ~~within a priority focus area that contribute at least 20 percent~~
246 ~~of nonpoint source nitrogen pollution or if the department~~
247 ~~determines remediation is necessary to achieve a total maximum~~
248 ~~daily load. For these systems, the department shall include in~~
249 ~~the plan a priority ranking for each system or group of systems~~
250 ~~that requires remediation and shall award funds to implement the~~
251 ~~remediation projects contingent on an appropriation in the~~
252 ~~General Appropriations Act, which may include all or part of the~~
253 ~~costs necessary for repair, upgrade, replacement, drainfield~~
254 ~~modification, addition of effective nitrogen reducing features,~~
255 ~~initial connection to a central sewerage system, or other~~
256 ~~action. In awarding funds, the department may consider expected~~
257 ~~nutrient reduction benefit per unit cost, size and scope of~~
258 ~~project, relative local financial contribution to the project,~~
259 ~~and the financial impact on property owners and the community.~~
260 ~~The department may waive matching funding requirements for~~
261 ~~proposed projects within an area designated as a rural area of~~

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262 ~~opportunity under s. 288.0656.~~

263 (4) The department shall provide notice to a local
264 government of all permit applicants under s. 403.814(12) in a
265 priority focus area of an Outstanding Florida Spring over which
266 the local government has full or partial jurisdiction.

267 Section 4. Subsection (2) of section 373.811, Florida
268 Statutes, is amended to read:

269 373.811 Prohibited activities within a priority focus
270 area.—The following activities are prohibited within a priority
271 focus area in effect for an Outstanding Florida Spring:

272 (2) New onsite sewage treatment and disposal systems on
273 lots of less than 1 acre, if the addition of the specific
274 systems conflicts with an onsite treatment and disposal system
275 remediation plan incorporated into a basin management action
276 plan in accordance with s. 403.067(7)(e) ~~s. 373.807(3)~~.

277 Section 5. Subsections (22) and (23) are added to section
278 403.031, Florida Statutes, to read:

279 403.031 Definitions.—In construing this chapter, or rules
280 and regulations adopted pursuant hereto, the following words,
281 phrases, or terms, unless the context otherwise indicates, have
282 the following meanings:

283 (22) "Wastewater facilities" or "wastewater treatment
284 facilities" means any of the following: the collection and
285 transmission system, the wastewater treatment plant, and the
286 reuse or disposal system.

287 (23) "Wastewater plant" or "wastewater treatment plant"
288 means any plant or other works used for the purpose of treating,
289 stabilizing, or holding wastewater.

290 Section 6. Section 403.0616, Florida Statutes, is created

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291 to read:

292 403.0616 Real-time water quality monitoring program.-

293 (1) Subject to appropriation, the department shall
294 establish a real-time water quality monitoring program to assist
295 in the restoration, preservation, and enhancement of impaired
296 waterbodies and coastal resources.

297 (2) In order to expedite the creation and implementation of
298 the program, the department is encouraged to form public-private
299 partnerships with established scientific entities with existing,
300 proven real-time water quality monitoring equipment and
301 experience in deploying such equipment.

302 Section 7. Present paragraph (d) of subsection (7) of
303 section 403.067, Florida Statutes, is redesignated as paragraph
304 (f), a new paragraph (d) and paragraphs (e) and (g) are added to
305 that subsection, paragraph (a) of that subsection is amended,
306 and paragraph (d) is added to subsection (3) of that section, to
307 read:

308 403.067 Establishment and implementation of total maximum
309 daily loads.-

310 (3) ASSESSMENT.-

311 (d) If a basin management action plan or an alternative
312 restoration plan has not been adopted within 90 days after the
313 adoption of a total maximum daily load for a water body or water
314 body segment, agricultural operations located within the
315 associated Water Body Identification Number shall sign a notice
316 of intent to implement the applicable agricultural best
317 management practices or other measures adopted by the Department
318 of Agriculture and Consumer Services pursuant to s.
319 403.067(7)(c) or conduct water quality monitoring as prescribed

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320 by the department or a water management district. Such
321 agricultural operations may be subject to enforcement action by
322 the department or a water management district based upon a
323 failure to comply with this paragraph.

324 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
325 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

326 (a) *Basin management action plans.*—

327 1. In developing and implementing the total maximum daily
328 load for a water body, the department, or the department in
329 conjunction with a water management district, may develop a
330 basin management action plan that addresses some or all of the
331 watersheds and basins tributary to the water body. Such plan
332 must integrate the appropriate management strategies available
333 to the state through existing water quality protection programs
334 to achieve the total maximum daily loads and may provide for
335 phased implementation of these management strategies to promote
336 timely, cost-effective actions as provided for in s. 403.151.
337 The plan must establish a schedule implementing the management
338 strategies, provide detailed information for improvement
339 projects including descriptions and timelines for completion,
340 establish a basis for evaluating the plan's effectiveness, and
341 identify feasible funding strategies for implementing the plan's
342 management strategies. The management strategies may include
343 regional treatment systems or other public works, where
344 appropriate, and voluntary trading of water quality credits to
345 achieve the needed pollutant load reductions.

346 2. A basin management action plan must equitably allocate,
347 pursuant to paragraph (6) (b), pollutant reductions to individual
348 basins, as a whole to all basins, or to each identified point

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349 source or category of nonpoint sources, as appropriate. For
350 nonpoint sources for which best management practices have been
351 adopted, the initial requirement specified by the plan must be
352 those practices developed pursuant to paragraph (c). Where
353 appropriate, the plan may take into account the benefits of
354 pollutant load reduction achieved by point or nonpoint sources
355 that have implemented management strategies to reduce pollutant
356 loads, including best management practices, before the
357 development of the basin management action plan. The plan must
358 also identify the mechanisms that will address potential future
359 increases in pollutant loading.

360 3. The basin management action planning process is intended
361 to involve the broadest possible range of interested parties,
362 with the objective of encouraging the greatest amount of
363 cooperation and consensus possible. In developing a basin
364 management action plan, the department shall assure that key
365 stakeholders, including, but not limited to, applicable local
366 governments, water management districts, the Department of
367 Agriculture and Consumer Services, other appropriate state
368 agencies, local soil and water conservation districts,
369 environmental groups, regulated interests, and affected
370 pollution sources, are invited to participate in the process.
371 The department shall hold at least one public meeting in the
372 vicinity of the watershed or basin to discuss and receive
373 comments during the planning process and shall otherwise
374 encourage public participation to the greatest practicable
375 extent. Notice of the public meeting must be published in a
376 newspaper of general circulation in each county in which the
377 watershed or basin lies not less than 5 days nor more than 15

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378 days before the public meeting. A basin management action plan
379 does not supplant or otherwise alter any assessment made under
380 subsection (3) or subsection (4) or any calculation or initial
381 allocation.

382 4. Each new or revised basin management action plan shall
383 include:

384 a. The appropriate management strategies available through
385 existing water quality protection programs to achieve total
386 maximum daily loads, which may provide for phased implementation
387 to promote timely, cost-effective actions as provided for in s.
388 403.151;

389 b. A description of best management practices adopted by
390 rule;

391 c. A list of projects in priority ranking with a planning-
392 level cost estimate and estimated date of completion for each
393 listed project. The priority ranking shall be based on the
394 estimated reduction in nutrient load per project, project
395 readiness, cost effectiveness, overall environmental benefit,
396 location within the plan area, local matching funds, and water
397 savings or quantity improvements;

398 d. The source and amount of financial assistance to be made
399 available by the department, a water management district, or
400 other entity for each listed project, if applicable; and

401 e. A planning-level estimate of each listed project's
402 expected load reduction, if applicable.

403 5. The department shall adopt all or any part of a basin
404 management action plan and any amendment to such plan by
405 secretarial order pursuant to chapter 120 to implement the
406 provisions of this section.

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407 6. The basin management action plan must include milestones
408 for implementation and water quality improvement, and an
409 associated water quality monitoring component sufficient to
410 evaluate whether reasonable progress in pollutant load
411 reductions is being achieved over time. An assessment of
412 progress toward these milestones shall be conducted every 5
413 years, and revisions to the plan shall be made as appropriate.
414 Revisions to the basin management action plan shall be made by
415 the department in cooperation with basin stakeholders. Revisions
416 to the management strategies required for nonpoint sources must
417 follow the procedures set forth in subparagraph (c)4. Revised
418 basin management action plans must be adopted pursuant to
419 subparagraph 5.

420 7. In accordance with procedures adopted by rule under
421 paragraph (9) (c), basin management action plans, and other
422 pollution control programs under local, state, or federal
423 authority as provided in subsection (4), may allow point or
424 nonpoint sources that will achieve greater pollutant reductions
425 than required by an adopted total maximum daily load or
426 wasteload allocation to generate, register, and trade water
427 quality credits for the excess reductions to enable other
428 sources to achieve their allocation; however, the generation of
429 water quality credits does not remove the obligation of a source
430 or activity to meet applicable technology requirements or
431 adopted best management practices. Such plans must allow trading
432 between NPDES permittees, and trading that may or may not
433 involve NPDES permittees, where the generation or use of the
434 credits involve an entity or activity not subject to department
435 water discharge permits whose owner voluntarily elects to obtain

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436 department authorization for the generation and sale of credits.

437 8. The provisions of the department's rule relating to the
438 equitable abatement of pollutants into surface waters do not
439 apply to water bodies or water body segments for which a basin
440 management plan that takes into account future new or expanded
441 activities or discharges has been adopted under this section.

442 (d) Wastewater treatment plan.-

443 1. As part of a basin management action plan, each local
444 government, in cooperation with the department, the relevant
445 water management district, and the relevant local public and
446 private wastewater utilities, shall develop a plan to implement
447 improvements that provide, at a minimum, advanced waste
448 treatment, as defined in s. 403.086(4). The plan must provide
449 for construction, expansion, or upgrades necessary to achieve a
450 total maximum daily load, consistent with an onsite sewage
451 treatment and disposal system remediation plan under paragraph
452 (e). A local government that does not have a wastewater
453 treatment plant in its jurisdiction is not required to develop a
454 wastewater treatment plan unless the department determines that
455 the creation of such a plant within the jurisdiction is
456 necessary to meet the total maximum daily load. If advanced
457 waste treatment standards are met or exceeded as part of a
458 broader waste treatment program implemented by the local public
459 or private wastewater treatment utility, such a program may be
460 deemed to comply with the requirements of this paragraph with
461 the approval of the department. Wastewater treatment plants that
462 are directly addressed in a basin management action plan and do
463 not meet or exceed advanced waste treatment standards but that
464 have been determined to meet the requirements for the total

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465 maximum daily load before July 1, 2019, are grandfathered unless
466 and until the department determines that higher levels of
467 treatment are required to meet the total maximum daily load.

468 2. Each owner or operator of an existing wastewater
469 treatment plant shall provide certain information for each plant
470 that has a plan to implement upgrades that meet or exceed
471 advanced waste treatment, as defined in s. 403.086(4). This
472 information must include the following as it relates to existing
473 conditions and estimated conditions after upgrades are
474 implemented:

475 a. The permitted capacity of the plant, in gallons per day;
476 b. The average nutrient concentration; and
477 c. The estimated average nutrient load.

478 3.a. The local government shall submit to the department
479 for approval a detailed plan that includes:

480 (I) A timeline that specifies the dates by which the
481 construction of any improvements must commence, each stage of
482 construction must be completed, and operations must commence;

483 (II) A detailed planning and design report setting forth
484 the plan for construction of improvements and operations; and

485 (III) A certification that the local government, in
486 agreement with the owner or operator, has approved the method of
487 implementing upgrades and method of financing or funding
488 construction and operation.

489 b. The department may amend the plan and shall approve a
490 final plan. The department shall provide technical support upon
491 request by a local government. An existing wastewater treatment
492 plant must also incorporate the plan into its next NPDES or
493 wastewater operating permit renewal.

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494 c. Each new wastewater treatment plant located within the
495 plan area shall comply with the requirements and approved dates
496 in the basin management action plan. Each existing wastewater
497 treatment plant located within the plan area must be in
498 compliance with the timeline set out in the basin management
499 action plan to receive a renewal of its NPDES or wastewater
500 operating permit. Upon a showing of good cause, the department
501 may grant an extension of time to the local government to comply
502 with the timeline.

503 d. If the deadlines for the initiation of construction of
504 improvements, completion of construction, and commencement of
505 operations which were approved pursuant to this subparagraph are
506 not satisfied, each local government with a wastewater treatment
507 plant that does not meet the requirements in this subparagraph
508 may not approve any building permits for new construction within
509 its jurisdiction, and the Department of Health may not approve
510 any new onsite sewage treatment and disposal systems within the
511 local government jurisdiction where the wastewater treatment
512 plant is located until such time as the plant is brought into
513 compliance. In addition, the department shall, unless good cause
514 is shown, assess penalties pursuant to ss. 403.121, 403.141, and
515 403.161 until such time as the plant is brought into compliance.
516 The department may reduce penalties based on expenditures for
517 improvements and upgrades to the wastewater treatment facility.

518 (e) Onsite sewage treatment and disposal systems.—

519 1. For purposes of this paragraph, the term "onsite sewage
520 treatment and disposal system" has the same meaning as in s.
521 381.0065.

522 2.a. As part of a basin management action plan, each local

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523 government, in cooperation with the department, the Department
524 of Health, the relevant water management district, and relevant
525 local public and private wastewater utilities, shall develop an
526 onsite sewage treatment and disposal system remediation plan if
527 the department identifies onsite sewage treatment and disposal
528 systems as contributors of at least 20 percent of nonpoint
529 source nutrient pollution or if the department determines that
530 remediation is necessary to achieve a total maximum daily load.
531 In order to promote cost-effective remediation, the department
532 may identify one or more onsite sewage treatment and disposal
533 system priority focus areas. The department shall identify these
534 areas by considering soil conditions; groundwater or surface
535 water travel time; proximity to surface waters, including
536 predominantly marine waters as defined by department rule;
537 hydrogeology; onsite system density; nutrient load; and other
538 factors that may lead to water quality degradation. The
539 remediation plan must identify cost-effective and financially
540 feasible projects necessary to reduce the nutrient impacts from
541 onsite sewage treatment and disposal systems. The plan shall be
542 completed and adopted as part of the basin management action plan
543 no later than the first 5-year milestone assessment identified in
544 subparagraph (a)6., for basin management action plans generally,
545 or as required in s. 373.807(1)(b)8., for Outstanding Florida
546 Springs. Before adopting the plan, the local government shall
547 hold one or more publicly noticed meetings to receive input on
548 the plan from the general public. The department is responsible
549 for timely approval and adoption of the plan. For basin
550 management action plans not governed by part VIII of chapter
551 373, an onsite sewage treatment and disposal system priority

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552 focus area means the area or areas of a basin where the
553 groundwater is generally most vulnerable to pollutant inputs
554 where there is a known connectivity between groundwater pathways
555 and an impaired water body, as determined by the department in
556 consultation with the appropriate water management districts and
557 delineated in a basin management action plan.

558 b.(I) Each local government within the plan area, or the
559 local government's designee, shall prepare a plan, by the first
560 5-year milestone assessment required under subparagraph (a)6.,
561 for basin management action plans generally, or as required in
562 s. 373.807(1)(b)8. for Outstanding Florida Springs. Within its
563 jurisdiction, the local government plan must provide for either
564 connecting each onsite sewage treatment and disposal system to a
565 central wastewater treatment plant or replacing the current
566 system with a new system within the onsite sewage treatment and
567 disposal system priority focus area so that a nutrient load from
568 onsite sewage treatment and disposal systems meets or exceeds
569 applicable water quality standards. The plan must include water
570 quality monitoring provisions to ensure that waterbodies within
571 the plan area do not continue to be further degraded by onsite
572 sewage treatment and disposal systems. The local government
573 shall submit to the department for approval, a detailed plan,
574 which includes:

575 (A) A timeline that specifies the dates by which the
576 construction of any improvements must commence, each stage of
577 construction must be completed, and mandatory upgrades of onsite
578 sewage treatment disposal systems within the plan area must be
579 implemented or any ordinances that must be adopted to implement
580 the plan;

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581 (B) A detailed planning and design report setting forth the
582 plan for construction of improvements to and implementation of
583 onsite sewage treatment and disposal system upgrades;

584 (C) A certification that the local government, in agreement
585 with the owner or operator, has approved the method of
586 remediation and method of financing or funding construction and
587 operation.

588 (II) The department may amend the plan and shall approve a
589 final plan. The department shall provide technical support upon
590 request by a local government. Upon a showing of good cause, the
591 department may grant an extension of time to reach compliance
592 with the schedule.

593 (III) If the deadlines in sub-sub-sub-subparagraph (I) (A)
594 are not satisfied, the local government may not approve any
595 building permits for new construction within the plan area, and
596 the Department of Health may not approve any new onsite sewage
597 treatment and disposal system within the plan area until the
598 actions in the remediation plan have been completed. In
599 addition, the department shall, unless good cause is shown,
600 assess penalties pursuant to ss. 403.121, 403.141, and 403.161
601 until the actions in the remediation plan have been completed.
602 The department may reduce penalties based on expenditures
603 designed to achieve compliance with the remediation plan.

604 c. In developing and adopting the plan, the department
605 shall:

606 (I) Collect and evaluate credible scientific information on
607 the effect of nutrients on surface waters and groundwater;

608 (II) Work with local stakeholders to develop a public
609 education plan to provide area residents with reliable,

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610 understandable information about onsite sewage treatment and
611 disposal systems and surface and groundwater pollution;

612 (III) In addition to sub-subparagraph 2.b., the department
613 may include in the plan, if appropriate, options for system
614 repair, upgrade, or replacement; drainfield modification; the
615 addition of effective nutrient-reducing features; or other
616 actions addressing onsite sewage treatment and disposal system
617 issues. The department shall include in the plan a priority
618 ranking for each onsite system, or group of systems, that
619 requires remediation. The priority ranking shall be used to
620 ensure the most effective, efficient use of the funding provided
621 for onsite system remediation. In awarding any such funds, the
622 department may consider expected nutrient reduction benefit per
623 unit cost, the size and scope of the project, local financial
624 contribution to the project relative to the overall cost, and the
625 financial impact on property owners and the community. For the
626 purpose of awarding funds, the department may, at its discretion,
627 totally or partially waive this consideration of the local
628 contribution for proposed projects within an area designated as a
629 rural area of opportunity under s. 288.0656; and

630 (IV) The installation, repair, modification, or upgrade of
631 onsite sewage treatment and disposal systems within the
632 boundaries of a basin management action plan with an onsite
633 sewage treatment and disposal system remediation plan must
634 conform to the requirements of the remediation plan.

635 (g) *Alternative restoration plan.*—

636 1. As part of its alternative restoration plan for a water
637 body, the local stakeholders proposing the plan must consider:

638 a. The implementation of agricultural best management

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639 practices or monitoring for nonpoint sources of pollution in
640 accordance with paragraph (c);

641 b. The implementation of an onsite sewage treatment and
642 disposal system remediation plan where such remediation is
643 necessary to restore the water body in accordance with paragraph
644 (e); and

645 c. The adoption of advanced waste treatment levels or
646 higher water quality effluent standards for wastewater treatment
647 plants.

648 2. In addition, the restoration plan must include any other
649 pollution control mechanisms that are being implemented to
650 demonstrate a reasonable assurance that existing or proposed
651 pollution control mechanisms or programs will effectively
652 address the impairment. Upon adoption of such a restoration
653 plan, the requirement that best management practices or
654 monitoring be conducted within the watershed impacting the water
655 body is enforceable pursuant to this section and ss. 403.121,
656 403.141, and 403.161.

657 Section 8. Section 403.0673, Florida Statutes, is created
658 to read:

659 403.0673 Wastewater grant program.—A wastewater grant
660 program is established within the Department of Environmental
661 Protection.

662 (1) Subject to appropriation, the department may provide
663 grants for projects that will individually or collectively
664 reduce excess nutrient pollution within a basin management
665 action plan or an alternative restoration plan adopted by final
666 order for all of the following:

667 (a) Projects to retrofit onsite sewage treatment and

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668 disposal systems.

669 (b) Projects to construct, upgrade, or expand facilities to
670 provide advanced waste treatment, as defined in ss. 403.086(4).

671 (c) Projects to connect onsite sewage treatment and
672 disposal systems to central sewer facilities.

673 (2) In allocating such funds, priority must be given for
674 projects that subsidize the connection of onsite sewage
675 treatment and disposal systems to a wastewater treatment plant
676 or that subsidize inspections and assessments of onsite sewage
677 treatment and disposal systems. In determining priorities, the
678 department shall consider the estimated reduction in nutrient
679 load per project; project readiness; cost effectiveness of the
680 project; overall environmental benefit of a project; the
681 location of a project within the plan area; the availability of
682 local matching funds; and projected water savings or quantity
683 improvements associated with a project.

684 (3) Each grant for a project described in subsection (1)
685 must require a minimum of a 50 percent local match of funds.
686 However, the department may, at its discretion, waive, in whole
687 or in part, this consideration of the local contribution for
688 proposed projects within an area designated as a rural area of
689 opportunity under s. 288.0656.

690 (4) The department shall coordinate with each water
691 management district, as necessary, to identify grant recipients
692 in each district.

693 (5) Beginning January 1, 2020, and each January 1
694 thereafter, the department shall submit a report regarding the
695 projects funded pursuant to this section to the Governor, the
696 President of the Senate, and the Speaker of the House of

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697 Representatives.

698 Section 9. Section 403.0771, Florida Statutes, is created
699 to read:

700 403.0771 Sewage spill notification; moratorium.-

701 (1) In addition to the public notification requirements of
702 s. 403.077, a wastewater treatment facility that unlawfully
703 discharges raw or partially treated sewage into any waterway or
704 aquifer must, within 24 hours after discovering the discharge,
705 notify its customers that the discharge has occurred.

706 (2) If a wastewater treatment facility owned by a local
707 government unlawfully discharges raw or partially treated sewage
708 into any waterway or aquifer, the local government may not
709 approve any building permits for new construction and the
710 Department of Health may not approve any new onsite sewage
711 treatment and disposal system in the local government's
712 jurisdiction until any required maintenance, repair, or
713 improvement has been implemented to reduce or eliminate sanitary
714 sewage overflows, as determined by the department. In addition,
715 the department shall assess a daily penalty pursuant to ss.
716 403.121, 403.141, and 403.161 against a public or private
717 wastewater facility that unlawfully discharges raw or partially
718 treated sewage into any waterway or aquifer until the required
719 maintenance, repair, or improvement has been implemented. The
720 department may reduce a penalty based on the wastewater
721 treatment facility's investment in assessment and maintenance
722 activities to identify and address conditions that may cause
723 sanitary sewage overflows.

724 (3) The department shall maintain a publicly accessible
725 website that includes any current consent orders applicable to a

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726 wastewater treatment facility entered into as a result of
727 sanitary sewer overflows, as well as any reports filed by the
728 facility in accordance with open consent orders.

729 Section 10. Effective July 1, 2024, paragraph (c) of
730 subsection (1) of section 403.086, Florida Statutes, is amended
731 to read:

732 403.086 Sewage disposal facilities; advanced and secondary
733 waste treatment.—

734 (1)

735 (c) Notwithstanding any other provisions of this chapter or
736 chapter 373, facilities for sanitary sewage disposal may not
737 dispose of any wastes into Old Tampa Bay, Tampa Bay,
738 Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater
739 Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay,
740 or Charlotte Harbor Bay, Indian River Lagoon, or into any river,
741 stream, channel, canal, bay, bayou, sound, or other water
742 tributary thereto, without providing advanced waste treatment,
743 as defined in subsection (4), approved by the department. This
744 paragraph shall not apply to facilities which were permitted by
745 February 1, 1987, and which discharge secondary treated
746 effluent, followed by water hyacinth treatment, to tributaries
747 of tributaries of the named waters; or to facilities permitted
748 to discharge to the nontidally influenced portions of the Peace
749 River.

750 Section 11. Present subsection (4) of section 403.9337,
751 Florida Statutes, is redesignated as subsection (5), and a new
752 subsection (4) is added to that section, to read:

753 403.9337 Model Ordinance for Florida-Friendly Fertilizer
754 Use on Urban Landscapes.—

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755 (4) A local government that fails to adopt, enact, and
756 implement an ordinance required by subsection (2) by January 1,
757 2020, is subject to a daily fine as provided in ss. 403.121,
758 403.141, and 403.161 and may not approve any building permits
759 for new construction until the ordinance has been adopted,
760 enacted, and implemented. In implementing the ordinance, a local
761 government shall conduct educational campaigns, enforcement
762 programs, and mandatory notification of property owners subject
763 to the ordinance, and shall submit a report on its efforts to
764 the department for publication on the department's website.

765 Section 12. (1) The Department of Environmental Protection
766 shall revise the basin management action plans for the Indian
767 River Lagoon, basin management action plans for waterbodies with
768 a direct hydrological connection to the Indian River Lagoon, and
769 the basin management action plans that were adopted pursuant to
770 s. 373.807, Florida Statutes, and approved by the Secretary of
771 Environmental Protection or prepared by the department before
772 July 1, 2019, to conform existing plans to changes made by this
773 act. Revisions to such basin management action plans made
774 pursuant to this act must be completed by July 1, 2021. The
775 department may grant a 6-month extension, upon a showing of good
776 cause, to a local government on the deadlines for its wastewater
777 treatment project plan or onsite sewage treatment and disposal
778 system remediation plans submitted as part of a basin management
779 action plan.

780 (2) The department shall revise all basin management action
781 plans not included under subsection (1), but adopted pursuant to
782 s. 403.067(7), Florida Statutes, and approved by the Secretary
783 of Environmental Protection or prepared by the department before

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784 July 1, 2019, to conform existing plans to changes made by this
785 act. Revisions to such basin management action plans made
786 pursuant to this act must be completed by the next required 5-
787 year milestone assessment for those revisions scheduled for on
788 or after July 1, 2021. The department may grant a 6-month
789 extension, upon a showing of good cause, to a local government
790 on the deadlines for its wastewater treatment project plan or
791 onsite sewage treatment and disposal system remediation plans
792 submitted as part of a basin management action plan.

793 Section 13. The Legislature determines and declares that
794 this act fulfills an important state interest.

795 Section 14. Except as otherwise expressly provided in this
796 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 Committee on Environment and Natural Resources

BILL: CS/SB 1758

INTRODUCER: Environment and Natural Resources Committee; Senator Mayfield and others

SUBJECT: Water Quality Improvements

DATE: March 21, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Rogers	EN	Fav/CS
2.			AEG	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1758 creates the “Clean Waterways Act,” including a grant program, subject to appropriation, for wastewater treatment facility or onsite sewage treatment and disposal system (OSTDS) improvements or connections within a basin management action plan (BMAP) or alternative restoration plan. The bill requires the Department of Environmental Protection (DEP) and the Department of Health (DOH) to develop a report on the impacts of a type two transfer of the OSTDS program.

The bill revises the requirements for all BMAPs. The bill:

- Requires that each BMAP include a plan, with specific timelines, to be submitted by each local government within the BMAP area for each wastewater treatment plant project and each OSTDS remediation plan.
- Expands and revises the OSTDS remediation plans required for the Outstanding Florida Springs to apply to all BMAPs.
- Imposes penalties for a local government’s failure to meet the deadlines required under the plan, including a moratorium on local government approval of building permits for new construction, a moratorium on DOH approval of new OSTDSs, and existing civil and criminal penalties for pollution. However, the bill authorizes DEP to grant an extension of time upon a showing of good cause or to reduce penalties based on expenditures for improvements and upgrades.
- Requires local governments within a BMAP or with impaired waters to adopt the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes.

The bill requires a wastewater treatment facility that unlawfully discharges raw or partially treated sewage into a waterway or aquifer to provide notification to its customers within 24 hours after discovering the discharge. Effective July 1, 2024, the bill prohibits sanitary sewage disposal into Indian River Lagoon without providing advanced waste treatment.

II. Present Situation:

Water Quality and Nutrients

Phosphorus and nitrogen are naturally present in water and are essential nutrients for the healthy growth of plant and animal life. The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive nitrogen and phosphorus can cause significant water quality problems.

Phosphorus and nitrogen are derived from natural and human-made sources. Natural inputs include the atmosphere, soils, and the decay of plants and animals. Human-made sources include sewage disposal systems (wastewater treatment facilities and septic systems), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.¹

Excessive nutrient loads may result in harmful algal blooms, nuisance aquatic weeds, and the alteration of the natural community of plants and animals. Dense, harmful algal blooms can also cause human health problems, fish kills, problems for water treatment plants, and impairment of the aesthetics and taste of waters. Growth of nuisance aquatic weeds tends to increase in nutrient-enriched waters, which can impact recreational activities.²

Total Maximum Daily Loads

A total maximum daily load (TMDL), which must be adopted by rule, is a scientific determination of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet water quality standards.³ Waterbodies or sections of waterbodies that do not meet the established water quality standards are deemed impaired. Pursuant to the federal Clean Water Act, DEP is required to establish a TMDL for impaired waterbodies.⁴ A TMDL for an impaired waterbody is defined as the sum of the individual waste load allocations for point sources and the load allocations for nonpoint sources and natural background.⁵ Waste load allocations are pollutant loads attributable to existing and future point sources. Load allocations are pollutant loads attributable to existing and future nonpoint sources. Point sources are discernible, confined, and discrete conveyances including pipes, ditches, and tunnels. Nonpoint sources are unconfined sources that include runoff from agricultural lands or residential areas.⁶

¹ U.S. Environmental Protection Agency (EPA), *Sources and Solutions*, <https://www.epa.gov/nutrientpollution/sources-and-solutions> (last visited Mar. 15, 2019).

² EPA, *The Problem*, <https://www.epa.gov/nutrientpollution/problem> (last visited Mar. 15, 2019).

³ DEP, *Total Maximum Daily Loads Program*, <https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program> (last visited Mar. 15, 2019).

⁴ Section 403.067(1), F.S.

⁵ Section 403.031(21), F.S.

⁶ Fla. Admin. Code R. 62-620.200(37). “Point source” is defined as “any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding

Basin Management Action Plans and Best Management Practices

DEP is the lead agency in coordinating the development and implementation of TMDLs.⁷ Basin management action plans (BMAPs) are one of the primary mechanisms DEP uses to achieve TMDLs. BMAPs are plans that use existing planning tools to address the entire pollution load, including point and nonpoint discharges, for a watershed. BMAPs generally include:

- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Best management practices (BMPs) and non-regulatory and incentive-based programs, including cost sharing, waste minimization, pollution prevention, agreements, and public education;
- Public works projects, including capital facilities; and
- Land acquisition.⁸

DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific waterbody. First, the BMAP equitably allocates pollutant reductions to individual basins, to all basins as a whole, or to each identified point source or category of nonpoint sources.⁹ Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations. The BMAP development process provides an opportunity for local stakeholders, local government and community leaders, and the public to collectively determine and share water quality clean-up responsibilities.¹⁰

BMAPs must include milestones for implementation and water quality improvement. They must also include an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones must be conducted every five years and revisions to the BMAP must be made as appropriate.¹¹

Producers of nonpoint source pollution included in a BMAP must comply with the established pollutant reductions by either implementing the appropriate BMPs or by conducting water quality monitoring.¹² A nonpoint source discharger may be subject to enforcement action by DEP or a water management district based on a failure to implement these requirements.¹³ BMPs are designed to reduce the amount of nutrients, sediments, and pesticides that enter the water

operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged.” Nonpoint sources of pollution are sources of pollution that are not point sources. Nonpoint sources can include runoff from agricultural lands or residential areas; oil, grease and toxic materials from urban runoff; and sediment from improperly managed construction sites.

⁷ Section 403.061, F.S. DEP has the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it. Furthermore, s. 403.061(21), F.S., allows DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.

⁸ Section 403.067(7), F.S.

⁹ *Id.*

¹⁰ DEP, *Basin Management Action Plans (BMAPs)*, <https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps> (last visited Mar. 15, 2019).

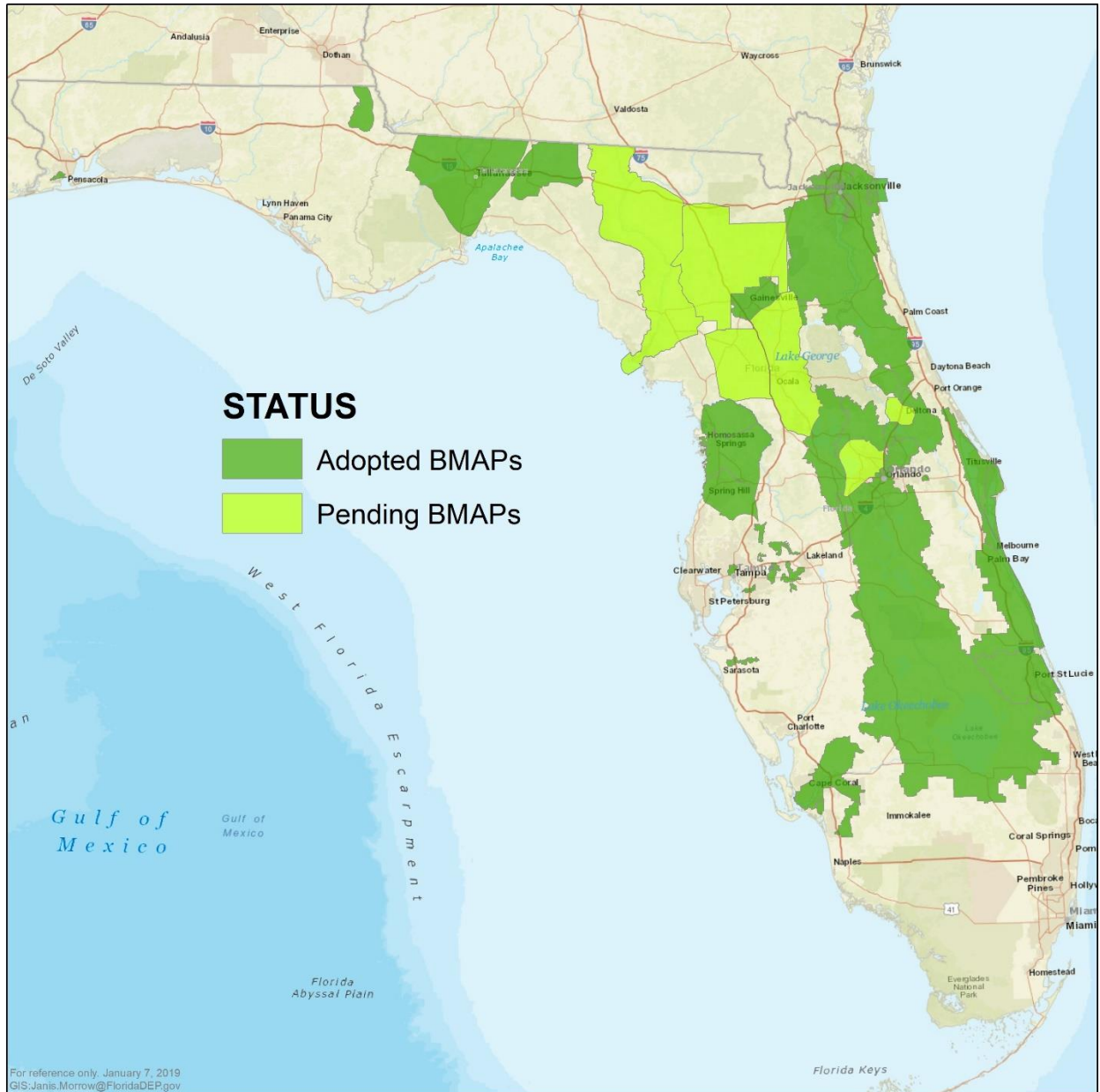
¹¹ Section 403.067(7)(a)6., F.S.

¹² Section 403.067(7)(b)2.g., F.S. For example, BMPs for agriculture include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.

¹³ Section 403.067(7)(b)2.h., F.S.

system and to help reduce water use. BMPs are developed for agricultural operations as well as for other activities, such as nutrient management on golf courses, forestry operations, and stormwater management.¹⁴

Currently, BMAPs are adopted or pending for a significant portion of the state and will continue to be developed as necessary to address water quality impairments. The graphic below shows the state’s adopted and pending BMAPs.



¹⁴ DEP, NPDES Stormwater Program, <https://floridadep.gov/Water/Stormwater> (last visited Mar. 15, 2019).

BMAPs for Outstanding Florida Springs

In 2016, the Florida Legislature passed the Florida Springs and Aquifer Protection Act, which identified 30 "Outstanding Florida Springs" (OFS) that have additional statutory protections and requirements.¹⁵ Key aspects of the Springs and Aquifer Protection Act relating to water quality include:

- The development of an onsite sewage treatment and disposal system (OSTDS) remediation plan if it has been determined that OSTDSs within a priority focus area contribute at least 20 percent of nonpoint source nitrogen pollution or that remediation is necessary to achieve the TMDL;
- A 20-year timeline for implementation of the TMDL, including 5-, 10-, and 15-year targets; and
- The prohibition against new OSTDSs on parcels of less than 1 acre, unless the system complies with the OSTDS remediation plan.

The OSTDS remediation plan must include options for repair, upgrade, replacement, drainfield modification, addition of effective nitrogen reducing features, connection to a central sewerage system, or other action for a sewage system or group of systems.¹⁶ The options must be cost-effective and financially feasible projects necessary to reduce the nutrient impacts from OSTDSs within the area.¹⁷

In June 2018, DEP adopted 13 restoration plans, addressing all 24 nitrogen-impaired OFS.¹⁸ Eight of these plans are currently effective, while five others are pending the outcome of legal challenges on various alleged deficiencies in the BMAP.¹⁹ These deficiencies include lack of specificity in the required list of projects and programs identified to implement a TMDL, lack of detail in cost estimates, incomplete or unclear strategies for nutrient reduction, and failure to account for population growth and agricultural activity.

The Wakulla Springs BMAP serves as a successful example of BMAP implementation with respect to its approach to wastewater and OSTDSs. The nitrogen loading for Wakulla Springs was allocated as described in the table below. The table includes the following acronyms: UTF (Urban Turfgrass Fertilizer), FF (Farm Fertilizer), and LW (Livestock Waste).²⁰

¹⁵ Ch. 2016-1, Laws of Fla.; *see* s. 373.802, F.S., Outstanding Florida Springs include all historic first magnitude springs, including their associated spring runs, as determined by DEP using the most recent Florida Geological Survey springs bulletin, and De Leon Springs, Peacock Springs, Poe Springs, Rock Springs, Wekiwa Springs, and Gemini Springs, and their associated spring runs.

¹⁶ Section 373.807(3), F.S.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Our Santa Fe River, Inc., et. al. v. DEP*, No. 18-1601, DEP No. 18-2013; *Sierra Club v. DEP*, No. 17-1175, DEP No. 18-0204; *Friends of Wekiva River, Inc. v. DEP*, No. 18-1065, DEP No. 18-0217; *Thomas Greenhalgh v. DEP*, No. 17-1165, DEP No. 18-0204; *Paul Still v. DEP*, No. 18-1061; *Save the Manatee Club, Inc. v. DEP*, No. 17-1167, DEP No. 18-0206; *Silver Springs Alliance, Inc. and Rainbow River Conservation, Inc. v. DEP*, No. 18-1060, DEP No. 18-0211.

²⁰ DEP, *Upper Wakulla River and Wakulla Springs Basin Management Action Plan* (October 2015), available at <https://floridadep.gov/dear/water-quality-restoration/documents/upper-wakulla-river-and-wakulla-springs-basin-management-0> (last visited Mar. 16, 2019).

Table 3. Estimated nitrogen load to groundwater by source in the BMAP area

Nitrogen Source	Total Nitrogen Load to Groundwater in Pounds of Nitrogen Per Year (lb-N/yr)	% Contribution
OSTDS	272,313	34
UTF	77,282	10
Atmospheric Deposition	212,134	27
FF	161,985	21
Sports Turfgrass Fertilizer (STF)	15,398	2
LW	23,840	3
Wastewater Treatment Facility (WWTF)	26,697	3
Total	795,386	100

A priority focus area of an OFS means the area or areas of a basin where the Floridan Aquifer is generally most vulnerable to pollutant inputs where there is a known connectivity between groundwater pathways and an Outstanding Florida Spring, as determined by DEP in consultation with the appropriate water management districts, and delineated in a BMAP.²¹ Wastewater treatment facilities within the priority focus areas are subject to wastewater effluent standards based on the size of the facility, with the largest facilities being required to meet the strictest requirements and the smallest plants being authorized to have slightly more relaxed standards. For reference, untreated wastewater generally has a total nitrogen (TN) concentration of 20-70 mg/L, secondary treatment yields 15-30 mg/L, and tertiary treatment yields 3-8 mg/L.²²

Table 13. Wastewater effluent standards for PFA1 and PFA2

95% of the Permitted Capacity (gpd)	TN Concentration Limits for RIBs and Absorption Fields (mg/L)	TN Concentration Limits for All Other Land Disposal Methods (mg/L)
Greater than 100,000	3	3
20,000 to 100,000	3	6
Less than 20,000	6	6

Appendix D of the Wakulla BMAP sets forth the OSTDS remediation plan, which is still under development. The remediation plan prohibits new conventional systems on lots of less than one acre within the priority focus areas, unless the OSTDS includes enhanced treatment of nitrogen or the OSTDS permit applicant demonstrates that sewer connections will be available within five

²¹ Section 373.802(5), F.S.

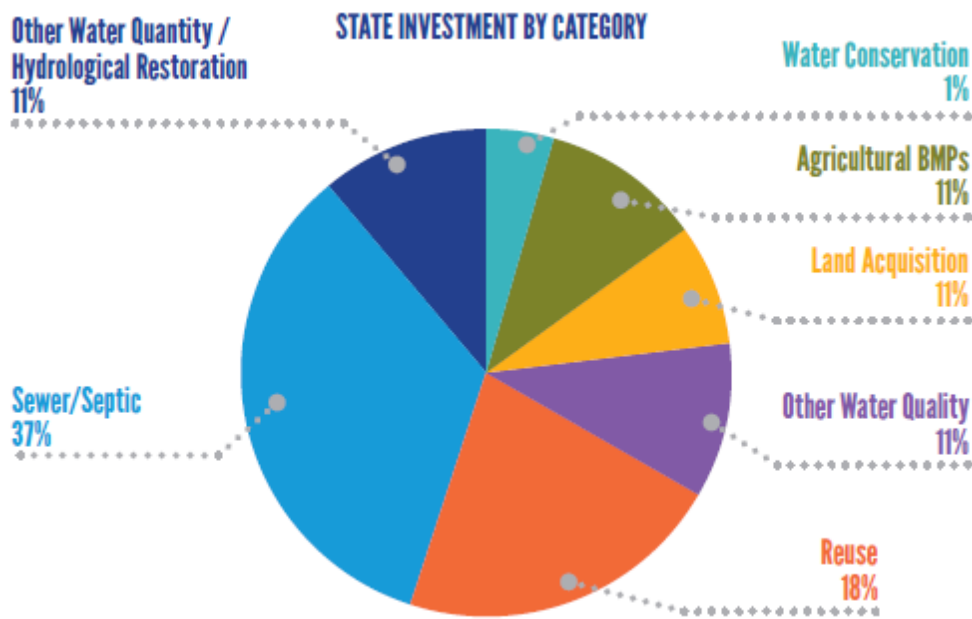
²² Richard O. Carey, Kati W. Migliaccio, *Contribution of Wastewater Treatment Plant Effluents to Nutrient Dynamics in Aquatic Systems: A Review*, Environmental Management (2009) (on file with the Environment and Natural Resources Committee).

years. Local governments and utilities are expected to develop master wastewater treatment feasibility analyses to identify specific areas to be sewerred within 20 years of BMAP adoption.

For existing OSTDSs, the remediation policy for existing systems does not go into effect upon BMAP adoption, but rather following completion of the master wastewater treatment feasibility analyses, DOH rulemaking, and creation of a funding program to help offset the costs to homeowners. Regardless, the policy must go into effect no later than five years after BMAP adoption. Existing systems must include nitrogen-reducing enhancements. The OSTDS remediation plan includes a planning tool created by DEP to provide credible scientific information, OSTDS remediation options in the area, and a public education plan.

Funding for Outstanding Florida Springs

The Legislature created a carveout to allocate \$50 million annually in funding for Florida springs in 2016.²³ This funding has enabled DEP to assist local governments and other stakeholders to identify and construct projects that are targeted to the springs’ nutrient sources and that are imperative to achieving restoration goals. Specifically, DEP’s efforts have emphasized land acquisition for conservation, and implementation of enhanced best management practices for agriculture, including innovative cost-share programs and addressing wastewater issues by wastewater treatment upgrades and sewerred efforts.²⁴



Decisions for the selection of springs projects that will receive state funding in any given year is based upon DEP’s consideration of the following factors:

- Nutrient reductions or measurable improvements in water quality;

²³ Ch. 2016-201, Laws of Fla.; s. 375.401, F.S.

²⁴ DEP, *Springs Restoration Project Plan for the Legislative Budget Commission* (Fiscal Year 2018-2019), available at <https://floridadep.gov/sites/default/files/LBC%20Report%20FY2018-2019.pdf> (last visited Mar. 16, 2019).

- Water savings or measurable water quantity improvements;
- Cost sharing and leveraging opportunities referred to as “match;”
- Readiness to proceed in a timely manner;
- Proximity to priority focus areas or springs; and
- Cost effectiveness.²⁵

Restoration Plans as Alternatives to TMDLS

DEP encourages local stakeholders to develop restoration plans²⁶ at the earliest practicable time to restore waters not meeting state water quality standards.²⁷ The restoration plans are designed to be a more streamlined process than the BMAP process and can help focus local and state resources directly on measures to improve water quality.²⁸ Under the Florida Watershed Restoration Act,²⁹ DEP can forgo establishing a TMDL for a waterbody if DEP can document that there is reasonable assurance existing or proposed pollution control mechanisms or programs that will effectively address the impairment.³⁰ These restoration plans depend on local stakeholders to gather necessary documentation to demonstrate reasonable assurance that the proposed control mechanisms will restore the particular waterbody.³¹

The following information must be documented in a restoration plan:

- Description of the impaired waterbody;
- Description of water quality or aquatic ecological goals;
- Description of proposed management actions to be undertaken;
- Description of procedures for monitoring and reporting results; and
- Description of and commitment to proposed corrective actions.³²

Wastewater Treatment Facilities

The proper treatment and disposal or reuse of domestic wastewater is an important part of protecting Florida’s water resources. The majority of Florida’s domestic wastewater is controlled and treated by centralized treatment facilities regulated by DEP. Florida has approximately 2,000 permitted domestic wastewater treatment facilities.³³

Chapter 403, F.S., requires that any facility or activity which discharges wastes into waters of the state or which will reasonably be expected to be a source of water pollution must obtain a permit

²⁵ DEP, *Springs Funding Guidance* (2017), available at

<https://floridadep.gov/sites/default/files/Spring%20Guidance%20Document%202017.pdf> (last visited Mar. 16, 2019).

²⁶ Fla. Admin. Code R. 62-303.600.

²⁷ DEP, *Guidance on Developing Restoration Plans as Alternatives to TMDLS – Assessment Category 4b and 4e Plans*, 1 (June 2015), available at <https://floridadep.gov/sites/default/files/4b4ePlansGuidance.pdf> (last visited Mar. 13, 2019).

²⁸ *Id.* at 1-2.

²⁹ Ch. 99-223, Laws of Fla.

³⁰ DEP, *Guidance on Developing Restoration Plans as Alternatives to TMDLS – Assessment Category 4b and 4e Plans*, 2 (June 2015), available at <https://floridadep.gov/sites/default/files/4b4ePlansGuidance.pdf> (last visited Mar. 13, 2019).

³¹ *Id.*

³² *Id.* at 6-7.

³³ DEP, *General Facts and Statistics About Wastewater in Florida*, <https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida> (last visited Mar. 15, 2019).

from DEP.³⁴ Generally, persons who intend to collect, transmit, treat, dispose, or reuse wastewater are required to obtain a wastewater permit. A wastewater permit issued by DEP is required for both operation and certain construction activities associated with domestic or industrial wastewater facilities or activities. A DEP permit must also be obtained prior to construction of a domestic wastewater collection and transmission system.³⁵

The National Pollution Discharge Elimination System (NPDES) Program is a federal program established by the Clean Water Act (CWA) to control point source and stormwater discharges.³⁶ Under section 402 of the CWA, any discharge of a pollutant from a point source to surface waters (i.e., the navigable waters of the United States or beyond) must obtain an NPDES permit. NPDES permit requirements for most wastewater facilities or activities (domestic or industrial) that discharge to surface waters are incorporated into a state-issued permit, thus giving the permittee one set of permitting requirements rather than one state and one federal permit.³⁷ DEP issues operation permits for a period of 5 years for facilities regulated under the NPDES program and up to 10 years for other domestic wastewater treatment facilities.³⁸

In its 2016 Report Card for Florida’s infrastructure, the American Society of Civil Engineers reported that the state’s wastewater system is increasing in age and the condition of installed treatment and conveyance systems is declining.³⁹ As existing infrastructure ages, Florida utilities are placing greater emphasis on asset management systems to maintain service to customers. Population growth, aging infrastructure, and sensitive ecological environments are increasing the need to invest in Florida’s wastewater infrastructure.

Advanced Waste Treatment

Under Florida law, facilities for sanitary sewage disposal are required to provide for advanced waste treatment, as deemed necessary by DEP.⁴⁰ The standard for advanced waste treatment is defined in statute using the maximum concentrations of nutrients or contaminants that a reclaimed water product may contain.⁴¹ The reclaimed water product must also have received high level disinfection, which is a standard of disinfection defined by DEP rule.⁴²

Nutrient or Contaminant	Maximum concentration annually
Biochemical Oxygen Demand	5 mg/L
Suspended Solids	5 mg/L
Total Nitrogen	3 mg/L
Total Phosphorus	1 mg/L

³⁴ Section 403.087, F.S.

³⁵ DEP, *Wastewater Permitting*, <https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting> (last visited Mar. 15, 2019).

³⁶ 33 U.S.C s. 1342.

³⁷ Sections 403.061 and 403.087, F.S.

³⁸ Section 403.087(3), F.S.

³⁹ American Society of Civil Engineers, *Report Card for Florida’s Infrastructure* (2016), available at https://www.infrastructurereportcard.org/wp-content/uploads/2017/01/2016_RC_Final_screen.pdf (last visited Mar. 19, 2019).

⁴⁰ Section 403.086(2), F.S.

⁴¹ Section 403.086(4), F.S.

⁴² Section 403.086(4)(b), F.S.; Fla. Admin. Code R. 62-600.440(6).

Facilities for sanitary sewage disposal are prohibited from disposing of waste into certain waters in the state without providing advanced waste treatment approved by DEP.⁴³ Specifically, Tampa Bay is viewed as a success story for this type of prohibition.

[Tampa Bay is] one of the few estuaries in the U.S. that has shown evidence of improving environmental conditions. These water-quality improvements have been due, in large part, to upgrades in wastewater treatment practices at municipal wastewater-treatment plants in the region. Since 1980, all wastewater treatment plants that discharge to the bay or its tributaries have been required by state legislation to meet advanced wastewater treatment standards, a step that has reduced the annual nutrient loads from these sources by about 90 percent.⁴⁴

Sanitary Sewer Overflows

Although domestic wastewater treatment facilities are permitted and designed to safely and properly collect and manage a specified wastewater capacity, obstructions or extreme conditions can cause a sanitary sewer overflow (SSO). Any overflow, spill, release, discharge, or diversion of untreated or partially treated wastewater from a sanitary sewer system is a SSO.⁴⁵ A SSO may subject the owner or operator of a facility to civil penalties of not more than \$10,000 for each offense (each day during the period in which a violation occurs constitutes a separate offense), a criminal conviction or fines, and additional administrative penalties.⁴⁶

A key concern with SSOs entering rivers, lakes, or streams is their negative effect on water quality. In addition, because SSOs contain partially treated or potentially untreated domestic wastewater, ingestion or similar contact may cause illness. People can be exposed through direct contact in areas of high public access, food that has been contaminated, inhalation, and skin absorption. The Department of Health issues health advisories when bacteria levels present a risk to human health, and may post warning signs when bacteria affect public beaches or other areas where there is a risk of human exposure.⁴⁷

Reduction of SSOs can be achieved through:

- Cleaning and maintaining the sewer system;
- Reducing infiltration and inflow through rehabilitation and repairing broken or leaking lines;
- Enlarging or upgrading sewer pump station or sewage treatment plant capacity and/or reliability; and

⁴³ Section 403.086(1)(c), F.S. Facilities for sanitary sewage disposal may not dispose of any wastes into Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay, or Charlotte Harbor Bay, or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment approved by DEP. This prohibition does not apply to facilities permitted by February 1, 1987, and which discharge secondary treated effluent, followed by water hyacinth treatment, to tributaries of the named waters; or to facilities permitted to discharge to the nontidally influenced portions of the Peace River.

⁴⁴ U.S. Department of the Interior and U.S. Geological Survey, *Integrating Science and Resource Management in Tampa Bay, Florida* (2011), available at https://pubs.usgs.gov/circ/1348/pdf/Chapter%205_105-156.pdf (last visited Mar. 16, 2019).

⁴⁵ DEP, *Sanitary Sewer Overflows (SSOs)*, available at <https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf> (last visited Mar. 15, 2019).

⁴⁶ Sections 403.121 and 403.141, F.S.

⁴⁷ DEP, *SSOs*, available at <https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf> (last visited Mar. 15, 2019).

- Constructing wet weather storage and treatment facilities to treat excess flows.⁴⁸

Onsite Sewage Treatment and Disposal Systems

Onsite sewage treatment and disposal systems (OSTDS), commonly referred to as “septic systems,” can contain any one or more of the following components: a septic tank; a subsurface drainfield; an aerobic treatment unit; a graywater tank; a laundry wastewater tank; a grease interceptor; a pump tank; a waterless incinerating or organic waste-composting toilet; and a sanitary pit privy.⁴⁹ OSTDSs generally consist of two basic parts: the septic tank and the drainfield.⁵⁰ Waste from toilets, sinks, washing machines and showers flows through a pipe into the septic tank, where anaerobic bacteria break the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or styrofoam. The drainfield provides a secondary treatment where aerobic bacteria continue deactivating the germs. The drainfield also provides filtration of the wastewater, as gravity draws the water down through the soil layers.⁵¹

The Department of Health (DOH) administers OSTDS programs, develops statewide rules, and provides training and standardization for county health department employees responsible for issuing permits for the installation and repair of septic systems within the state.⁵² There are an estimated 2.6 million OSTDSs in Florida, providing wastewater disposal for 30 percent of the state’s population.⁵³

In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.⁵⁴ For example, in rural areas and low-density developments, central sewer systems are not cost effective. Less than one percent of OSTDS in Florida are actively managed under operating permits and maintenance agreements.⁵⁵ The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.⁵⁶ In Florida, approximately 30-40 percent of the

⁴⁸ *Id.*

⁴⁹ DEP, *Septic Systems*, <https://floridadep.gov/water/domestic-wastewater/content/septic-systems> (last visited Mar. 15, 2019); see s. 381.0065(2)(k), F.S. “Onsite sewage treatment and disposal system” is defined as “a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. The term includes any item placed within, or intended to be used as a part of or in conjunction with, the system. This term does not include package sewage treatment facilities and other treatment works regulated under chapter 403.”

⁵⁰ DOH, *Septic System Information and Care*, <http://columbia.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/septic-information-and-care.html> (last visited Mar. 15, 2019).

⁵¹ *Id.*

⁵² Section 381.0065(3), F.S.

⁵³ DOH, *Onsite Sewage*, <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html> (last visited Mar. 15, 2019).

⁵⁴ DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/documents/rrac/2008-11-06.pdf> (last visited Mar. 15, 2019). The report begins on page 56 of the PDF.

⁵⁵ *Id.*

⁵⁶ *Id.*

nitrogen levels are reduced in a system that is installed 24 inches or more from groundwater.⁵⁷ This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.⁵⁸

The owner of a properly functioning OSTDS must connect to a sewer system within one year of receiving notification that a sewer system is available for connection.⁵⁹ Owners of an OSTDS in need of repair or modification must connect within 90 days of notification from DOH.⁶⁰

Water Quality Monitoring

One of DEP's goals is to determine the quality of the state's surface and ground water resources. This goal is primarily accomplished through several water quality monitoring strategies that are administered through the Water Quality Assessment Program. Responsibilities of the program include: monitoring and assessing how water quality is changing over time; the overall water quality and impairment status of the state's water resources; and the effectiveness of water resource management, protection, and restoration programs.⁶¹

Within the Water Quality Assessment Program, DEP administers the Watershed Monitoring Program. This program is responsible for collecting reliable data through water samples from rivers, streams, lakes, canals, and wells around the state.⁶² This information is used by DEP to determine which waters are impaired and what restoration efforts are needed.

Urban Fertilizer Usage and Florida's Model Ordinance

The Legislature passed the Protection of Urban and Residential Environments and Water Act in 1999.⁶³ The law encourages county and municipal governments to adopt and enforce the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes or an equivalent requirement to protect local surface and groundwater quality.⁶⁴ The law requires each local government located within the watershed of a water body or water segment that is listed as impaired by nutrients to adopt, at minimum, the ordinance, unless the county or municipal government already had a fertilizer use ordinance before July 1, 2009.⁶⁵ As part of the Florida Springs and Aquifer Protection Act, the Legislature required each local government that includes an OFS or any part of a springshed or OFS priority focus area and had not adopted a fertilizer ordinance, to

⁵⁷ DOH, *Florida Onsite Sewage Nitrogen Reduction Strategies Study, Final Report 2008-2015*, 21 (Dec. 2015), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/draftlegreportsm.pdf> (last visited Mar. 15, 2019).

⁵⁸ University of Florida Institute of Food and Agricultural Sciences (IFAS), *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, 3 (Feb. 2014), available at <http://edis.ifas.ufl.edu/pdf/files/SS/SS55000.pdf> (last visited Mar. 15, 2019).

⁵⁹ Section 381.00655, F.S.

⁶⁰ *Id.*

⁶¹ DEP, *Water Quality Assessment Program*, <https://floridadep.gov/dear/water-quality-assessment> (last visited Mar. 21, 2019).

⁶² DEP, *Watershed Monitoring*, <https://floridadep.gov/dear/watershed-monitoring-section> (last visited Mar. 21, 2019).

⁶³ Ch. 1999-199, ss. 2-5, Laws of Fla.

⁶⁴ Section 403.9337(1), F.S.

⁶⁵ Section 403.9337(2), (3), F.S.

develop, enact, and implement an ordinance by July 1, 2017.⁶⁶ Currently, 32 counties have adopted a fertilizer ordinance.⁶⁷

Application of fertilizer in urban areas can impact watersheds when it runs off lawns and impervious surfaces into stormwater collection systems or directly into the surface water. DEP has provided guidelines to minimize the impact of urban fertilizer use and adopted the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes.⁶⁸ The model ordinance provides counties and municipalities with a range of options to help minimize fertilizer inputs from urban applications. Some of the suggestions contained in the model ordinance are:

- Restricting the times fertilizer may be applied, such as restricting its application during the rainy season;
- Creating fertilizer free zones around sensitive waterbodies such as ponds, streams, watercourses, lakes, canals, or wetlands;
- Controlling application practices by, for example, restricting fertilizer application on impervious surfaces and requiring prompt cleanup of any fertilizer that is spilled on impervious surfaces; and
- Managing grass clipping and vegetative matter by disposing of such materials properly rather than simply blowing them into the street, ditches, stormwater drains, or waterbodies.⁶⁹

Indian River Lagoon

The Indian River Lagoon (IRL) system is an estuary⁷⁰ that runs along 156 miles of Florida's east coast and connects Volusia, Brevard, Indian River, St. Lucie, and Martin counties.⁷¹ The IRL system is composed of three main waterbodies: Mosquito Lagoon, Banana River, and the Indian River Lagoon.⁷² There are four Basin Management Action Plans (BMAP) that have been adopted for the IRL.⁷³

The IRL is one of the most biologically diverse estuaries in North America and is home to more than 2,000 species of plants, 600 species of fish, 300 species of birds, and 53 endangered or threatened species.⁷⁴ The estimated economic value received from the IRL in 2014 was

⁶⁶ Section 373.807(2), F.S.

⁶⁷ UF/IFAS Florida-Friendly Landscaping Program, *Florida Fertilizer Ordinances* (updated Jan. 10, 2019), available at <https://ffl.ifas.ufl.edu/pdf/FloridaFertilizerOrdinances.pdf?v=20190219> (last visited Mar. 15, 2019).

⁶⁸ DEP, *Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes* (2015), available at <https://ffl.ifas.ufl.edu/pdf/dep-fert-modelord.pdf> (last visited Mar. 15, 2019).

⁶⁹ *Id.* at 6-9.

⁷⁰ An estuary is a partially enclosed, coastal waterbody where freshwater from rivers and streams mixes with saltwater from the ocean. Estuaries are among the most productive ecosystems on earth, home to unique plant and animal communities that have adapted to brackish water: freshwater mixed with saltwater. U.S. EPA, *What Is An Estuary?*, <https://www.epa.gov/nep/basic-information-about-estuaries> (last visited Mar. 15, 2019); NOAA, *What Is An Estuary?*, <https://oceanservice.noaa.gov/facts/estuary.html> (last visited Mar. 15, 2019).

⁷¹ IRL National Estuary Program, *About the Indian River Lagoon*, <http://www.irlcouncil.com/> (last visited Mar. 15, 2019).

⁷² *Id.*

⁷³ East Central Florida Regional Planning Council and the Treasure Coast Regional Planning Council, *Indian River Lagoon Economic Valuation Update*, x (Aug. 26, 2016), available at http://tcrpc.org/special_projects/IRL_Econ_Valu/FinalReportIRL08_26_2016.pdf (last visited Mar. 15, 2019); DEP, *Basin Management Action Plans (BMAPs)*, <https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps> (last visited Mar. 15, 2019).

⁷⁴ IRL National Estuary Program, *About the Indian River Lagoon*, <http://www.irlcouncil.com/> (last visited Mar. 15, 2019).

approximately \$7.6 billion.⁷⁵ Industry groups that are directly influenced by the IRL support nearly 72,000 jobs, collecting wages totaling more than \$1.2 billion annually.⁷⁶

The balance of the IRL's delicate ecosystem has been disturbed by increased development in the area. Development has led to harmful levels of nutrients and sediments entering the lagoon as a result of stormwater runoff from urban and agricultural areas, wastewater treatment facility discharges, septic systems, and excess fertilizer applications.⁷⁷ In the last decade, as a result of the pollution, there have been algae blooms; unusual mortalities of dolphins, manatees, and shorebirds; and large fish kills due to low dissolved oxygen from decomposing algae.⁷⁸ Additionally, thick layers of muck have built up at the bottom of waterbodies and now cover an estimated 15,900 acres of the lagoon bottom in Brevard County, in some areas measuring more than 6 feet thick.⁷⁹

Type Two Transfer

Section 20.06(2), F.S., defines a type two transfer as the merging of an existing department, program, or activity into another department. Any program or activity transferred by a type two transfer retains all the statutory powers, duties, and functions it held previous to the transfer. The program or activity also retains its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, unless otherwise provided by law. The transfer of segregated funds must be made in such a manner that the relation between the program and the revenue source is retained.⁸⁰

III. Effect of Proposed Changes:

Section 1 provides a short title for the act, "Clean Waterways Act."

Section 2 requires the Department of Environmental Protection (DEP), in coordination with the Department of Health (DOH), to develop a report for presentation to the Legislature which addresses the impacts of a type two transfer of the onsite sewage treatment and disposal system (OSTDS) program. The report must include revisions to state law, including budgetary changes, which would need to be addressed. If DEP is authorized to develop a memorandum of agreement with DOH describing how a type two transfer would be implemented if the Legislature authorized such a transfer, the report would not be required.

⁷⁵ East Central Florida Regional Planning Council and the Treasure Coast Regional Planning Council, *Indian River Lagoon Economic Valuation Update*, vi (Aug. 26, 2016), available at http://tcrpc.org/special_projects/IRL_Econ_Valu/FinalReportIRL08_26_2016.pdf (last visited Mar. 15, 2019).

⁷⁶ *Id.* at ix. The main IRL-related industry groups are categorized as: Living Resources; Marine Industries; Recreation and Visitor-related; Resource Management; and Defense & Aerospace.

⁷⁷ Tetra Tech, Inc. & Closewaters, LLC, *Draft Save Our Indian River Lagoon Project Plan 2019 Update for Brevard County, Florida*, xii (Jan. 2019), available at <https://www.dropbox.com/sh/59riiyz9eevvdq0/AACc4Rq3SJqiO-ZOYUA3TJMsa?dl=0&preview=Draft+2019+Save+Our+Indian+River+Lagoon+Project+Plan+Update+012919.pdf> (last visited Mar. 15, 2019).

⁷⁸ *Id.* at 1.

⁷⁹ *Id.* at 52.

⁸⁰ Section 20.06(2), F.S.

Section 3 revises basin management action plan (BMAP) requirements for Outstanding Florida Springs (OFS). The bill:

- Requires that the priority ranking for each listed project be based on nutrient load per project, project readiness, cost effectiveness, overall environmental benefit, location within the plan area, local matching funds, and water savings or quantity improvements;
- Requires that each BMAP include, as set out in section 7 of the bill, a plan submitted by each local government within the plan area for each wastewater treatment plant project and each OSTDS remediation plan, and adopts the penalties set out in that section;
- Requires local governments that include an OFS or any part of a springshed or priority focus area of an OFS to:
 - Adopt, enact, and implement a fertilizer use ordinance by July 1, 2020;
 - Conduct educational campaigns, enforcement programs, and notification of property owners subject to the ordinance; and
 - Submit a report on its efforts to DEP for publication on DEP's website;
- Imposes penalties and a moratorium on approval of building permits for new construction on local governments that fail to implement an ordinance;
- Transfers the requirement for an OSTDS remediation plan to the general BMAP provisions to require a revised version of the plans for all BMAPs; and
- Requires that agricultural operations located within the associated Water Body Identification Number sign a notice of intent to implement agricultural best management practices or conduct water quality monitoring if a BMAP or alternative restoration plan has not been adopted within 90 days of the adoption of a total maximum daily load (TMDL).

Section 4 corrects a cross-reference.

Section 5 defines the term:

- “Wastewater facilities” or “wastewater treatment facilities” to mean any of the following: the collection and transmission system, the wastewater treatment plant, and the reuse or disposal system.
- “Wastewater plant” or “wastewater treatment plant” to mean any plant or other works used for the purpose of treating, stabilizing, or holding wastewater.

Section 6 requires DEP, subject to appropriation, to establish a real-time water quality monitoring program to assist in the restoration, preservation, and enhancement of impaired waterbodies and coastal resources. The bill encourages DEP to form public-private partnerships with established scientific entities with existing, proven real-time water quality monitoring equipment and experience deploying such equipment.

Section 7 revises general BMAP requirements. The bill:

- Requires that agricultural operations located within the associated Water Body Identification Number sign a notice of intent to implement agricultural best management practices or conduct water quality monitoring if a BMAP or alternative restoration plan has not been adopted within 90 days of the adoption of a TMDL; and
- Requires that the priority ranking for each listed project be based on nutrient load per project, project readiness, cost effectiveness, overall environmental benefit, location within the plan area, local matching funds, and water savings or quantity improvements.

The bill creates a wastewater treatment plan, which:

- Requires a local government, in cooperation with DEP, the relevant water management district, and the relevant local public and private wastewater utilities, to develop a plan to implement improvements that provide, at minimum, advanced waste treatment;
- Requires that each plan provide for construction, expansion, or upgrades necessary to achieve a total maximum daily load, consistent with an OSTDS remediation plan;
- Clarifies that a local government that does not have a wastewater treatment plant in its jurisdiction is not required to develop a wastewater treatment plan;
- Provides that a local public or private wastewater utility that implements a waste treatment program that meets or exceeds advanced waste treatment may be deemed to comply with the requirements for a wastewater treatment plan;
- Creates a grandfather provision for certain wastewater treatment plants that have met the requirements for a TMDL by July 1, 2019;
- Requires owners or operators of existing wastewater treatment plants to provide certain information for each plant with a plan to implement upgrades, including:
 - The permitted capacity of the plant;
 - The average nutrient concentration; and
 - The estimated average nutrient load;
- Requires local governments to provide certain information in the plan:
 - The timeline of dates required for beginning construction, completing each stage of construction, and beginning operations;
 - A detailed planning and design report setting forth the plan for construction of improvements and operations; and
 - A certification that the local government, in agreement with the owner or operator of the wastewater treatment plant, has improved the method of implementing upgrades and method of financing or funding construction and operation;
- Authorizes DEP to amend the plan and requires DEP to approve a final plan;
- Requires DEP to provide technical support to a local government upon request;
- Requires existing wastewater treatment plants to incorporate the wastewater treatment plan into its next NPDES permit renewal;
- Provides that failure to meet deadlines and comply with the plan will result in a moratorium on local government approval of building permits for new construction, a moratorium on DOH approval of new OSTDSs, and penalties; and
- Authorizes DEP to grant an extension of time to a local government to reach compliance with the schedule upon a showing of good cause and to reduce penalties based on expenditures for improvements and upgrades to the wastewater treatment plant.

The bill revises and expands the OSTDS remediation plans, currently required only for OFSs, to:

- Apply to all BMAPs and revise the provisions to shift primary responsibility to local governments;
- Authorize DEP to identify OSTDS remediation plan priority focus areas;
- Require a local government, in cooperation with DEP, the relevant water management district, and the relevant local public and private wastewater utilities, to develop an OSTDS remediation plan if DEP has identified OSTDSs as contributors of at least 20 percent of nonpoint source nutrient pollution or if DEP determines that remediation is necessary to achieve a TMDL.

- Require the plan to be completed and adopted as part of a BMAP no later than the first 5-year milestone assessment for the BMAP;
- Require that each plan provide for connecting each OSTDS to a central wastewater treatment plant or replacing the current system with a new system so the nutrient load meets or exceeds current water quality standards;
- Require each plan to include water quality monitoring provisions;
- Require local governments to submit a plan with:
 - The timeline of dates required for beginning construction, completing each stage of construction, and mandatory upgrades of OSTDSs or applicable ordinances;
 - A detailed planning and design report setting forth the plan for construction of improvements and operations; and
 - A certification that the local government, in agreement with the owner/operator, has improved the method of remediation and method of financing or funding construction and operation;
- Require local governments to hold publicly noticed meetings on OSTDS plans.
- Authorize DEP to amend the plan and require DEP to approve a final plan;
- Require DEP to provide technical support to a local government upon request;
- Provide that failure to meet deadlines and comply with the plan will result in a moratorium on local government approval of building permits for new construction, a moratorium on DOH approval of new OSTDSs, and penalties;
- Authorize DEP to grant an extension of time to a local government to reach compliance with the schedule upon a showing of good cause and to reduce penalties based on expenditures designed to achieve compliance with the remediation plan; and
- Require the installation, repair, modification, or upgrade of OSTDSs within the BMAP area with an OSTDS remediation plan to conform to the requirements of the remediation plan.

The bill requires local stakeholders to consider in an alternative restoration plan:

- Implementation of BMPs or monitoring for nonpoint sources, which then become enforceable upon adoption of the restoration plan;
- Implementation of OSTDS remediation plans needed to restore the water body;
- Adoption of advanced waste treatment levels for wastewater treatment plants; and
- Any other pollution control mechanisms being implemented to demonstrate a reasonable assurance that existing or proposed pollution control mechanisms or programs will effectively address the impairment.

Section 8 establishes a grant program within DEP, subject to appropriation, to provide grants for projects that will individually or collectively reduce excess nutrient pollution in a BMAP or alternative restoration plan that will:

- Retrofit OSTDSs;
- Construct, upgrade, or expand wastewater facilities to provide advanced waste treatment; and
- Connect OSTDSs to central sewer facilities.

The bill directs DEP to give priority for projects that subsidize the connection of OSTDSs to a wastewater treatment plant or that subsidize inspections and assessments of OSTDSs. The bill requires DEP to consider a list of factors in determining priorities.

The bill requires 50% matching funds from local governments but authorizes DEP to waive the matching requirement for rural areas of opportunity.

The bill authorizes DEP to coordinate with water management districts to identify grant recipients. The bill requires DEP to submit an annual report on funded projects to the Governor and the Legislature every January 1, beginning in 2020.

Section 9 requires a wastewater treatment facility that discharges raw or partially treated sewage into a waterway or aquifer to provide notification to its customers within 24 hours after discovering the discharge.

The bill imposes a moratorium on local government approval of building permits for new construction, a moratorium on DOH approval of new OSTDSs, and existing civil and criminal penalties on the wastewater treatment facility until the required maintenance, repair, or improvement has been implemented. The bill authorizes DEP to reduce penalties based on the wastewater treatment facility's investment in assessment and maintenance activities.

The bill requires DEP to maintain a publicly accessible website that includes current consent orders applicable to and reports filed by a wastewater treatment facility that has had sanitary sewer overflows.

Section 10 adds Indian River Lagoon, effective July 1, 2024, to a list of waterbodies with a prohibition against any sanitary sewage disposal into the waterbody without providing advanced waste treatment approved by DEP.

Section 11 imposes a moratorium and daily fines on local governments located within the watershed of a water body that is listed as impaired that fails to adopt, enact, and implement the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. In implementing the ordinance, the bill requires local governments to conduct educational campaigns, enforcement programs, and notification of property owners subject to the ordinance, and submit a report on its efforts to DEP for publication on DEP's website.

Section 12 requires DEP to revise all BMAPs that were adopted and approved by the Secretary of Environmental Protection or prepared by DEP before July 1, 2019:

- By July 1, 2021, for the Indian River Lagoon, waterbodies with a direct hydrological connection to the Indian River Lagoon, and Outstanding Florida Springs. Authorizes DEP to grant a 6-month extension, upon a showing of good cause, to a local government on the deadlines for its wastewater treatment or OSTDS remediation plan.
- Beginning July 1, 2021, for all other BMAPs. Authorizes DEP to grant a 6-month extension, upon a showing of good cause, to a local government on the deadlines for its wastewater treatment or OSTDS remediation plan.

Section 13 provides a finding of important state interest.

Section 14 provides that except as otherwise expressly provided in the act, the effective date is July 1, 2019.

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

The county and municipality mandate provisions of Article VII, section 18 of the Florida Constitution may apply because the bill requires local governments to develop and implement plans for wastewater treatment facility improvements and OSTDS improvements and connections, which may require the expenditure of funds. Article VII, section 18(a) of the Florida Constitution provides in part that a county or municipality may not be bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met.

Article VII, section 18(d) provides eight exemptions, which, if any single one is met, exempts the law from the limitations on mandates. If no exemption or exception applies, the bill may require a finding of important state interest and a two-thirds vote of the membership of each house.

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:

There may be a negative fiscal impact on builders who are unable to secure building permits for new construction or permits for new OSTDSs or who experience delays in a local jurisdiction that is subject to a moratorium imposed under the bill.

Wastewater treatment facilities may incur a negative fiscal impact due to costs associated with notifying customers of a sanitary sewage overflow. Additionally, if a wastewater

treatment facility makes an unlawful discharge, it may incur penalties until it implements required maintenance, repairs, or improvements.

C. Government Sector Impact:

There may be a significant negative fiscal impact on local governments that are required to develop and implement wastewater treatment facility improvements and OSTDS improvements and connections. There may be an additional negative fiscal impact on a local government that does not comply with the requirements under the bill, leading to a moratorium on issuing building permits for new construction or an assessment of penalties.

However, there may be a positive fiscal impact on a local government that receives a grant for wastewater or OSTDS projects. There may also be a positive fiscal impact on government expenditures if the revisions to BMAPs improve water quality, resulting in decreased expenditures on water cleanup efforts.

There may be negative fiscal impacts on DEP if staff time and department resources are necessary to administer the wastewater grant program and to provide technical support to local governments that request assistance.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 373.807, 373.811, 403.031, 403.067, 403.086, and 403.9337.

This bill creates the following sections of the Florida Statutes: 403.0616, 403.0673, and 403.0771.

IX. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environment and Natural Resources Committee on March 20, 2019:

- Deletes the type two transfer of the onsite sewage program from DOH to DEP and instead, requires DEP, in coordination with DOH, to develop a report for presentation to the Legislature which addresses the impacts of a type two transfer. If DEP is authorized to develop a memorandum of agreement with DOH describing how a type two transfer would be implemented, the report would not be required.

- Deletes language requiring the nutrient load reductions in each BMAP to exceed the total nutrient load reductions needed to meet the TMDL.
- Requires a local government that implements the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes to, as part of implementation, conduct education, enforcement, and notification, and requires the local government to submit a report on its efforts to DEP for publication on DEP's website.
- Deletes the agriculture remediation plan, and instead, if a BMAP or alternative restoration plan has not been adopted within 90 days of the adoption of a TMDL, requires that agricultural operations sign a notice of intent to implement best management practices or conduct water quality monitoring.
- Defines the terms "wastewater facilities" and "wastewater plant" for chapter 403.
- Requires DEP to establish a water quality monitoring program and encourages DEP to form public-private partnerships with entities with established monitoring equipment.
- Provides that a local public or private wastewater utility that implements a waste treatment program that meets or exceeds advanced waste treatment may be deemed to comply with the requirements for a wastewater treatment plan.
- Creates a grandfather provision for certain wastewater treatment plants that have met the requirements for a TMDL by July 1, 2019.
- Requires local governments to hold publicly noticed meetings on OSTDS plans.
- Requires OSTDS plans to include water quality monitoring provisions.
- Requires DEP to maintain a public website that includes current consent orders and reports for a wastewater treatment facility that has had sanitary sewer overflows.
- Revises the moratorium provisions in the bill to apply only to new building permits and new OSTDS permits.
- Delays the deadlines for DEP's BMAPs to July 1, 2021.
- Adds a statement of important state interest.
- Makes other technical and clarifying changes.

B. Amendments:

None.

By Senator Bradley

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1 A bill to be entitled
2 An act relating to the Department of Environmental
3 Protection; transferring and reassigning functions and
4 responsibilities of the Division of Law Enforcement
5 relating to investigators of environmental crimes
6 within the Fish and Wildlife Conservation Commission
7 to the Division of Law Enforcement of the Department
8 of Environmental Protection; providing requirements
9 for a memorandum of agreement between the department
10 and the commission regarding the responsibilities of
11 the department and the commission; transferring
12 personnel and equipment within the department's Office
13 of Emergency Response to the department's Division of
14 Law Enforcement; providing for a transition advisory
15 working group; providing for the retention and
16 transfer of specified benefits for employees who are
17 transferred from the commission to fill positions
18 transferred to the department; amending s. 20.255,
19 F.S.; establishing the Division of Law Enforcement
20 within the department; providing law enforcement
21 officers of the department who meet certain
22 requirements with specified authority, subject to
23 applicable law; amending ss. 258.004, 258.008,
24 258.501, 282.709, 316.640, 376.3071, 403.413, 784.07,
25 843.08, 843.085, 870.04, and 932.7055, F.S.;

26 conforming provisions to changes made by the act;
27 reenacting s. 790.166(8)(a), F.S., relating to the
28 manufacture, possession, sale, delivery, display, use
29 or attempted or threatened use of a weapon of mass

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30 destruction or hoax weapon of mass destruction
31 prohibited, to incorporate the amendment made to s.
32 784.07, F.S., in a reference thereto; providing
33 severability; providing an effective date.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

37 Section 1. (1) The primary powers and duties of the Fish
38 and Wildlife Conservation Commission with regard to the
39 investigation of certain environmental crimes and the
40 enforcement of related laws, as specified in the new memorandum
41 of agreement developed as required under subsection (2), are
42 transferred from the commission to the Department of
43 Environmental Protection. The commission retains law enforcement
44 authority over the patrol of state-owned lands managed by the
45 department and shall coordinate with the department in that
46 regard.

47 (2) A new memorandum of agreement must be developed between
48 the commission and the department detailing the respective
49 responsibilities of the department and the commission with
50 regard to at least all of the following:

51 (a) Support and response for oil spills, hazardous spills,
52 and natural disasters.

53 (b) Law enforcement patrol and investigative services for
54 all state-owned lands managed by the department.

55 (c) Law enforcement services, including investigative
56 services, for all criminal law violations of chapters 161, 258,
57 373, 376, 377, 378, and 403, Florida Statutes.

58 (d) Enforcement services for civil violations of department

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59 administrative rules related to all of the following program
60 areas:

61 1. The Division of Recreation and Parks.

62 2. The Office of Coastal and Aquatic Managed Areas.

63 3. The Office of Greenways and Trails.

64 (e) Current and future funding, training, or other support
65 for positions and equipment being transferred from the
66 commission to the department which are funded through any trust
67 fund.

68 Section 2. All personnel and equipment assigned to the
69 Department of Environmental Protection's Office of Emergency
70 Response are reassigned to the Division of Law Enforcement of
71 the department.

72 Section 3. The Secretary of Environmental Protection and
73 the Executive Director of the Fish and Wildlife Conservation
74 Commission shall each appoint two staff members to a transition
75 advisory working group to review the administrative rules
76 promulgated by the department and the commission to identify any
77 rules that must be amended to reflect the changes made by this
78 act.

79 Section 4. Notwithstanding chapter 60L-34, Florida
80 Administrative Code, or any law to the contrary, employees who
81 are transferred from the Fish and Wildlife Conservation
82 Commission to fill positions transferred to the Department of
83 Environmental Protection shall retain and transfer any accrued
84 annual leave, sick leave, and regular and special compensatory
85 leave balances. The employees shall retain their current
86 position status, including permanent status, upon transfer to
87 the Department of Environmental Protection.

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88 Section 5. Subsection (3) of section 20.255, Florida
89 Statutes, is amended, and subsection (10) is added to that
90 section, to read:

91 20.255 Department of Environmental Protection.—There is
92 created a Department of Environmental Protection.

93 (3) The following divisions of the Department of
94 Environmental Protection are established:

95 (a) Division of Administrative Services.

96 (b) Division of Air Resource Management.

97 (c) Division of Water Resource Management.

98 (d) Division of Environmental Assessment and Restoration.

99 (e) Division of Waste Management.

100 (f) Division of Recreation and Parks.

101 (g) Division of State Lands, the director of which is
102 appointed by the secretary of the department, subject to
103 confirmation by the Governor and Cabinet sitting as the Board of
104 Trustees of the Internal Improvement Trust Fund.

105 (h) Division of Water Restoration Assistance.

106 (i) Division of Law Enforcement.

107

108 In order to ensure statewide and intradepartmental consistency,
109 the department's divisions shall direct the district offices and
110 bureaus on matters of interpretation and applicability of the
111 department's rules and programs.

112 (10) Law enforcement officers of the Department of
113 Environmental Protection who meet the requirements of s. 943.13
114 are constituted law enforcement officers of this state with full
115 power to investigate and arrest for any violation of the laws of
116 this state and the rules of the department and the Board of

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117 Trustees of the Internal Improvement Trust Fund. The general
118 laws applicable to investigations, searches, and arrests by
119 peace officers of this state apply to such law enforcement
120 officers.

121 Section 6. Subsection (8) is added to section 258.004,
122 Florida Statutes, to read:

123 258.004 Duties of division.—

124 (8) This chapter shall be enforced by the Division of Law
125 Enforcement within the Department of Environmental Protection
126 and its officers and by the Division of Law Enforcement within
127 the Fish and Wildlife Conservation Commission and its officers.

128 Section 7. Subsection (1) of section 258.008, Florida
129 Statutes, is amended to read:

130 258.008 Prohibited activities; penalties.—

131 (1) Except as provided in subsection (3), any person who
132 violates or otherwise fails to comply with the rules adopted
133 under this chapter commits a noncriminal infraction for which
134 ejection from all property managed by the Division of Recreation
135 and Parks and a fine of up to \$500 may be imposed by the
136 division. Fines paid under this subsection shall be paid to the
137 Fish and Wildlife Conservation Commission and deposited in the
138 State Game Trust Fund as provided in ss. 379.338, 379.339, and
139 379.3395 or to the Department of Environmental Protection and
140 deposited into the State Park Trust Fund, as applicable.

141 Section 8. Subsection (16) of section 258.501, Florida
142 Statutes, is amended to read:

143 258.501 Myakka River; wild and scenic segment.—

144 (16) ENFORCEMENT.—Officers of the department and the Fish
145 and Wildlife Conservation Commission shall have full authority

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146 to enforce any rule adopted by the department.

147 Section 9. Paragraph (a) of subsection (2) of section
148 282.709, Florida Statutes, is amended to read:

149 282.709 State agency law enforcement radio system and
150 interoperability network.—

151 (2) The Joint Task Force on State Agency Law Enforcement
152 Communications is created adjunct to the department to advise
153 the department of member-agency needs relating to the planning,
154 designing, and establishment of the statewide communication
155 system.

156 (a) The Joint Task Force on State Agency Law Enforcement
157 Communications shall consist of the following members:

158 1. A representative of the Division of Alcoholic Beverages
159 and Tobacco of the Department of Business and Professional
160 Regulation who shall be appointed by the secretary of the
161 department.

162 2. A representative of the Division of Florida Highway
163 Patrol of the Department of Highway Safety and Motor Vehicles
164 who shall be appointed by the executive director of the
165 department.

166 3. A representative of the Department of Law Enforcement
167 who shall be appointed by the executive director of the
168 department.

169 4. A representative of the Fish and Wildlife Conservation
170 Commission who shall be appointed by the executive director of
171 the commission.

172 5. A representative of the Division of Law Enforcement of
173 the Department of Environmental Protection who shall be
174 appointed by the secretary of the department.

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175 ~~6.5.~~ A representative of the Department of Corrections who
176 shall be appointed by the secretary of the department.

177 ~~7.6.~~ A representative of the Department of Financial
178 Services who shall be appointed by the Chief Financial Officer.

179 ~~8.7.~~ A representative of the Department of Agriculture and
180 Consumer Services who shall be appointed by the Commissioner of
181 Agriculture.

182 ~~9.8.~~ A representative of the Florida Sheriffs Association
183 who shall be appointed by the president of the Florida Sheriffs
184 Association.

185 Section 10. Paragraph (a) of subsection (1) of section
186 316.640, Florida Statutes, is amended to read:

187 316.640 Enforcement.—The enforcement of the traffic laws of
188 this state is vested as follows:

189 (1) STATE.—

190 (a)1.a. The Division of Florida Highway Patrol of the
191 Department of Highway Safety and Motor Vehicles; the Division of
192 Law Enforcement of the Fish and Wildlife Conservation
193 Commission; the Division of Law Enforcement of the Department of
194 Environmental Protection; and the agents, inspectors, and
195 officers of the Department of Law Enforcement each have
196 authority to enforce all of the traffic laws of this state on
197 all the streets and highways thereof and elsewhere throughout
198 the state wherever the public has a right to travel by motor
199 vehicle.

200 b. University police officers may enforce all of the
201 traffic laws of this state when violations occur on or within
202 1,000 feet of any property or facilities that are under the
203 guidance, supervision, regulation, or control of a state

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204 university, a direct-support organization of such state
205 university, or any other organization controlled by the state
206 university or a direct-support organization of the state
207 university, or when such violations occur within a specified
208 jurisdictional area as agreed upon in a mutual aid agreement
209 entered into with a law enforcement agency pursuant to s.
210 23.1225(1). Traffic laws may also be enforced off-campus when
211 hot pursuit originates on or within 1,000 feet of any such
212 property or facilities, or as agreed upon in accordance with the
213 mutual aid agreement.

214 c. Florida College System institution police officers may
215 enforce all the traffic laws of this state only when such
216 violations occur on or within 1,000 feet of any property or
217 facilities that are under the guidance, supervision, regulation,
218 or control of the Florida College System institution, or when
219 such violations occur within a specified jurisdictional area as
220 agreed upon in a mutual aid agreement entered into with a law
221 enforcement agency pursuant to s. 23.1225. Traffic laws may also
222 be enforced off-campus when hot pursuit originates on or within
223 1,000 feet of any such property or facilities, or as agreed upon
224 in accordance with the mutual aid agreement.

225 d. Police officers employed by an airport authority may
226 enforce all of the traffic laws of this state only when such
227 violations occur on any property or facilities that are owned or
228 operated by an airport authority.

229 (I) An airport authority may employ as a parking
230 enforcement specialist any individual who successfully completes
231 a training program established and approved by the Criminal
232 Justice Standards and Training Commission for parking

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233 enforcement specialists but who does not otherwise meet the
234 uniform minimum standards established by the commission for law
235 enforcement officers or auxiliary or part-time officers under s.
236 943.12. This sub-sub-subparagraph may not be construed to permit
237 the carrying of firearms or other weapons, nor shall such
238 parking enforcement specialist have arrest authority.

239 (II) A parking enforcement specialist employed by an
240 airport authority may enforce all state, county, and municipal
241 laws and ordinances governing parking only when such violations
242 are on property or facilities owned or operated by the airport
243 authority employing the specialist, by appropriate state,
244 county, or municipal traffic citation.

245 e. The Office of Agricultural Law Enforcement of the
246 Department of Agriculture and Consumer Services may enforce
247 traffic laws of this state.

248 f. School safety officers may enforce all of the traffic
249 laws of this state when such violations occur on or about any
250 property or facilities that are under the guidance, supervision,
251 regulation, or control of the district school board.

252 2. Any disciplinary action taken or performance evaluation
253 conducted by an agency of the state as described in subparagraph
254 1. of a law enforcement officer's traffic enforcement activity
255 must be in accordance with written work-performance standards.
256 Such standards must be approved by the agency and any collective
257 bargaining unit representing such law enforcement officer. A
258 violation of this subparagraph is not subject to the penalties
259 provided in chapter 318.

260 3. The Division of the Florida Highway Patrol may employ as
261 a traffic accident investigation officer any individual who

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262 successfully completes instruction in traffic accident
263 investigation and court presentation through the Selective
264 Traffic Enforcement Program as approved by the Criminal Justice
265 Standards and Training Commission and funded through the
266 National Highway Traffic Safety Administration or a similar
267 program approved by the commission, but who does not necessarily
268 meet the uniform minimum standards established by the commission
269 for law enforcement officers or auxiliary law enforcement
270 officers under chapter 943. Any such traffic accident
271 investigation officer who makes an investigation at the scene of
272 a traffic accident may issue traffic citations, based upon
273 personal investigation, when he or she has reasonable and
274 probable grounds to believe that a person who was involved in
275 the accident committed an offense under this chapter, chapter
276 319, chapter 320, or chapter 322 in connection with the
277 accident. This subparagraph does not permit the officer to carry
278 firearms or other weapons, and such an officer does not have
279 authority to make arrests.

280 Section 11. Paragraph (p) of subsection (4) of section
281 376.3071, Florida Statutes, is amended to read:

282 376.3071 Inland Protection Trust Fund; creation; purposes;
283 funding.—

284 (4) USES.—Whenever, in its determination, incidents of
285 inland contamination related to the storage of petroleum or
286 petroleum products may pose a threat to the public health,
287 safety, or welfare, water resources, or the environment, the
288 department shall obligate moneys available in the fund to
289 provide for:

290 (p) Enforcement of this section and ss. 376.30-376.317 by

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291 the Fish and Wildlife Conservation Commission and the Department
292 of Environmental Protection. The department may ~~shall~~ disburse
293 moneys to the commission for such purpose.

294

295 The issuance of a site rehabilitation completion order pursuant
296 to subsection (5) or paragraph (12)(b) for contamination
297 eligible for programs funded by this section does not alter the
298 project's eligibility for state-funded remediation if the
299 department determines that site conditions are not protective of
300 human health under actual or proposed circumstances of exposure
301 under subsection (5). The Inland Protection Trust Fund may be
302 used only to fund the activities in ss. 376.30-376.317 except
303 ss. 376.3078 and 376.3079. Amounts on deposit in the fund in
304 each fiscal year must first be applied or allocated for the
305 payment of amounts payable by the department pursuant to
306 paragraph (n) under a service contract entered into by the
307 department pursuant to s. 376.3075 and appropriated in each year
308 by the Legislature before making or providing for other
309 disbursements from the fund. This subsection does not authorize
310 the use of the fund for cleanup of contamination caused
311 primarily by a discharge of solvents as defined in s.
312 206.9925(6), or polychlorinated biphenyls when their presence
313 causes them to be hazardous wastes, except solvent contamination
314 which is the result of chemical or physical breakdown of
315 petroleum products and is otherwise eligible. Facilities used
316 primarily for the storage of motor or diesel fuels as defined in
317 ss. 206.01 and 206.86 are not excluded from eligibility pursuant
318 to this section.

319 Section 12. Paragraph (e) of subsection (2) of section

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320 403.413, Florida Statutes, is amended to read:

321 403.413 Florida Litter Law.—

322 (2) DEFINITIONS.—As used in this section:

323 (e) "Law enforcement officer" means any officer of the
324 Florida Highway Patrol, a county sheriff's department, a
325 municipal law enforcement department, a law enforcement
326 department of any other political subdivision, the Department of
327 Environmental Protection, or the Fish and Wildlife Conservation
328 Commission. In addition, and solely for the purposes of this
329 section, "law enforcement officer" means any employee of a
330 county or municipal park or recreation department designated by
331 the department head as a litter enforcement officer.

332 Section 13. Paragraph (d) of subsection (1) of section
333 784.07, Florida Statutes, is amended to read:

334 784.07 Assault or battery of law enforcement officers,
335 firefighters, emergency medical care providers, public transit
336 employees or agents, or other specified officers;
337 reclassification of offenses; minimum sentences.—

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

339 (d) "Law enforcement officer" includes a law enforcement
340 officer, a correctional officer, a correctional probation
341 officer, a part-time law enforcement officer, a part-time
342 correctional officer, an auxiliary law enforcement officer, and
343 an auxiliary correctional officer, as those terms are
344 respectively defined in s. 943.10, and any county probation
345 officer; an employee or agent of the Department of Corrections
346 who supervises or provides services to inmates; an officer of
347 the Florida Commission on Offender Review; a federal law
348 enforcement officer as defined in s. 901.1505; and law

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349 enforcement personnel of the Fish and Wildlife Conservation
350 Commission, the Department of Environmental Protection, or the
351 Department of Law Enforcement.

352 Section 14. Section 843.08, Florida Statutes, is amended to
353 read:

354 843.08 False personation.—A person who falsely assumes or
355 pretends to be a firefighter, sheriff, officer of the Florida
356 Highway Patrol, officer of the Fish and Wildlife Conservation
357 Commission, officer of the Department of Environmental
358 Protection, fire or arson investigator of the Department of
359 Financial Services, officer of the Department of Financial
360 Services, officer of the Department of Corrections, correctional
361 probation officer, deputy sheriff, state attorney or assistant
362 state attorney, statewide prosecutor or assistant statewide
363 prosecutor, state attorney investigator, coroner, police
364 officer, lottery special agent or lottery investigator, beverage
365 enforcement agent, or watchman, or any member of the Florida
366 Commission on Offender Review and any administrative aide or
367 supervisor employed by the commission, or any personnel or
368 representative of the Department of Law Enforcement, or a
369 federal law enforcement officer as defined in s. 901.1505, and
370 takes upon himself or herself to act as such, or to require any
371 other person to aid or assist him or her in a matter pertaining
372 to the duty of any such officer, commits a felony of the third
373 degree, punishable as provided in s. 775.082, s. 775.083, or s.
374 775.084. However, a person who falsely personates any such
375 officer during the course of the commission of a felony commits
376 a felony of the second degree, punishable as provided in s.
377 775.082, s. 775.083, or s. 775.084. If the commission of the

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378 felony results in the death or personal injury of another human
379 being, the person commits a felony of the first degree,
380 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
381 The term "watchman" means a security officer licensed under
382 chapter 493.

383 Section 15. Section 843.085, Florida Statutes, is amended
384 to read:

385 843.085 Unlawful use of badges or other indicia of
386 authority.—

387 (1) It is unlawful for any person, unless appointed by the
388 Governor pursuant to chapter 354, authorized by the appropriate
389 agency, or displayed in a closed or mounted case as a collection
390 or exhibit, to wear or display any authorized indicia of
391 authority, including any badge, insignia, emblem, identification
392 card, or uniform, or any colorable imitation thereof, of any
393 federal, state, county, or municipal law enforcement agency, or
394 other criminal justice agency as defined in s. 943.045, with the
395 intent to mislead or cause another person to believe that he or
396 she is a member of that agency or is authorized to display or
397 wear such item, or to wear or display any item that displays in
398 any manner or combination the word or words "police,"
399 "patrolman," "agent," "sheriff," "deputy," "trooper," "highway
400 patrol," "commission officer," "Wildlife Officer," "Marine
401 Patrol Officer," "state attorney," "public defender," "marshal,"
402 "constable," "bailiff," ~~or~~ "fire department," or "Department of
403 Environmental Protection officer," with the intent to mislead or
404 cause another person to believe that he or she is a member of
405 that agency or is authorized to wear or display such item.

406 (2) It is unlawful for a person to own or operate a motor

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407 vehicle marked or identified in any manner or combination by the
408 word or words "police," "patrolman," "sheriff," "deputy,"
409 "trooper," "highway patrol," "commission officer," "Wildlife
410 Officer," "Marine Patrol Officer," "marshal," "constable,"
411 "bailiff," ~~or~~ "fire department," or "Department of Environmental
412 Protection officer," or by any lettering, marking, or insignia,
413 or colorable imitation thereof, including, but not limited to,
414 stars, badges, or shields, officially used to identify the
415 vehicle as a federal, state, county, or municipal law
416 enforcement vehicle or a vehicle used by a criminal justice
417 agency as defined in s. 943.045, or a vehicle used by a fire
418 department with the intent to mislead or cause another person to
419 believe that such vehicle is an official vehicle of that agency
420 and is authorized to be used by that agency, unless such vehicle
421 is owned or operated by the appropriate agency and its use is
422 authorized by such agency, or the local law enforcement agency
423 or fire department authorizes the use of such vehicle, or the
424 person is appointed by the Governor pursuant to chapter 354.

425 (3) It is unlawful for a person to sell, transfer, or give
426 away the authorized badge, or colorable imitation thereof,
427 including miniatures, of any criminal justice agency as defined
428 in s. 943.045, or bearing in any manner or combination the word
429 or words "police," "patrolman," "sheriff," "deputy," "trooper,"
430 "highway patrol," "commission officer," "Wildlife Officer,"
431 "Marine Patrol Officer," "marshal," "constable," "agent," "state
432 attorney," "public defender," "bailiff," ~~or~~ "fire department,"
433 or "Department of Environmental Protection officer," with the
434 intent to mislead or cause another person to believe that he or
435 she is a member of that agency or is authorized to wear or

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436 display such item, except for agency purchases or upon the
 437 presentation and recordation of both a driver license and other
 438 identification showing any transferee to actually be a member of
 439 such criminal justice agency or unless the person is appointed
 440 by the Governor pursuant to chapter 354. A transferor of an item
 441 covered by this subsection is required to maintain for 2 years a
 442 written record of such transaction, including records showing
 443 compliance with this subsection, and if such transferor is a
 444 business, it shall make such records available during normal
 445 business hours for inspection by any law enforcement agency
 446 having jurisdiction in the area where the business is located.

447 (4) This section does not prohibit a fraternal, benevolent,
 448 or labor organization or association, or their chapters or
 449 subsidiaries, from using the following words, in any manner or
 450 in any combination, if those words appear in the official name
 451 of the organization or association: "police," "patrolman,"
 452 "sheriff," "deputy," "trooper," "highway patrol," "commission
 453 officer," "Wildlife Officer," "Marine Patrol Officer,"
 454 "marshal," "constable," "bailiff," "fire department," or
 455 "Department of Environmental Protection officer." ~~or "fire~~
 456 ~~department."~~

457 (5) Violation of any provision of this section is a
 458 misdemeanor of the first degree, punishable as provided in s.
 459 775.082 or s. 775.083. This section is cumulative to any law now
 460 in force in the state.

461 Section 16. Section 870.04, Florida Statutes, is amended to
 462 read:

463 870.04 Specified officers to disperse riotous assembly.—If
 464 any number of persons, whether armed or not, are unlawfully,

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465 riotously, or tumultuously assembled in any county, city, or
 466 municipality, the sheriff or the sheriff's deputies, or the
 467 mayor, or any commissioner, council member, alderman, or police
 468 officer of the city or municipality, or any officer or member of
 469 the Florida Highway Patrol, or any officer or agent of the Fish
 470 and Wildlife Conservation Commission or the Department of
 471 Environmental Protection, any beverage enforcement agent, any
 472 personnel or representatives of the Department of Law
 473 Enforcement or its successor, or any other peace officer, shall
 474 go among the persons so assembled, or as near to them as may be
 475 done with safety, and shall in the name of the state command all
 476 the persons so assembled immediately and peaceably to disperse.
 477 If such persons do not thereupon immediately and peaceably
 478 disperse, such officers shall command the assistance of all such
 479 persons in seizing, arresting, and securing such persons in
 480 custody. If any person present being so commanded to aid and
 481 assist in seizing and securing such rioter or persons so
 482 unlawfully assembled, or in suppressing such riot or unlawful
 483 assembly, refuses or neglects to obey such command, or, when
 484 required by such officers to depart from the place, refuses and
 485 neglects to do so, the person shall be deemed one of the rioters
 486 or persons unlawfully assembled, and may be prosecuted and
 487 punished accordingly.

488 Section 17. Present paragraphs (b) through (l) of
 489 subsection (6) of section 932.7055, Florida Statutes, are
 490 redesignated as paragraphs (c) through (m), respectively, and a
 491 new paragraph (b) is added to that subsection, to read:

492 932.7055 Disposition of liens and forfeited property.—

493 (6) If the seizing agency is a state agency, all remaining

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494 proceeds shall be deposited into the General Revenue Fund.

495 However, if the seizing agency is:

496 (b) The Department of Environmental Protection, the
497 proceeds accrued pursuant to the Florida Contraband Forfeiture
498 Act shall be deposited into the Internal Improvement Trust Fund,
499 the Water Quality Assurance Trust Fund, the Inland Protection
500 Trust Fund, the Coastal Protection Trust Fund, or the Solid
501 Waste Management Trust Fund, as specified by the statute under
502 which the violation occurs.

503 Section 18. For the purpose of incorporating the amendment
504 made by this act to section 784.07, Florida Statutes, in a
505 reference thereto, paragraph (a) of subsection (8) of section
506 790.166, Florida Statutes, is reenacted to read:

507 790.166 Manufacture, possession, sale, delivery, display,
508 use, or attempted or threatened use of a weapon of mass
509 destruction or hoax weapon of mass destruction prohibited;
510 definitions; penalties.—

511 (8) For purposes of this section, the term “weapon of mass
512 destruction” does not include:

513 (a) A device or instrument that emits or discharges smoke
514 or an offensive, noxious, or irritant liquid, powder, gas, or
515 chemical for the purpose of immobilizing, incapacitating, or
516 thwarting an attack by a person or animal and that is lawfully
517 possessed or used by a person for the purpose of self-protection
518 or, as provided in subsection (7), is lawfully possessed or used
519 by any member or employee of the Armed Forces of the United
520 States, a federal or state governmental agency, or a private
521 entity. A member or employee of a federal or state governmental
522 agency includes, but is not limited to, a law enforcement

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523 officer, as defined in s. 784.07; a federal law enforcement
524 officer, as defined in s. 901.1505; and an emergency service
525 employee, as defined in s. 496.404.

526 Section 19. If any provision of this act or the application
527 thereof to any person or circumstance is held invalid, the
528 invalidity does not affect other provisions or applications of
529 the act which can be given effect without the invalid provisions
530 or applications, and to this end the provisions of this act are
531 severable.

532 Section 20. This act shall take effect July 1, 2019.

1 A bill to be entitled
2 An act relating to the Department of Environmental
3 Protection; transferring primary powers and duties of
4 the Fish and Wildlife Conservation Commission relating
5 to certain environmental crimes and the enforcement of
6 related laws to the Division of Law Enforcement within
7 the Department of Environmental Protection; providing
8 requirements for a memorandum of agreement between the
9 department and the commission regarding their
10 respective responsibilities; reassigning personnel and
11 equipment from the Office of Emergency Response within
12 the department to the Division of Law Enforcement
13 within the department; providing for a transition
14 advisory working group; providing for the retention
15 and transfer of specified benefits for employees who
16 are transferred from the commission to the department;
17 amending s. 20.255, F.S.; establishing the Division of
18 Law Enforcement within the department; providing law
19 enforcement officers of the department who meet
20 certain requirements with specified authority;
21 amending s. 258.004, F.S.; requiring the Division of
22 Law Enforcement of the department and its officers and
23 the Division of Law Enforcement of the commission and
24 its officers to enforce laws relating to state parks;
25 amending s. 258.008, F.S.; providing for certain fines

26 | to be paid to the department and deposited in the
27 | State Park Trust Fund; amending s. 258.501, F.S.;
28 | conforming provisions to changes made by the act;
29 | amending s. 282.709, F.S.; appointing a representative
30 | of the Division of Law Enforcement of the department
31 | to the Joint Task Force on State Agency Law
32 | Enforcement Communications; amending s. 316.640, F.S.;
33 | vesting the enforcement of certain traffic laws in the
34 | Division of Law Enforcement of the department;
35 | amending s. 376.3071, F.S.; authorizing the use of
36 | moneys from the Inland Protection Trust Fund for the
37 | enforcement of certain laws by the department;
38 | amending ss. 403.413 and 784.07, F.S.; revising
39 | definitions; amending ss. 843.08 and 843.085, F.S.;
40 | providing penalties for false personation and unlawful
41 | use of badges and other symbols of an officer of the
42 | department, respectively; amending s. 870.04, F.S.;
43 | vesting the dispersement of riotous assembly in the
44 | officers of the department; amending s. 932.7055,
45 | F.S.; providing for proceeds accrued pursuant to the
46 | Florida Contraband Forfeiture Act to be deposited in
47 | specified trust funds of the department; reenacting s.
48 | 790.166(8)(a), F.S., relating to the prohibited
49 | manufacturing, possession, sale, delivery, display,
50 | use, or attempted or threatened use of a weapon of

51 mass destruction or hoax weapon of mass destruction,
52 to incorporate the amendment made to s. 784.07, F.S.,
53 in a reference thereto; providing an effective date.
54

55 Be It Enacted by the Legislature of the State of Florida:
56

57 Section 1. (1) The primary powers and duties of the Fish
58 and Wildlife Conservation Commission relating to the
59 investigation of certain environmental crimes and the
60 enforcement of related laws, as specified in the new memorandum
61 of agreement developed as required under subsection (2), are
62 transferred to the Division of Law Enforcement within the
63 Department of Environmental Protection. The commission retains
64 law enforcement authority over the patrol of state-owned lands
65 managed by the department and shall coordinate with the
66 department in that regard.

67 (2) A new memorandum of agreement must be developed
68 between the commission and the department detailing their
69 respective responsibilities regarding, at minimum, the
70 following:

71 (a) Support and response for oil spills, hazardous spills,
72 and natural disasters.

73 (b) Law enforcement patrol and investigative services for
74 all state-owned lands managed by the department.

75 (c) Law enforcement services, including investigative

76 services, for all criminal law violations of chapters 161, 258,
77 373, 376, 377, 378, and 403, Florida Statutes.

78 (d) Enforcement services for civil violations of
79 department administrative rules related to all of the following
80 program areas:

81 1. The Division of Recreation and Parks.

82 2. The Office of Coastal and Aquatic Managed Areas.

83 3. The Office of Greenways and Trails.

84 (e) Current and future funding, training, or other support
85 for positions and equipment being transferred from the
86 commission to the department which are funded through any trust
87 fund.

88 Section 2. All personnel and equipment assigned to the
89 Office of Emergency Response within the Department of
90 Environmental Protection are reassigned to the Division of Law
91 Enforcement within the department.

92 Section 3. The Secretary of Environmental Protection and
93 the Executive Director of the Fish and Wildlife Conservation
94 Commission shall each appoint two staff members to a transition
95 advisory working group to review the administrative rules
96 adopted by the Department of Environmental Protection and the
97 commission to identify any rules that must be amended to reflect
98 the changes made by this act.

99 Section 4. Notwithstanding chapter 60L-34, Florida
100 Administrative Code, or any law to the contrary, employees who

101 are transferred from the Fish and Wildlife Conservation
102 Commission to fill positions transferred to the Department of
103 Environmental Protection shall retain and transfer any accrued
104 annual leave, sick leave, and regular and special compensatory
105 leave balances. The employees shall retain their current
106 position status, including permanent status, upon transfer to
107 the department.

108 Section 5. Paragraph (i) is added to subsection (3) of
109 section 20.255, Florida Statutes, and subsection (10) is added
110 that section, to read:

111 20.255 Department of Environmental Protection.—There is
112 created a Department of Environmental Protection.

113 (3) The following divisions of the Department of
114 Environmental Protection are established:

115 (i) Division of Law Enforcement.

116

117 In order to ensure statewide and intradepartmental consistency,
118 the department's divisions shall direct the district offices and
119 bureaus on matters of interpretation and applicability of the
120 department's rules and programs.

121 (10) Law enforcement officers of the Department of
122 Environmental Protection who meet the requirements of s. 943.13
123 are constituted law enforcement officers of this state with full
124 power to investigate and arrest for any violation of the laws of
125 this state and the rules of the department and the Board of

126 Trustees of the Internal Improvement Trust Fund. The general
127 laws applicable to investigations, searches, and arrests by
128 peace officers of this state apply to such law enforcement
129 officers.

130 Section 6. Subsection (8) is added to section 258.004,
131 Florida Statutes, to read:

132 258.004 Duties of division.—

133 (8) This part shall be enforced by the Division of Law
134 Enforcement of the Department of Environmental Protection and
135 its officers and by the Division of Law Enforcement of the Fish
136 and Wildlife Conservation Commission and its officers.

137 Section 7. Subsection (1) of section 258.008, Florida
138 Statutes, is amended to read:

139 258.008 Prohibited activities; penalties.—

140 (1) Except as provided in subsection (3), any person who
141 violates or otherwise fails to comply with the rules adopted
142 under this chapter commits a noncriminal infraction for which
143 ejection from all property managed by the Division of Recreation
144 and Parks and a fine of up to \$500 may be imposed by the
145 division. Fines paid under this subsection shall be paid to the
146 Fish and Wildlife Conservation Commission and deposited in the
147 State Game Trust Fund as provided in ss. 379.338, 379.339, and
148 379.3395 or to the Department of Environmental Protection and
149 deposited in the State Park Trust Fund, as applicable.

150 Section 8. Subsection (16) of section 258.501, Florida

151 Statutes, is amended to read:

152 258.501 Myakka River; wild and scenic segment.—

153 (16) ENFORCEMENT.—Officers of the department and the Fish
 154 and Wildlife Conservation Commission shall have full authority
 155 to enforce any rule adopted by the department.

156 Section 9. Paragraph (a) of subsection (2) of section
 157 282.709, Florida Statutes, is amended to read:

158 282.709 State agency law enforcement radio system and
 159 interoperability network.—

160 (2) The Joint Task Force on State Agency Law Enforcement
 161 Communications is created adjunct to the department to advise
 162 the department of member-agency needs relating to the planning,
 163 designing, and establishment of the statewide communication
 164 system.

165 (a) The Joint Task Force on State Agency Law Enforcement
 166 Communications shall consist of the following members:

167 1. A representative of the Division of Alcoholic Beverages
 168 and Tobacco of the Department of Business and Professional
 169 Regulation who shall be appointed by the secretary of the
 170 department.

171 2. A representative of the Division of Florida Highway
 172 Patrol of the Department of Highway Safety and Motor Vehicles
 173 who shall be appointed by the executive director of the
 174 department.

175 3. A representative of the Department of Law Enforcement

176 | who shall be appointed by the executive director of the
 177 | department.

178 | 4. A representative of the Fish and Wildlife Conservation
 179 | Commission who shall be appointed by the executive director of
 180 | the commission.

181 | 5. A representative of the Division of Law Enforcement of
 182 | the Department of Environmental Protection who shall be
 183 | appointed by the secretary of the department.

184 | ~~6.5.~~ A representative of the Department of Corrections who
 185 | shall be appointed by the secretary of the department.

186 | ~~7.6.~~ A representative of the Department of Financial
 187 | Services who shall be appointed by the Chief Financial Officer.

188 | ~~8.7.~~ A representative of the Department of Agriculture and
 189 | Consumer Services who shall be appointed by the Commissioner of
 190 | Agriculture.

191 | ~~9.8.~~ A representative of the Florida Sheriffs Association
 192 | who shall be appointed by the president of the Florida Sheriffs
 193 | Association.

194 | Section 10. Paragraph (a) of subsection (1) of section
 195 | 316.640, Florida Statutes, is amended to read:

196 | 316.640 Enforcement.—The enforcement of the traffic laws
 197 | of this state is vested as follows:

198 | (1) STATE.—

199 | (a)1.a. The Division of Florida Highway Patrol of the
 200 | Department of Highway Safety and Motor Vehicles; the Division of

201 Law Enforcement of the Fish and Wildlife Conservation
202 Commission; the Division of Law Enforcement of the Department of
203 Environmental Protection; and the agents, inspectors, and
204 officers of the Department of Law Enforcement each have
205 authority to enforce all of the traffic laws of this state on
206 all the streets and highways thereof and elsewhere throughout
207 the state wherever the public has a right to travel by motor
208 vehicle.

209 b. University police officers may enforce all of the
210 traffic laws of this state when violations occur on or within
211 1,000 feet of any property or facilities that are under the
212 guidance, supervision, regulation, or control of a state
213 university, a direct-support organization of such state
214 university, or any other organization controlled by the state
215 university or a direct-support organization of the state
216 university, or when such violations occur within a specified
217 jurisdictional area as agreed upon in a mutual aid agreement
218 entered into with a law enforcement agency pursuant to s.
219 23.1225(1). Traffic laws may also be enforced off-campus when
220 hot pursuit originates on or within 1,000 feet of any such
221 property or facilities, or as agreed upon in accordance with the
222 mutual aid agreement.

223 c. Florida College System institution police officers may
224 enforce all the traffic laws of this state only when such
225 violations occur on or within 1,000 feet of any property or

226 facilities that are under the guidance, supervision, regulation,
227 or control of the Florida College System institution, or when
228 such violations occur within a specified jurisdictional area as
229 agreed upon in a mutual aid agreement entered into with a law
230 enforcement agency pursuant to s. 23.1225. Traffic laws may also
231 be enforced off-campus when hot pursuit originates on or within
232 1,000 feet of any such property or facilities, or as agreed upon
233 in accordance with the mutual aid agreement.

234 d. Police officers employed by an airport authority may
235 enforce all of the traffic laws of this state only when such
236 violations occur on any property or facilities that are owned or
237 operated by an airport authority.

238 (I) An airport authority may employ as a parking
239 enforcement specialist any individual who successfully completes
240 a training program established and approved by the Criminal
241 Justice Standards and Training Commission for parking
242 enforcement specialists but who does not otherwise meet the
243 uniform minimum standards established by the commission for law
244 enforcement officers or auxiliary or part-time officers under s.
245 943.12. This sub-sub-subparagraph may not be construed to permit
246 the carrying of firearms or other weapons, nor shall such
247 parking enforcement specialist have arrest authority.

248 (II) A parking enforcement specialist employed by an
249 airport authority may enforce all state, county, and municipal
250 laws and ordinances governing parking only when such violations

251 are on property or facilities owned or operated by the airport
 252 authority employing the specialist, by appropriate state,
 253 county, or municipal traffic citation.

254 e. The Office of Agricultural Law Enforcement of the
 255 Department of Agriculture and Consumer Services may enforce
 256 traffic laws of this state.

257 f. School safety officers may enforce all of the traffic
 258 laws of this state when such violations occur on or about any
 259 property or facilities that are under the guidance, supervision,
 260 regulation, or control of the district school board.

261 2. Any disciplinary action taken or performance evaluation
 262 conducted by an agency of the state as described in subparagraph
 263 1. of a law enforcement officer's traffic enforcement activity
 264 must be in accordance with written work-performance standards.
 265 Such standards must be approved by the agency and any collective
 266 bargaining unit representing such law enforcement officer. A
 267 violation of this subparagraph is not subject to the penalties
 268 provided in chapter 318.

269 3. The Division of the Florida Highway Patrol may employ
 270 as a traffic accident investigation officer any individual who
 271 successfully completes instruction in traffic accident
 272 investigation and court presentation through the Selective
 273 Traffic Enforcement Program as approved by the Criminal Justice
 274 Standards and Training Commission and funded through the
 275 National Highway Traffic Safety Administration or a similar

276 program approved by the commission, but who does not necessarily
277 meet the uniform minimum standards established by the commission
278 for law enforcement officers or auxiliary law enforcement
279 officers under chapter 943. Any such traffic accident
280 investigation officer who makes an investigation at the scene of
281 a traffic accident may issue traffic citations, based upon
282 personal investigation, when he or she has reasonable and
283 probable grounds to believe that a person who was involved in
284 the accident committed an offense under this chapter, chapter
285 319, chapter 320, or chapter 322 in connection with the
286 accident. This subparagraph does not permit the officer to carry
287 firearms or other weapons, and such an officer does not have
288 authority to make arrests.

289 Section 11. Paragraph (p) of subsection (4) of section
290 376.3071, Florida Statutes, is amended to read:

291 376.3071 Inland Protection Trust Fund; creation; purposes;
292 funding.—

293 (4) USES.—Whenever, in its determination, incidents of
294 inland contamination related to the storage of petroleum or
295 petroleum products may pose a threat to the public health,
296 safety, or welfare, water resources, or the environment, the
297 department shall obligate moneys available in the fund to
298 provide for:

299 (p) Enforcement of this section and ss. 376.30-376.317 by
300 the Fish and Wildlife Conservation Commission and the Department

301 of Environmental Protection. The department may ~~shall~~ disburse
302 moneys to the commission for such purpose.

303

304 The issuance of a site rehabilitation completion order pursuant
305 to subsection (5) or paragraph (12) (b) for contamination
306 eligible for programs funded by this section does not alter the
307 project's eligibility for state-funded remediation if the
308 department determines that site conditions are not protective of
309 human health under actual or proposed circumstances of exposure
310 under subsection (5). The Inland Protection Trust Fund may be
311 used only to fund the activities in ss. 376.30-376.317 except
312 ss. 376.3078 and 376.3079. Amounts on deposit in the fund in
313 each fiscal year must first be applied or allocated for the
314 payment of amounts payable by the department pursuant to
315 paragraph (n) under a service contract entered into by the
316 department pursuant to s. 376.3075 and appropriated in each year
317 by the Legislature before making or providing for other
318 disbursements from the fund. This subsection does not authorize
319 the use of the fund for cleanup of contamination caused
320 primarily by a discharge of solvents as defined in s.
321 206.9925(6), or polychlorinated biphenyls when their presence
322 causes them to be hazardous wastes, except solvent contamination
323 which is the result of chemical or physical breakdown of
324 petroleum products and is otherwise eligible. Facilities used
325 primarily for the storage of motor or diesel fuels as defined in

326 ss. 206.01 and 206.86 are not excluded from eligibility pursuant
 327 to this section.

328 Section 12. Paragraph (e) of subsection (2) of section
 329 403.413, Florida Statutes, is amended to read:

330 403.413 Florida Litter Law.—

331 (2) DEFINITIONS.—As used in this section:

332 (e) "Law enforcement officer" means any officer of the
 333 Florida Highway Patrol, a county sheriff's department, a
 334 municipal law enforcement department, a law enforcement
 335 department of any other political subdivision, the Department of
 336 Environmental Protection, or the Fish and Wildlife Conservation
 337 Commission. In addition, and solely for the purposes of this
 338 section, "law enforcement officer" means any employee of a
 339 county or municipal park or recreation department designated by
 340 the department head as a litter enforcement officer.

341 Section 13. Paragraph (d) of subsection (1) of section
 342 784.07, Florida Statutes, is amended to read:

343 784.07 Assault or battery of law enforcement officers,
 344 firefighters, emergency medical care providers, public transit
 345 employees or agents, or other specified officers;
 346 reclassification of offenses; minimum sentences.—

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

348 (d) "Law enforcement officer" includes a law enforcement
 349 officer, a correctional officer, a correctional probation
 350 officer, a part-time law enforcement officer, a part-time

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351 correctional officer, an auxiliary law enforcement officer, and
352 an auxiliary correctional officer, as those terms are
353 respectively defined in s. 943.10, and any county probation
354 officer; an employee or agent of the Department of Corrections
355 who supervises or provides services to inmates; an officer of
356 the Florida Commission on Offender Review; a federal law
357 enforcement officer as defined in s. 901.1505; and law
358 enforcement personnel of the Fish and Wildlife Conservation
359 Commission, the Department of Environmental Protection, or the
360 Department of Law Enforcement.

361 Section 14. Section 843.08, Florida Statutes, is amended
362 to read:

363 843.08 False personation.—A person who falsely assumes or
364 pretends to be a firefighter, sheriff, officer of the Florida
365 Highway Patrol, officer of the Fish and Wildlife Conservation
366 Commission, officer of the Department of Environmental
367 Protection, fire or arson investigator of the Department of
368 Financial Services, officer of the Department of Financial
369 Services, officer of the Department of Corrections, correctional
370 probation officer, deputy sheriff, state attorney or assistant
371 state attorney, statewide prosecutor or assistant statewide
372 prosecutor, state attorney investigator, coroner, police
373 officer, lottery special agent or lottery investigator, beverage
374 enforcement agent, or watchman, or any member of the Florida
375 Commission on Offender Review and any administrative aide or

376 supervisor employed by the commission, or any personnel or
377 representative of the Department of Law Enforcement, or a
378 federal law enforcement officer as defined in s. 901.1505, and
379 takes upon himself or herself to act as such, or to require any
380 other person to aid or assist him or her in a matter pertaining
381 to the duty of any such officer, commits a felony of the third
382 degree, punishable as provided in s. 775.082, s. 775.083, or s.
383 775.084. However, a person who falsely personates any such
384 officer during the course of the commission of a felony commits
385 a felony of the second degree, punishable as provided in s.
386 775.082, s. 775.083, or s. 775.084. If the commission of the
387 felony results in the death or personal injury of another human
388 being, the person commits a felony of the first degree,
389 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
390 The term "watchman" means a security officer licensed under
391 chapter 493.

392 Section 15. Section 843.085, Florida Statutes, is amended
393 to read:

394 843.085 Unlawful use of badges or other indicia of
395 authority.—

396 (1) It is unlawful for any person, unless appointed by the
397 Governor pursuant to chapter 354, authorized by the appropriate
398 agency, or displayed in a closed or mounted case as a collection
399 or exhibit, to wear or display any authorized indicia of
400 authority, including any badge, insignia, emblem, identification

401 card, or uniform, or any colorable imitation thereof, of any
402 federal, state, county, or municipal law enforcement agency, or
403 other criminal justice agency as defined in s. 943.045, with the
404 intent to mislead or cause another person to believe that he or
405 she is a member of that agency or is authorized to display or
406 wear such item, or to wear or display any item that displays in
407 any manner or combination the word or words "police,"
408 "patrolman," "agent," "sheriff," "deputy," "trooper," "highway
409 patrol," "commission officer," "Wildlife Officer," "Department
410 of Environmental Protection officer," "Marine Patrol Officer,"
411 "state attorney," "public defender," "marshal," "constable,"
412 "bailiff," or "fire department," with the intent to mislead or
413 cause another person to believe that he or she is a member of
414 that agency or is authorized to wear or display such item.

415 (2) It is unlawful for a person to own or operate a motor
416 vehicle marked or identified in any manner or combination by the
417 word or words "police," "patrolman," "sheriff," "deputy,"
418 "trooper," "highway patrol," "commission officer," "Wildlife
419 Officer," "Department of Environmental Protection officer,"
420 "Marine Patrol Officer," "marshal," "constable," "bailiff," or
421 "fire department," or by any lettering, marking, or insignia, or
422 colorable imitation thereof, including, but not limited to,
423 stars, badges, or shields, officially used to identify the
424 vehicle as a federal, state, county, or municipal law
425 enforcement vehicle or a vehicle used by a criminal justice

426 agency as defined in s. 943.045, or a vehicle used by a fire
427 department with the intent to mislead or cause another person to
428 believe that such vehicle is an official vehicle of that agency
429 and is authorized to be used by that agency, unless such vehicle
430 is owned or operated by the appropriate agency and its use is
431 authorized by such agency, or the local law enforcement agency
432 or fire department authorizes the use of such vehicle, or the
433 person is appointed by the Governor pursuant to chapter 354.

434 (3) It is unlawful for a person to sell, transfer, or give
435 away the authorized badge, or colorable imitation thereof,
436 including miniatures, of any criminal justice agency as defined
437 in s. 943.045, or bearing in any manner or combination the word
438 or words "police," "patrolman," "sheriff," "deputy," "trooper,"
439 "highway patrol," "commission officer," "Wildlife Officer,"
440 "Department of Environmental Protection officer," "Marine Patrol
441 Officer," "marshal," "constable," "agent," "state attorney,"
442 "public defender," "bailiff," or "fire department," with the
443 intent to mislead or cause another person to believe that he or
444 she is a member of that agency or is authorized to wear or
445 display such item, except for agency purchases or upon the
446 presentation and recordation of both a driver license and other
447 identification showing any transferee to actually be a member of
448 such criminal justice agency or unless the person is appointed
449 by the Governor pursuant to chapter 354. A transferor of an item
450 covered by this subsection is required to maintain for 2 years a

451 written record of such transaction, including records showing
 452 compliance with this subsection, and if such transferor is a
 453 business, it shall make such records available during normal
 454 business hours for inspection by any law enforcement agency
 455 having jurisdiction in the area where the business is located.

456 (4) This section does not prohibit a fraternal,
 457 benevolent, or labor organization or association, or their
 458 chapters or subsidiaries, from using the following words, in any
 459 manner or in any combination, if those words appear in the
 460 official name of the organization or association: "police,"
 461 "patrolman," "sheriff," "deputy," "trooper," "highway patrol,"
 462 "commission officer," "Wildlife Officer," "Department of
 463 Environmental Protection officer," "Marine Patrol Officer,"
 464 "marshal," "constable," "bailiff," or "fire department."

465 (5) A violation of ~~any provision of~~ this section is a
 466 misdemeanor of the first degree, punishable as provided in s.
 467 775.082 or s. 775.083. This section is cumulative to any law now
 468 in force in the state.

469 Section 16. Section 870.04, Florida Statutes, is amended
 470 to read:

471 870.04 Specified officers to disperse riotous assembly.—If
 472 any number of persons, whether armed or not, are unlawfully,
 473 riotously, or tumultuously assembled in any county, city, or
 474 municipality, the sheriff or the sheriff's deputies, or the
 475 mayor, or any commissioner, council member, alderman, or police

476 officer of the city or municipality, or any officer or member of
477 the Florida Highway Patrol, or any officer or agent of the Fish
478 and Wildlife Conservation Commission or the Department of
479 Environmental Protection, any beverage enforcement agent, any
480 personnel or representatives of the Department of Law
481 Enforcement or its successor, or any other peace officer, shall
482 go among the persons so assembled, or as near to them as may be
483 done with safety, and shall in the name of the state command all
484 the persons so assembled immediately and peaceably to disperse.
485 If such persons do not thereupon immediately and peaceably
486 disperse, such officers shall command the assistance of all such
487 persons in seizing, arresting, and securing such persons in
488 custody. If any person present being so commanded to aid and
489 assist in seizing and securing such rioter or persons so
490 unlawfully assembled, or in suppressing such riot or unlawful
491 assembly, refuses or neglects to obey such command, or, when
492 required by such officers to depart from the place, refuses and
493 neglects to do so, the person shall be deemed one of the rioters
494 or persons unlawfully assembled, and may be prosecuted and
495 punished accordingly.

496 Section 17. Present paragraphs (b) through (l) of
497 subsection (6) of section 932.7055, Florida Statutes, are
498 redesignated as paragraphs (c) through (m), respectively, and a
499 new paragraph (b) is added to that subsection to read:

500 932.7055 Disposition of liens and forfeited property.—

501 (6) If the seizing agency is a state agency, all remaining
 502 proceeds shall be deposited into the General Revenue Fund.
 503 However, if the seizing agency is:

504 (b) The Department of Environmental Protection, the
 505 proceeds accrued pursuant to the Florida Contraband Forfeiture
 506 Act shall be deposited in the Internal Improvement Trust Fund,
 507 the Water Quality Assurance Trust Fund, the Inland Protection
 508 Trust Fund, the Coastal Protection Trust Fund, or the Solid
 509 Waste Management Trust Fund, as specified by the statute under
 510 which the violation occurs.

511 Section 18. For the purpose of incorporating the amendment
 512 made by this act to section 784.07, Florida Statutes, in a
 513 reference thereto, paragraph (a) of subsection (8) of section
 514 790.166, Florida Statutes, is reenacted to read:

515 790.166 Manufacture, possession, sale, delivery, display,
 516 use, or attempted or threatened use of a weapon of mass
 517 destruction or hoax weapon of mass destruction prohibited;
 518 definitions; penalties.—

519 (8) For purposes of this section, the term "weapon of mass
 520 destruction" does not include:

521 (a) A device or instrument that emits or discharges smoke
 522 or an offensive, noxious, or irritant liquid, powder, gas, or
 523 chemical for the purpose of immobilizing, incapacitating, or
 524 thwarting an attack by a person or animal and that is lawfully
 525 possessed or used by a person for the purpose of self-protection

526 or, as provided in subsection (7), is lawfully possessed or used
527 by any member or employee of the Armed Forces of the United
528 States, a federal or state governmental agency, or a private
529 entity. A member or employee of a federal or state governmental
530 agency includes, but is not limited to, a law enforcement
531 officer, as defined in s. 784.07; a federal law enforcement
532 officer, as defined in s. 901.1505; and an emergency service
533 employee, as defined in s. 496.404.

534 Section 19. This act shall take effect July 1, 2019.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB ANR 19-01 Department of Environmental Protection
SPONSOR(S): Agriculture & Natural Resources Appropriations Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Agriculture & Natural Resources Appropriations Subcommittee	11 Y, 0 N	White	Pigott

SUMMARY ANALYSIS

The Department of Environmental Protection (department) does not currently employ sworn law enforcement officers. The Florida Fish and Wildlife Conservation Commission (commission) provides law enforcement activities for the department. The department transfers funding to the commission to compensate for these law enforcement services.

The bill makes the following changes:

- Transfers the primary responsibility and powers for investigation and law enforcement of certain environmental crimes from the commission to the department. A new memorandum of agreement will be developed between the commission and the department to detail the responsibilities of both agencies.
- Creates the Division of Law Enforcement in the department and reassigns all personnel and equipment from the department's Office of Emergency Response to the Division of Law Enforcement.
- Establishes a transition advisory workgroup for the purpose of identifying any administrative rules that need to be amended as a result of this consolidation.
- Allows any commission employees who are transferred to the department to retain their leave and current position status.
- Gives the department law enforcement authority in areas of environmental law enforcement where the commission currently has authority. The commission retains its authority.
- Adds the department to the Joint Task Force on State Agency Law Enforcement Communications.

There may be an insignificant negative fiscal impact on state government. The bill conforms to the Proposed House General Appropriations Act for Fiscal Year 2019-2020.

The bill has an effective date of July 1, 2019.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Prior to Fiscal Year 2012-2013, the Department of Environmental Protection had a Division of Law Enforcement. Chapter 2011-66, L.O.F., created a Law Enforcement Consolidation Task Force (Task Force) to evaluate any duplication of law enforcement functions throughout state government and identify any functions that were appropriate for consolidation. The Environmental Unit Sub-Team of the Task Force recommended integrating the entire department Division of Law Enforcement into the Fish & Wildlife Conservation Commission Division of Law Enforcement.

Chapter 2012-88, L.O.F., transferred all powers, duties, functions, records, offices, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds relating to the department's Division of Law Enforcement, excluding the Bureau of Emergency Response, by a type two transfer, to the Division of Law Enforcement within the commission.

The Department of Environmental Protection does not currently employ any sworn law enforcement officers. The Florida Fish and Wildlife Conservation Commission provides law enforcement activities for the department. The department and commission have a memorandum of agreement that identifies the responsibilities of the commission with regard to the department. The department transfers funding to the commission to compensate for these law enforcement services in the following amounts:

- \$11,310,256 from the Coastal Protection Trust Fund
- \$1,991,722 from the Inland Protection Trust Fund
- \$2,822,599 from the Solid Waste Management Trust Fund¹

Effect of Proposed Changes

The bill transfers the primary responsibility and powers for investigation and law enforcement of certain environmental crimes from the commission to the department. The commission retains law enforcement authority over the patrol of state-owned lands managed by the department. A new memorandum of agreement will be developed between the commission and the department to detail the responsibilities of both agencies regarding, at minimum, the following:

- Support and response for oil spills, hazardous spills and natural disasters.
- Law enforcement patrol and investigative services for all state owned lands managed by the Department of Environmental Protection.
- Law enforcement services, including investigative services, for all criminal law violations of chapters 161, 258, 373, 376, 377, 378, and 403, F.S.
- Enforcement services for all civil violations of all department administrative rules related to the following program areas:
 - Division of Recreation and Parks.
 - Office of Coastal and Aquatic Managed Areas.
 - Office of Greenways and Trails.
- Current and future funding, training, or other support for positions and equipment being transferred to the department which are funded through any trust fund.

The bill reassigns any personnel and equipment currently assigned to the department's Office of Emergency Response to the Division of Law Enforcement within the department.

¹ See Specific Appropriation 1536, chapter 2018-9, Laws of Florida

The secretary of the department and the executive director of the commission shall each appoint two members to a transition advisory working group to review the administrative rules promulgated by the department and the commission to identify any rules that must be amended to reflect changes made by the bill.

The bill states that notwithstanding chapter 60L-34, F.A.C., or any law to the contrary, employees who are transferred from the commission to fill positions transferred to the department shall retain and transfer any accrued annual leave, sick leave, and regular and special compensatory leave balances. The employees from the commission shall also retain their current position status, including permanent status, upon transfer to the department.

The bill amends s. 20.255, F.S., to establish the Division of Law Enforcement within the department. Law enforcement officers of the department who meet the provisions of s. 943.13, F.S., are constituted law enforcement officers of this state with full power to investigate and arrest for any violation of the laws of Florida, and the rules of the department and the Board of Trustees of the Internal Improvement Trust Fund. The general laws applicable to investigations, searches, and arrests by peace officers apply to department law enforcement officers.

The bill amends s. 258.004, F.S., relating to the duties of the Division of Recreation and Parks of the department, to add that the activities prohibited in part I of chapter 258, F.S., shall be enforced by the Department of Environmental Protection's Division of Law Enforcement and its officers, and the Fish and Wildlife Conservation Commission's Division of Law Enforcement and its officers.

The bill amends s. 258.008(1), F.S., relating to prohibited activities in state parks, to add that fines paid under this subsection shall be paid to the department and deposited in the State Park Trust Fund as applicable.

The bill amends s. 258.501(16), F.S., relating to the Myakka River Wild and Scenic Designation and Preservation Act, to include officers of the department as having full authority to enforce any rules adopted by the department under this section.

The bill amends s. 282.709(2)(a), F.S., relating to the state agency law enforcement radio system and interoperability network, to include a representative of the Division of Law Enforcement of the department who is appointed by the secretary of the department to the Joint Task Force on State Agency Law Enforcement Communications.

The bill amends s. 316.640(1)(a)1.a., F.S., relating to the enforcement of traffic laws, to give the Division of Law Enforcement of the department the authority to enforce all of the traffic laws of Florida.

The bill amends s. 376.3071(4)(p), F.S., relating to the Inland Protection Trust Fund, to give authority to the department to enforce this section and ss. 376.30-376.317, F.S. The department may disburse moneys to the commission for enforcement.

The bill amends s. 403.413(2)(e), F.S., relating to the Florida Litter Law, to include the department in the definition of a law enforcement officer.

The bill amends s. 784.07(1)(d), F.S., relating to assault or battery of law enforcement officers, to include the department in the definition of a law enforcement officer.

The bill amends s. 843.08, F.S., relating to false impersonation, to add that any person who falsely assumes or pretends to be an officer of the department commits a third degree felony.

The bill amends s. 843.085, F.S., relating to unlawful badges or other indicia of authority, to include "Department of Environmental Protection officer" as one of the combination of words that it is unlawful to wear or display with the intent to mislead or cause another person to believe that he or she is a

member of the department. It includes “Department of Environmental Protection officer” as one of the combination of words that it is unlawful to own or operate a motor vehicle marked or identified by any lettering, marking, or insignia, or colorable mention thereof. It is unlawful for a person to sell, transfer, or give away the authorized badge bearing in any manner or combination the words “Department of Environmental Protection officer” with the intent to mislead. A fraternal, benevolent, or labor organization or association is not prohibited from using the words “Department of Environmental Protection officer”.

The bill amends s. 870.04, F.S., relating to specified officers to disperse riotous assembly, to authorize the department to command an unlawfully, riotously, or tumultuously assembled number of persons to immediately and peaceably disperse.

The bill amends, s. 932.7055, F.S., relating to disposition of liens and forfeited property, to add that if the seizing agency is the department, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act shall be deposited into the Internal Improvement Trust Fund, the Water Quality Assurance Trust Fund, the Inland Protection Trust Fund, the Coastal Protection Trust Fund, or the Solid Waste Management Trust Fund as specified by the statute under which the violation occurs.

The bill provides an effective date of July 1, 2019.

B. SECTION DIRECTORY:

Section 1. Transfers certain responsibilities and powers, as specified in a new memorandum of agreement, from the commission to the department.

Section 2. Assigns all personnel and equipment from the Office of Emergency Response to the Division of Law Enforcement at the department.

Section 3. Creates a transition advisory group to review and determine whether any rules need to be amended.

Section 4. Allows any commission employees who are transferred to the department to retain any leave and their current position status.

Section 5. Amends s. 20.255, F.S., relating to the Department of Environmental Protection.

Section 6. Amends s. 258.004, F.S., relating to the duties of the Division of Recreation and Parks.

Section 7. Amends s. 258.008, F.S., relating to prohibited activities and penalties for state parks.

Section 8. Amends s. 258.501(16), F.S., relating to the Myakka River Wild and Scenic Designation and Preservation Act.

Section 9. Amends s. 282.709(2)(a), F.S., relating to the state agency law enforcement radio system and interoperability network.

Section 10. Amends s. 316.640(1)(a)1.a., F.S., relating to the enforcement of traffic laws.

Section 11. Amends s. 376.3071(4)(p), F.S., relating to the Inland Protection Trust Fund.

Section 12. Amends s. 403.413(2)(e), F.S., relating to the Florida Litter Law.

Section 13. Amends s. 784.07(1)(d), F.S., relating to assault or battery of law enforcement officers.

Section 14. Amends s. 843.08, F.S., relating to false impersonation.

Section 15. Amends s. 843.085, F.S., relating to unlawful badges or other indicia of authority.

Section 16. Amends s. 870.04, F.S., relating to specified officers to disperse riotous assembly.

Section 17. Amends s. 932.7055, F.S., relating to disposition of liens and forfeited property.

Section 18. Amends s. 790.166, F.S., relating to manufacture, possession, sale, delivery, display, use, or attempted or threatened use of a weapon of mass destruction or hoax weapon of mass destruction prohibited.

Section 19. Provides an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

A portion of revenues from fines and penalties from law enforcement actions that currently go to the Fish & Wildlife Conservation Commission may now go to the Department of Environmental Protection as the department would be taking over certain environmental law enforcement activities.

2. Expenditures:

There may be an insignificant negative fiscal impact to the Department of Environmental Protection to establish the new Division of Law Enforcement. There may also be an insignificant negative fiscal impact to the department and commission related to rulemaking. These impacts can be absorbed within existing resources.

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 conforms to the proposed House of Representatives' FY 2019-2020 General Appropriations Act, which transfers 19 full-time equivalent positions, 1,076,218 in salary rate, and \$1,991,722 in trust fund authority from the Fish & Wildlife Conservation Commission to the Department of Environmental Protection. The proposed budget also reduces the department's transfer of \$1,991,722 in the Inland Protection Trust Fund to the commission for law enforcement activities.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill creates a transition advisory workgroup to review administrative rules promulgated by the department and commission to identify any rules that must be amended.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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
3/22/2019 HOUSE Committee Substitute Text (C1) Filed
- [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
3/22/2019 HOUSE On Committee agenda - Agriculture & Natural Resources Subcommittee, 03/26/19, 12:00 pm, 12 H
- [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
3/21/2019 HOUSE Read Third Time; Passed (Vote: 109 Yeas / 0 Nays)
- [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

3/21/2019 SENATE In Messages

- 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
3/22/2019 HOUSE On Committee agenda - Agriculture & Natural Resources Appropriations Subcommittee, 03/26/19, 8:30 am, 17 H
- 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
3/22/2019 SENATE On Committee agenda - Appropriations, 03/27/19, 1:00 pm, 412 K
- 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

- HB 249** **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.
3/22/2019 HOUSE Placed on Calendar, on 2nd reading
- HB 251** **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
3/22/2019 HOUSE Placed on Calendar, on 2nd reading
- HB 291** **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
- HB 309** **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
- SB 314** **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
- SB 320** **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
3/22/2019 SENATE On Committee agenda - Appropriations, 03/27/19, 1:00 pm, 412 K
- HB 331** **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
- SB 336** **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
3/21/2019 SENATE Committee Substitute Text (C1) Filed
- HB 347** **Towing-Storage Operator Liens** Rodriguez (AM)
Towing-Storage Operator Liens: Requires certain lien notices be sent through third-party mailing service; removes authorization of certain attorney fees; revises requirements for inspection & release of vehicles or vessels & personal property in such vehicles or vessels; requires third-party mailing services to apply to DHSMV; authorizes department to approve application if certain conditions are met; requires approved third-party notification services to maintain performance bond & conduct annual audit; authorizes department to deny, suspend, or revoke its approval; requires third-party mailing service to maintain certain records for specified period & allow inspection & copying of such records by department; authorizes towing-storage operators to send notices on their own behalf. Effective Date: January 1, 2020
3/22/2019 HOUSE Committee Substitute Text (C1) Filed
- SB 352** **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
- SB 362** **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

- SB 368** **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
3/13/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government
- 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
3/22/2019 HOUSE On Committee agenda - Agriculture & Natural Resources Appropriations Subcommittee, 03/26/19, 8:30 am, 17 H
- 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

3/21/2019 SENATE On Committee agenda - Community Affairs, 03/26/19, 4:00 pm, 301 S

SB 430

Prohibited Discrimination

Rouson

Prohibited Discrimination; Citing this act as 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

3/21/2019 SENATE On Committee agenda - Environment and Natural Resources, 03/26/19, 4:00 pm, 37 S

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

3/21/2019 HOUSE On Committee agenda - Ways & Means Committee, 03/25/19, 12:00 pm, 17 H

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

3/22/2019 HOUSE On Committee agenda - Local, Federal & Veterans Affairs Subcommittee, 03/26/19, 8:00 am, 12 H

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, 2023
3/22/2019 HOUSE Now in State Affairs Committee

- 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
3/21/2019 HOUSE Placed on Calendar, on 2nd reading
- SB 532** **Wetland Mitigation** Lee
Wetland Mitigation; Authorizing a local government to allow permittee-responsible mitigation on lands purchased and owned by a local government for conservation purposes under certain circumstances; requiring such mitigation to meet specified requirements, etc. Effective Date: 7/1/2019
3/22/2019 SENATE On Committee agenda - Appropriations, 03/27/19, 1:00 pm, 412 K
- 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
3/21/2019 SENATE On Committee agenda - Community Affairs, 03/26/19, 4:00 pm, 301 S

<u>SB 568</u>	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	
<u>HB 573</u>	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	
<u>SB 580</u>	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 3/20/2019 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 03/22/19, 10:30 am, 117 K (No Votes Will Be Taken)	
<u>SB 608</u>	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	
<u>SB 628</u>	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 3/21/2019 SENATE On Committee agenda - Environment and Natural Resources, 03/26/19, 4:00 pm, 37 S	
<u>HB 641</u>	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 3/21/2019 HOUSE Placed on Calendar, on 2nd reading	
<u>HB 645</u>	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)	
<u>SB 660</u>	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	
<u>SB 676</u>	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 3/21/2019 SENATE On Committee agenda - Infrastructure and Security, 03/26/19, 4:00 pm, 110 S	
<u>SB 690</u>	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.

3/21/2019 SENATE Placed on Calendar, on 2nd reading

- 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
3/21/2019 SENATE On Committee agenda - Infrastructure and Security, 03/26/19, 4:00 pm, 110 S
- 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
3/20/2019 SENATE Now in Infrastructure and Security
- 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
3/22/2019 HOUSE On Committee agenda - Local, Federal & Veterans Affairs Subcommittee, 03/26/19, 8:00 am, 12 H
- 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
3/22/2019 HOUSE On Committee agenda - Local, Federal & Veterans Affairs Subcommittee, 03/26/19, 8:00 am, 12 H - PCS
- 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

3/20/2019 SENATE Now in Judiciary

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

3/13/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

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

3/21/2019 SENATE On Committee agenda - Community Affairs, 03/26/19, 4:00 pm, 301 S

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

3/22/2019 HOUSE On Committee agenda - Agriculture & Natural Resources Appropriations Subcommittee, 03/26/19, 8:30 am, 17 H

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

- SB 1140** **Attorney Fees and Costs** Hutson
Attorney Fees and Costs; Defining the term "attorney fees and costs"; providing for award of attorney fees and costs and damages in 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
3/20/2019 SENATE Now in Community Affairs
- SB 1148** **Vehicles for Rent or Lease** Perry
Vehicles for Rent or Lease; Requiring a member of a certain car-sharing service who uses a motor vehicle for less than a specified period of time pursuant to an agreement with the car-sharing service to pay a specified surcharge per usage; 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
3/22/2019 SENATE Committee Substitute Text (C1) Filed
- 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 & certain anchored & moored vessels on local communities & state & to submit report to Governor & Legislature; prohibits residing or dwelling on certain derelict vessels until certain conditions are met. Effective Date: July 1, 2019
3/22/2019 HOUSE On Committee agenda - Agriculture & Natural Resources Appropriations Subcommittee, 03/26/19, 8:30 am, 17 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
3/22/2019 HOUSE On Committee agenda - Business & Professions Subcommittee, 03/26/19, 12:00 pm, 212 K
- 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
3/22/2019 HOUSE On Committee agenda - Transportation & Infrastructure Subcommittee, 03/26/19, 12:00 pm, 102 H
- 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
3/8/2019 HOUSE Now in Workforce Development & Tourism Subcommittee
- 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; revises civil penalties relating to certain at risk vessels & prohibited anchoring or mooring; provides civil penalties for vessels that fail to reduce speed for special hazards. Effective Date: July 1, 2019
3/21/2019 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee
- 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
3/21/2019 SENATE On Committee agenda - Environment and Natural Resources, 03/26/19, 4:00 pm, 37 S
- 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
3/21/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government
- 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
3/18/2019 SENATE Now in Rules
- 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
3/21/2019 SENATE On Committee agenda - Environment and Natural Resources, 03/26/19, 4:00 pm, 37 S
- 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"; requiring the Department of Environmental Protection, in coordination with the Department of Health, to develop a report to be submitted to the Legislature by a specified date on the impacts of transferring the onsite sewage program of the Department of Health to the Department of Environmental Protection by a type two transfer; revising the requirements for a basin management action plan for an Outstanding Florida Spring; establishing a wastewater grant program within the Department of Environmental Protection, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2019
3/21/2019 SENATE Committee Substitute Text (C1) Filed
- 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

- SB 1792** **Towing and Immobilizing of Vehicles and Vessels** Gruters
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
3/21/2019 SENATE On Committee agenda - Community Affairs, 03/26/19, 4:00 pm, 301 S
- HB 3191** **Florida Gulf Coast University - Red Tide Initiative** Rommel
Florida Gulf Coast University - Red Tide Initiative: Provides an appropriation for the Florida Gulf Coast University - Red Tide Initiative. Effective Date: July 1, 2019
3/14/2019 HOUSE Now in Appropriations Committee
- SB 7022** **Fish and Wildlife Conservation Commission Citizen Support Organizations** Environment and Natural Resources
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
3/22/2019 SENATE On Committee agenda - Appropriations, 03/27/19, 1:00 pm, 412 K
- SB 7024** **Department of Environmental Protection Citizen Support Organizations** Environment and Natural Resources
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
3/22/2019 SENATE On Committee agenda - Appropriations, 03/27/19, 1:00 pm, 412 K
- HB 7029** **Fracking** Agriculture & Natural Resources Subcommittee
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
3/22/2019 HOUSE On Committee agenda - Agriculture & Natural Resources Appropriations Subcommittee, 03/26/19, 8:30 am, 17 H
- SB 7064** **Oil Drilling** Agriculture
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
3/21/2019 SENATE On Committee agenda - Innovation, Industry, and Technology, 03/26/19, 1:30 pm, 110 S
- ANR1** **Department of Environmental Protection** Agriculture & Natural Resources Appropriations Subcommittee
PCB ANR 19-01 -- Department of Environmental Protection
3/19/2019 HOUSE Committee Bill filed as HB 5401