

WEEK 4 REPORT

// 2019 LEGISLATIVE SESSION

+ MARINE INDUSTRIES ASSOCIATION OF FLORIDA
MARCH 25 - 29, 2019



// WEEK 4 REPORT

CONTENTS

SB 436 // HB 529

Vessel Registration Fees

We are almost to the halfway point of the 2019 Legislative Session. The fourth week was a very busy week in Tallahassee as budget amendments were being filed. The Florida House of Representatives and the Florida Senate released their prospective budgets last week.

SB 676 // HB 475

Certificates of Titles for Vessels

The House of Representatives and the Florida Senate both held Appropriations Committee hearings this past week to present their budget bills and any amendments filed to the budget. The Senate filed numerous amendments and the House did not have any amendments filed in committee. Both bills passed the committee and will now head to the House and Senate floor for yet another amendatory process.

SB 1530 // HB 1319

Vessels

Once the bills are amended and passed off of their respective floors, they will be sent in Messages to the other chamber for a vote. The House and Senate are expected to refuse to concur, and a budget conference will be called starting the beginning of the budget conference process.

SB 1792 // HB 1237

Towing and Immobilizing of Vehicles and Vessels

Remember, the Appropriations bill must be balanced and must be on the legislators' desks for seventy-two hours prior to voting on its final passage. We have plenty of time to accomplish this goal, but this is where the clock starts ticking louder as we approach our sixty-day deadline.

SB 1666

Anchoring and Mooring of Vessels Outside of Public Mooring Fields

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

HB 1221

Anchored Vessels

HB 529 by Mariano and SB 436 by Hooper - Use of Vessel Registration Fees. 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 Committee, 23-0. The bill is now on the House Calendar and available for Special Order.

SB 446 // HB 325

Coastal Management

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 passed the Senate Environment and Natural Resources committee, 5-0. The bill is now on the Senate Rules agenda 4/3/19 at 4:00.

SB 1758 // HB 1395

Water Quality Improvements

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. HB 475 passed the House

SB 1502 // HB 5401

Department of Environmental Protection

Transportation and Tourism Appropriations Subcommittee as a committee substitute, 11-0. The bill passed the House State Affairs Committee 19-0 on March 28th.

The Senate Bill is referred to the Senate Infrastructure and Security Committee, Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development, and the Senate Appropriations Committee. SB 676 passed the Senate Infrastructure and Security Committee on March 26th as a committee substitute, 8-0. The bill is now in the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development.

HB 1319 by Diamond and SB 1530 by Rouson - Vessels. HB 1319 has been referred to the House Agriculture and Natural Resources Subcommittee, the House Agriculture and Natural Resources Appropriations Subcommittee, and the House State Affairs Committee. The bill was significantly amended in the House Agriculture and Natural Resources Subcommittee. We reported last week that we had one simple amendment to this bill and we expect to see it in committee this week. We will keep you posted as amendments are filed. The bill is currently on the agenda for the House Agriculture and Natural Resources Appropriations Subcommittee on April 2.

SB 1530 also has three references. The committees are Senate Environment and Natural Resources, Senate Criminal Justice, and Senate Rules. The bill is scheduled to be heard this week, but again we anticipate friendly amendments. The bill is scheduled to be heard in the Senate Environmental and Natural Resources Committee April 2nd. Again, remain vigilant as we work through this process.

It is very likely these bills could get combined with House Bill 1221/SB 1666 as we start getting closer to the sixty-day deadline.

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, the House Business and Professions Subcommittee, and the State Affairs Committee. House Bill 1237 passed the House Local, Federal and Veterans Affairs Subcommittee on March 19th, 12-1. The bill passed the House Business and Professions Subcommittee on March 26th with a vote of 14-0 as a committee substitute. The bill is now in the House State Affairs Committee.

Senate Bill 1792 was referred to Community Affairs, Infrastructure and Security and Rules. SB 1792 passed the Senate Community Affairs Committee 5-0 as a committee substitute. The bill is now in the Senate Infrastructure and Security Committee.

HB 1221 by Polsky and SB 1666 by Flores - Anchoring and Mooring of Vessels Outside of Public Mooring Fields. We continue to remind you these bills are not linked in the computer system, however, they are considered companion bills. The bills are comparable, and we believe they will become much closer after amendments are filed this week in committee. We anticipated amendments to HB 1221 in the House this week, but they chose to wait to file all amendments in the last committee of reference. We are hopeful the final product will include all changes we requested.

House Bill 1221 was referred to the House Agriculture and Natural Resources Subcommittee, the House Agriculture and Natural Resources Appropriations Subcommittee, and the House State Affairs. HB 1221 passed the House Agriculture and Natural Resources Subcommittee as a committee substitute 15-0. The bill passed the House Agriculture and Natural Resources Appropriations Subcommittee March 26th without any amendments. We anticipate several amendments to the bill in the House State Affairs Committee.

Senate Bill 1666 was referred to Senate Environmental and Natural Resources, Senate Community Affairs and Senate Rules. This bill passed the Senate Environmental and Natural Resources Committee with a strike-everything amendment that had a surprise regarding boater education. The amendment passed in committee and, after some negotiations, we hope to see an amendment to clarify the boater education piece of the bill. We will send the amendments out as soon as we receive them. The bill is now scheduled to be heard April 2 in the Senate Community Affairs Committee.

HB1395 by Raschein and SB1758 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 the House Agriculture and Natural Resources Subcommittee, the House Appropriations Committee, and the House State Affairs Committee. As of the writing of this report, the bill has not been heard.

Senate Bill 1758 has been referred to the Senate Environment and Natural Resources Committee, the Senate Appropriations Subcommittee on Agriculture, Environment and General Government Committee, and the Senate Appropriations Committee. SB 1758 passed the Senate Environment and Natural Resources Committee as a committee substitute. The bill passed 5-0. SB 1758 is on the agenda for Senate Community Affairs Committee on April 2, 2019.

Another comparable bill to watch that is moving in the House is House Bill 141 by Representative Fine, regarding Water Quality Improvements.

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 the Senate Environment and Natural Resources Committee, the Senate Appropriations Subcommittee on Agriculture, Environment and General Government Committee, and the Senate Appropriations Committee. The bill passed the Senate Environment and Natural Resources Committee on March 26th with a vote 5-0.

HB 5401 Passed the House Appropriations Committee March 27th. The bill is currently on the Special Order Calendar April 3rd.

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



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 - Rules, 04/03/19, 4:00 pm

House Bill 529: 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.

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

// CERTIFICATES OF TITLES FOR VESSELS

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

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

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 676: CS/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: Favorable with CS by Infrastructure and Security; 8 Yeas, 0 Nays

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 and the duties and responsibilities of the Department of Highway Safety and Motor Vehicles (DHSMV) relating to vessel titling. In general, the bill:

- Creates the “Uniform Certificate of Title for Vessels Act.”
- Provides new requirements for the contents of a certificate of title, including the requirement that an application 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 any applicable 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 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 for such certificate.
- 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 issuing 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 State Affairs Committee; 19 Yeas, 0 Nays

Attached documents: CS/SB 676 (as filed) + staff analysis; CS/CS/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: On Committee agenda - Environment and Natural Resources, 04/02/19, 2:00 pm

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: On Committee agenda - Agriculture & Natural Resources Appropriations Subcommittee, 04/02/19, 1:00 pm

Attached documents: SB 1530 (as filed); 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: CS/SB 1792 requires a county or municipality to establish maximum rates for the towing and storage of vessels, as well as placing a cap on the maximum rate for immobilizing a vessel. The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on an authorized wrecker operator, a towing business, or a vehicle immobilization service. The bill does not impact the ability of a county or municipality to impose a reasonable administrative fee on the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel to cover the cost of enforcement actions on public property. The bill provides that an authorized wrecker operator, a towing business, or vehicle immobilization service 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 additional fees on the registered owner or lienholder of a vehicle or vessel when the vehicle or vessel is towed by an authorized wrecker operator. The bill provides that the reasonable administrative fee or charge imposed by the county or municipality must be included as part of the lien on the vehicle or vessel by the towing operator. The bill creates s. 715.08, F.S., regarding vehicle immobilization services. Additionally, CS/SB 1792 provides exemptions to bill requirements for ordinances enacted by a charter county with a population exceeding 1.3 million on or before January 1, 2019.

Most Recent Action: Favorable with CS by Community Affairs; 5 Yeas, 0 Nays ; On Committee agenda - Infrastructure and Security, 04/02/19, 2:00 p.m.

House Bill 1237: 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 by ordinance or rule maximum rates for the towing and storage of vehicles. 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.

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 counties and municipalities to establish maximum rates for the towing and immobilization of vessels, and 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 exempts a county with an existing towing license program as of January 1, 2019, from the prohibition on imposing a fee or charge on an authorized wrecker operator or on a towing business. However, the county would not be authorized to levy a business tax or impose and collect an administrative fee or charge.

The bill prohibits a municipality or county from enacting an ordinance or rule requiring an authorized wrecker operator to accept checks as a form of payment, and from authorizing attorney fees or court costs in connection with the towing of vehicles or vessels from private property. The bill expressly preempts the regulation of attorney fees and court costs in connection with the towing of vehicles or vessels from private property to the state and supersedes any municipal or county ordinance on the subject.

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

Most Recent Action: Favorable with CS by Business & Professions Subcommittee; 14 Yeas, 0 Nays

Attached documents: CS/SB 1792; CS/HB 1237 + 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 Bill 1221 // Rep. Tina Polsky // Referred to: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: COMPARE

Senate Bill 1666: CS/SB 1666:

- Deletes the exemption for persons born on or after January 1, 1988, to have a boater safety identification card before operating a vessel with a 10 horsepower or higher engine.
- Defines the term “long-term stored vessel” to mean a vessel which has remained anchored or moored without supervision or control for at least 30 days out of a 60-day period.
- Requires FWC to conduct a study, contingent upon appropriation, on the impacts of longterm stored vessels on local communities and the state, and to present the report to the Governor and Legislature.
- Authorizes counties designated as rural areas of opportunity to create in freshwater waterbodies within their jurisdiction a “no-discharge zone” where treated and untreated sewage discharges are prohibited.
- Requires vessel operators within a no-discharge zone to keep sewage discharges onboard for discharge at sea or onshore at a pump-out facility.
- Imposes a civil penalty and declares the vessel or floating structure a nuisance and hazard to public safety and health if an unlawful discharge is made in a no-discharge zone.
- Requires a certain portion of vessel registration fees designated for use by the counties to be deposited into the Marine Resources Conservation Trust Fund to fund grants for derelict vessel removal.
- Prohibits a person who leaves or abandons a derelict vessel from residing or dwelling on the vessel until it is permanently removed from state waters or returned to waters in a nonderelict condition.

Most Recent Action: On Committee agenda - Community Affairs, 04/02/19, 2:00 p.m.

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.

The study is contingent upon legislative appropriation, so there is no fiscal impact.

Most Recent Action: Favorable by Agriculture & Natural Resources Appropriations Subcommittee; 11 Yeas, 0 Nays

Attached documents: CS/SB 1666 + staff analysis; 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; Community Affairs; 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: Reference to Appropriations Subcommittee on Agriculture, Environment, and General Government removed; Reference to Community Affairs added; Remaining references: Community Affairs; Appropriations ; On Committee agenda - Community Affairs, 04/02/19, 2:00 p.m.

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: SB 1502 creates the Division of Law Enforcement within the Department of Environmental Protection (DEP), which will employ state law enforcement officers. The bill requires DEP and the Fish and Wildlife Conservation Commission (FWC) to develop a new memorandum of agreement detailing the respective responsibilities of the two agencies with regard to at least all of 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 DEP.
- 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 civil violations of DEP's administrative rules related to all of the following program areas:
 - The Division of Recreation and Parks.
 - The Office of Coastal and Aquatic Managed Areas.
 - The Office of Greenways and Trails.
- Current and future funding, training, or other support for positions and equipment being transferred from the commission to DEP which are funded through any trust fund.

As determined by the new memorandum of agreement, the bill transfers the primary powers and duties of FWC with regard to investigating certain environmental crimes and enforcing related laws to DEP. The bill states that FWC will retain law enforcement authority over the patrol of state-owned land managed by DEP.

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

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: Favorable by Appropriations Committee; 23 Yeas, 0 Nays; Placed on Calendar, on 2nd reading; Placed on Special Order Calendar, 04/03/19

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
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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	
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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

// CERTIFICATES OF TITLES FOR VESSELS

CS/SB 676 + Staff Analysis

CS/CS/CS/HB 475 + Staff Analysis

// VESSELS

SB 1530 (as filed)

CS/HB 1319 + Staff Analysis

// TOWING AND IMMOBILIZING OF VEHICLES AND VESSELS

CS/SB 1792 + Staff Analysis

CS/HB 1237 + Staff Analysis

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

CS/SB 1666 + Staff Analysis

CS/HB 1221 + Staff Analysis

// COASTAL MANAGEMENT

No attachments

// WATER QUALITY IMPROVEMENTS

CS/SB 1758 + Staff Analysis

// DEPARTMENT OF ENVIRONMENTAL PROTECTION

CS/SB 1502 + Staff Analysis

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 Environment and Natural Resources

BILL: SB 436

INTRODUCER: Senator Hooper

SUBJECT: Use of Vessel Registration Fees

DATE: March 25, 2019

REVISED: _____

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

I. Summary:

SB 436 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;
- 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

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.

⁴ Section 328.48(2), F.S.

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:

- *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*: \$25.50.⁶

A portion of the state vessel registration fees for recreational vessels is distributed to county governments.⁷ Of the portion designated for counties, \$1 is remitted to the state for deposit into the Save the Manatee Trust Fund created within the Fish and Wildlife Conservation Commission and \$1 is remitted to the state for deposit into the Marine Resources Conservation Trust Fund to fund a grant program for public launching facilities, with priority consideration given to counties with more than 35,000 registered vessels.⁸

The remainder of the funds going to counties must be used for specific boating-related purposes:

- Providing, maintaining, or operating recreational channel marking and other uniform waterway markers, public boat ramps, lifts, hoists, marine railways, boat piers, docks, mooring buoys, and other public launching facilities; and
- Removing derelict vessels, debris that specifically impede boat access, not including the dredging of channels, and vessels and floating structures deemed a hazard to public safety and health.⁹

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.¹⁰ The first \$1 of every

⁵ Section 328.72(12)(c)2., F.S.

⁶ Section 328.72(1)(a), F.S.

⁷ Section 328.72(1), F.S.

⁸ Section 328.72(15), F.S.

⁹ *Id.*

¹⁰ 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.

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.¹¹ The remainder 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.¹² A county which imposes a vessel registration fee may share such proceeds with one or more municipalities within the county pursuant to an interlocal agreement to fund authorized boating-related projects.¹³

Currently, 15 counties have elected to impose the local vessel registration fee. The following chart summarizes the associated revenue by county for Fiscal Year (FY) 2018-2019.¹⁴

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.¹⁵ 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

¹¹ Section 328.66(1), F.S.

¹² *Id.*

¹³ Section 328.66(2), F.S.

¹⁴ 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).

¹⁵ 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 on Mar. 17, 2019).

management district, a copy is also forwarded to the Corps to initiate the federal permitting process.¹⁶

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. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If additional counties elect to impose the local vessel registration fees, there may be a negative fiscal impact on vessel owners within a county's jurisdiction.

¹⁶ *Id.*

C. Government Sector Impact:

There may be a positive fiscal impact on counties that elect to impose the optional local vessel registration fee. Additional counties may consider imposing this fee due to the expansion of authorized uses under the bill.

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.

By the Committee on Infrastructure and Security; and Senator Hooper

596-03527-19

2019676c1

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

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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

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59 liability for noncompliance; creating s. 328.14, F.S.;

60 providing for the rights of a purchaser of a vessel

61 who is not a secured party; creating s. 328.145, F.S.;

62 providing for the rights of a secured party; amending

63 s. 328.15, F.S.; deleting certain provisions relating

64 to notice of a lien; providing for future expiration

65 of certain provisions; amending ss. 328.16 and

66 328.165, F.S.; conforming provisions to changes made

67 by the act; creating s. 328.215, F.S.; specifying

68 circumstances under which the department may create a

69 new certificate of title after receipt of an

70 application for a transfer of ownership or termination

71 of a security interest unaccompanied by a certificate

72 of title; authorizing the department to indicate

73 certain information on the new certificate;

74 authorizing the department to require a bond,

75 indemnity, or other security; providing for the

76 release of such bond, indemnity, or other security;

77 providing that the department is not liable for

78 creating a certificate of title based on erroneous or

79 fraudulent information; providing penalties; creating

80 s. 328.22, F.S.; providing requirements for the

81 transfer of ownership in a vessel; providing effect of

82 noncompliance; creating s. 328.23, F.S.; providing a

83 definition; providing duties of the department upon

84 receipt of a secured party's transfer statement;

85 providing construction; creating s. 328.24, F.S.;

86 providing a definition; providing requirements for a

87 transfer of ownership by operation of law; providing

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88 duties of the department; providing applicability;
89 creating s. 328.25, F.S.; providing that the
90 principles and law of equity supplement the provisions
91 of the act; creating s. 328.41, F.S.; authorizing the
92 department to adopt rules to implement vessel
93 registration provisions; amending ss. 409.2575,
94 705.103, and 721.08, F.S.; conforming provisions and
95 cross-references to changes made by the act; providing
96 construction and applicability regarding transactions,
97 certificates of title, and records entered into or
98 created, actions or proceedings commenced, and
99 security interests perfected before the effective date
100 of the act; providing applicability; providing an
101 effective date.

102
103 Be It Enacted by the Legislature of the State of Florida:

104
105 Section 1. Section 328.001, Florida Statutes, is created to
106 read:

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

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

111 328.0015 Definitions.—

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

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

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

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

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

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

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

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

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

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

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

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

145 (l) "Foreign-documented vessel" means a vessel the

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146 ownership of which is recorded in a registry maintained by a
147 country other than the United States which identifies each
148 person who has an ownership interest in the vessel and includes
149 a unique alphanumeric designation for the vessel.

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

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

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

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

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

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

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

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

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

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

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

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175 agency, an instrumentality, or any other legal or commercial
176 entity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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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. A 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. A watercraft that operates 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 sewage
252 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. A watercraft used solely as a lifeboat on another
257 watercraft.

258 (ff) "Vessel number" means the alphanumeric designation for
259 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.

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- 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 s.
 266 671.201(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 (l) "Security agreement" as defined in s. 679.1021(1)(uuu).
 277 (m) "Seller" as defined in s. 672.103(1)(d).
 278 (n) "Send" as defined in s. 671.201(39).
 279 (o) "Value" as defined in s. 671.211.

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

282 328.01 Application for certificate of title.—

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

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

290 (a) The applicant's name, the street address of the

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291 applicant's principal residence, and, if different, the
292 applicant's mailing address;

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

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

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

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

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

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

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

307 4. The overall length of the vessel;

308 5. The vessel type;

309 6. The hull material;

310 7. The propulsion type;

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

312 9. The fuel type, if any;

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

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

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

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

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

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

330 (3) In addition to the information required by subsection
331 (2), an application for a certificate of title may contain an
332 electronic address of the owner, transferor, or 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 signed by the owner shown on the
337 certificate and which:

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 identifies the applicant as the
345 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 identifies the applicant

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349 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 department
352 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 shall be signed by the owner and
368 shall be accompanied by personal or business identification and
369 the prescribed fee. An individual applicant must provide a valid
370 driver license or identification card issued by this state or
371 another state or a valid passport. A business applicant must
372 provide a federal employer identification number, if applicable,
373 verification that the business is authorized to conduct business
374 in the state, or a Florida city or county business license or
375 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 or the
572 submission was accepted. A request under this section must
573 contain the hull identification number and be delivered by means
574 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 law of the state under which a vessel's certificate

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610 of title is covered governs all issues relating to the
611 certificate from the time the vessel becomes covered by the
612 certificate until the vessel becomes covered by another
613 certificate or becomes a documented vessel, even if no other
614 relationship exists between the state and the vessel or its
615 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 30 days after the later of:

631 (a) The date of a transfer of ownership; or
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 number issued to a vessel pursuant to the requirements of 46
665 U.S.C. s. 12301 unless the department has created a certificate
666 of title for the vessel or an application for a certificate for
667 the vessel and the applicable fee have been delivered to the

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668 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 30-day period. The county tax collector
689 shall be entitled to retain \$5 of the additional amount.

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

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

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

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

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

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

725 (9)~~(8)~~ The department ~~of Highway Safety and Motor Vehicles~~

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726 shall make regulations necessary and convenient to carry out the
727 provisions of this chapter.

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

730 328.04 Content of certificate of title.-

731 (1) A certificate of title must contain:

732 (a) The date the certificate was created;

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

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

737 (d) The hull identification number;

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

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

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

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

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

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

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

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

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

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

776 328.045 Title brands.—

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

783 (a) Deliver to the department an application for a new

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784 certificate that complies with s. 328.01 and includes the title
785 brand designation "Hull Damaged"; or

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

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

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

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

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

812 328.055 Maintenance of and access to files.-

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

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

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

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

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

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

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

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

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

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

847 328.06 Action required on creation of certificate of
848 title.-

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

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

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

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871 of the department the date and time of destruction or other
872 cancellation. If a written certificate being canceled is not
873 destroyed, the department shall indicate on the face of the
874 certificate that it has been canceled.

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

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

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

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

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

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

898 (2) If the department creates electronic certificates of
899 title, the department shall create an electronic certificate

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900 unless in the application the secured party of record or, if
901 none, the owner of record requests that the department create a
902 written certificate.

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

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

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

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

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

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

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

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

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

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

926 (6) The decision by the department to reject an application
927 for a certificate of title or cancel a certificate of title
928 pursuant to this section is subject to a hearing pursuant to ss.

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929 120.569 and 120.57 at which the owner and any other interested
930 party may present evidence in support of or opposition to the
931 rejection of the application for a certificate of title or the
932 cancellation of a certificate of title.

933 Section 13. Section 328.101, Florida Statutes, is created
934 to read:

935 328.101 Effect of missing or incorrect information.—Except
936 as otherwise provided in s. 679.337, a certificate of title or
937 other record required or authorized by this part is effective
938 even if it contains unintended scrivener's errors or does not
939 contain certain required information if such missing information
940 is determined by the department to be inconsequential to the
941 issuing of a certificate of title or other record.

942 Section 14. Section 328.11, Florida Statutes, is amended to
943 read:

944 328.11 Duplicate certificate of title.—

945 (1) If a written certificate of title is lost, stolen,
946 mutilated, destroyed, or otherwise becomes unavailable or
947 illegible, the secured party of record or, if no secured party
948 is indicated in the files of the department, the owner of record
949 may apply for and, by furnishing information satisfactory to the
950 department, obtain a duplicate certificate in the name of the
951 owner of record.

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

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

961 (4) If a person receiving a duplicate certificate of title
962 subsequently obtains possession of the original written
963 certificate, the person shall promptly destroy the original
964 certificate of title.

965 ~~(5)(1) The Department of Highway Safety and Motor Vehicles~~
966 ~~may issue a duplicate certificate of title upon application by~~
967 ~~the person entitled to hold such a certificate if the department~~
968 ~~is satisfied that the original certificate has been lost,~~
969 ~~destroyed, or mutilated.~~ The department shall charge a fee of \$6
970 for issuing a duplicate certificate.

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

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

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987 ~~under this subsection.~~

988 ~~(7)(4)~~ The department shall implement a system to verify
989 that the application is signed by a person authorized to receive
990 a duplicate title certificate under this section if the address
991 shown on the application is different from the address shown for
992 the applicant on the records of the department.

993 Section 15. Section 328.12, Florida Statutes, is created to
994 read:

995 328.12 Perfection of security interest.-

996 (1) Except as otherwise provided in this section, a
997 security interest in a vessel may be perfected only by delivery
998 to the department of an application for a certificate of title
999 that identifies the secured party and otherwise complies with s.
1000 328.01. The security interest is perfected on the later of
1001 delivery to the department of the application and the applicable
1002 fee or attachment of the security interest under s. 679.2031.

1003 (2) If the interest of a person named as owner, lessor,
1004 consignor, or bailor in an application for a certificate of
1005 title delivered to the department is a security interest, the
1006 application sufficiently identifies the person as a secured
1007 party. Identification on the application for a certificate of a
1008 person as owner, lessor, consignor, or bailor is not by itself a
1009 factor in determining whether the person's interest is a
1010 security interest.

1011 (3) If the department has created a certificate of title
1012 for a vessel, a security interest in the vessel may be perfected
1013 by delivery to the department of an application, on a form the
1014 department may require, to have the security interest added to
1015 the certificate. The application must be signed by an owner of

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1016 the vessel or by the secured party and must include:

1017 (a) The name of the owner of record;

1018 (b) The name and mailing address of the secured party;

1019 (c) The hull identification number for the vessel; and

1020 (d) If the department has created a written certificate of
1021 title for the vessel, the certificate.

1022 (4) A security interest perfected under subsection (3) is
1023 perfected on the later of delivery to the department of the
1024 application and all applicable fees or attachment of the
1025 security interest under s. 679.2031.

1026 (5) On delivery of an application that complies with
1027 subsection (3) and payment of all applicable fees, the
1028 department shall create a new certificate of title pursuant to
1029 s. 328.09 and deliver the new certificate or a record evidencing
1030 an electronic certificate pursuant to s. 328.06. The department
1031 shall maintain in the files of the department the date and time
1032 of delivery of the application to the department.

1033 (6) If a secured party assigns a perfected security
1034 interest in a vessel, the receipt by the department of a
1035 statement providing the name of the assignee as secured party is
1036 not required to continue the perfected status of the security
1037 interest against creditors of and transferees from the original
1038 debtor. A purchaser of a vessel subject to a security interest
1039 who obtains a release from the secured party indicated in the
1040 files of the department or on the certificate takes free of the
1041 security interest and of the rights of a transferee unless the
1042 transfer is indicated in the files of the department or on the
1043 certificate.

1044 (7) This section does not apply to a security interest:

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1045 (a) Created in a vessel by a person during any period in
1046 which the vessel is inventory held for sale or lease by the
1047 person or is leased by the person as lessor if the person is in
1048 the business of selling vessels;

1049 (b) In a barge for which no application for a certificate
1050 of title has been delivered to the department; or

1051 (c) In a vessel before delivery if the vessel is under
1052 construction, or completed, pursuant to contract and for which
1053 no application for a certificate has been delivered to the
1054 department.

1055 (8) This subsection applies if a certificate of
1056 documentation for a documented vessel is deleted or canceled. If
1057 a security interest in the vessel was valid immediately before
1058 deletion or cancellation against a third party as a result of
1059 compliance with 46 U.S.C. s. 31321, the security interest is and
1060 remains perfected until the earlier of 4 months after
1061 cancellation of the certificate or the time the security
1062 interest becomes perfected under this part.

1063 (9) A security interest in a vessel arising under s.
1064 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is
1065 perfected when it attaches but becomes unperfected when the
1066 debtor obtains possession of the vessel, unless the security
1067 interest is perfected pursuant to subsection (1) or subsection
1068 (3) before the debtor obtains possession.

1069 (10) A security interest in a vessel as proceeds of other
1070 collateral is perfected to the extent provided in s. 679.3151.

1071 (11) A security interest in a vessel perfected under the
1072 law of another jurisdiction is perfected to the extent provided
1073 in s. 679.3161(4).

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1074 Section 16. Section 328.125, Florida Statutes, is created
1075 to read:

1076 328.125 Termination statement.—

1077 (1) A secured party indicated in the files of the
1078 department as having a security interest in a vessel shall
1079 deliver a termination statement to the department and, on the
1080 debtor's request, to the debtor, by the earlier of:

1081 (a) Twenty days after the secured party receives a signed
1082 demand from an owner for a termination statement and there is no
1083 obligation secured by the vessel subject to the security
1084 interest and no commitment to make an advance, incur an
1085 obligation, or otherwise give value secured by the vessel; or

1086 (b) If the vessel is consumer goods, 30 days after there is
1087 no obligation secured by the vessel and no commitment to make an
1088 advance, incur an obligation, or otherwise give value secured by
1089 the vessel.

1090 (2) If a written certificate of title has been created and
1091 delivered to a secured party and a termination statement is
1092 required under subsection (1), the secured party, not later than
1093 the date required by subsection (1), shall deliver the
1094 certificate to the debtor or to the department with the
1095 statement. If the certificate is lost, stolen, mutilated,
1096 destroyed, or is otherwise unavailable or illegible, the secured
1097 party shall deliver with the statement, not later than the date
1098 required by subsection (1), an application for a duplicate
1099 certificate meeting the requirements of s. 328.11.

1100 (3) On delivery to the department of a termination
1101 statement authorized by the secured party, the security interest
1102 to which the statement relates ceases to be perfected. If the

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1103 security interest to which the statement relates was indicated
1104 on the certificate of title, the department shall create a new
1105 certificate and deliver the new certificate or a record
1106 evidencing an electronic certificate. The department shall
1107 maintain in its files the date and time of delivery to the
1108 department of the statement.

1109 (4) A secured party that fails to comply with this section
1110 is liable for any loss that the secured party had reason to know
1111 might result from its failure to comply and which could not
1112 reasonably have been prevented and for the cost of an
1113 application for a certificate of title under s. 328.01 or s.
1114 328.11.

1115 Section 17. Section 328.14, Florida Statutes, is created to
1116 read:

1117 328.14 Rights of purchaser other than secured party.-

1118 (1) A buyer in ordinary course of business has the
1119 protections afforded by ss. 672.403(2) and 679.320(1) even if an
1120 existing certificate of title was not signed and delivered to
1121 the buyer or a new certificate listing the buyer as owner of
1122 record was not created.

1123 (2) Except as otherwise provided in ss. 328.145 and 328.22,
1124 the rights of a purchaser of a vessel who is not a buyer in
1125 ordinary course of business or a lien creditor are governed by
1126 the Uniform Commercial Code.

1127 Section 18. Section 328.145, Florida Statutes, is created
1128 to read:

1129 328.145 Rights of secured party.-

1130 (1) Subject to subsection (2), the effect of perfection and
1131 nonperfection of a security interest and the priority of a

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1132 perfected or unperfected security interest with respect to the
1133 rights of a purchaser or creditor, including a lien creditor, is
1134 governed by the Uniform Commercial Code.

1135 (2) If, while a security interest in a vessel is perfected
1136 by any method under this part, the department creates a
1137 certificate of title that does not indicate that the vessel is
1138 subject to the security interest or contain a statement that it
1139 may be subject to security interests not indicated on the
1140 certificate:

1141 (a) A buyer of the vessel, other than a person in the
1142 business of selling or leasing vessels of that kind, takes free
1143 of the security interest if the buyer, acting in good faith and
1144 without knowledge of the security interest, gives value and
1145 receives possession of the vessel; and

1146 (b) The security interest is subordinate to a conflicting
1147 security interest in the vessel that is perfected under s.
1148 328.12 after creation of the certificate and without the
1149 conflicting secured party's knowledge of the security interest.

1150 Section 19. Section 328.15, Florida Statutes, is amended to
1151 read:

1152 328.15 Notice of lien on vessel; recording.-

1153 ~~(1) No lien for purchase money or as security for a debt in~~
1154 ~~the form of retain title contract, conditional bill of sale,~~
1155 ~~chattel mortgage, or otherwise on a vessel shall be enforceable~~
1156 ~~in any of the courts of this state against creditors or~~
1157 ~~subsequent purchasers for a valuable consideration and without~~
1158 ~~notice unless a sworn notice of such lien is recorded. The lien~~
1159 ~~certificate shall contain the following information:~~

1160 ~~(a) Name and address of the registered owner;~~

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1161 ~~(b) Date of lien;~~

1162 ~~(c) Description of the vessel to include make, type, motor~~
1163 ~~and serial number; and~~

1164 ~~(d) Name and address of lienholder.~~

1165

1166 ~~The lien shall be recorded by the Department of Highway Safety~~
1167 ~~and Motor Vehicles and shall be effective as constructive notice~~
1168 ~~when filed. The date of filing of the notice of lien is the date~~
1169 ~~of its receipt by the department's central office in~~
1170 ~~Tallahassee, if first filed there, or otherwise by the office of~~
1171 ~~a county tax collector or of the tax collector's agent.~~

1172 ~~(2) (a) The Department of Highway Safety and Motor Vehicles~~
1173 ~~shall not enter any lien upon its lien records, whether it is a~~
1174 ~~first lien or a subordinate lien, unless the official~~
1175 ~~certificate of title issued for the vessel is furnished with the~~
1176 ~~notice of lien, so that the record of lien, whether original or~~
1177 ~~subordinate, may be noted upon the face thereof. After the~~
1178 ~~department records the lien, it shall send the certificate of~~
1179 ~~title to the holder of the first lien who shall hold such~~
1180 ~~certificate until the lien is satisfied in full.~~

1181 ~~(b) When a vessel is registered in the names of two or more~~
1182 ~~persons as coowners in the alternative by the use of the word~~
1183 ~~"or," whether or not the coowners are husband and wife, each~~
1184 ~~coowner is considered to have granted to any other coowner the~~
1185 ~~absolute right to place a lien or encumbrance on the vessel, and~~
1186 ~~the signature of one coowner constitutes proper execution of the~~
1187 ~~notice of lien. When a vessel is registered in the names of two~~
1188 ~~or more persons as coowners in the conjunctive by the use of the~~
1189 ~~word "and," the signature of each coowner is required in order~~

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1190 ~~to place a lien or encumbrance on the vessel.~~

1191 ~~(c) If the owner of the vessel as shown on the title~~
1192 ~~certificate or the director of the state child support~~
1193 ~~enforcement program desires to place a second or subsequent lien~~
1194 ~~or encumbrance against the vessel when the title certificate is~~
1195 ~~in the possession of the first lienholder, the owner shall send~~
1196 ~~a written request to the first lienholder by certified mail and~~
1197 ~~such first lienholder shall forward the certificate to the~~
1198 ~~department for endorsement. The department shall return the~~
1199 ~~certificate to the first lienholder, as indicated in the notice~~
1200 ~~of lien filed by the first lienholder, after endorsing the~~
1201 ~~second or subsequent lien on the certificate and on the~~
1202 ~~duplicate. If the first lienholder fails, neglects, or refuses~~
1203 ~~to forward the certificate of title to the department within 10~~
1204 ~~days after the date of the owner's or the director's request,~~
1205 ~~the department, on written request of the subsequent lienholder~~
1206 ~~or an assignee thereof, shall demand of the first lienholder the~~
1207 ~~return of such certificate for the notation of the second or~~
1208 ~~subsequent lien or encumbrance.~~

1209 ~~(1)(3)~~ Upon the payment of a ~~any~~ such lien, the debtor or
1210 the registered owner of the motorboat shall be entitled to
1211 demand and receive from the lienholder a satisfaction of the
1212 lien which shall likewise be filed with the Department of
1213 Highway Safety and Motor Vehicles.

1214 ~~(2)(4)~~ The Department of Highway Safety and Motor Vehicles
1215 under precautionary rules and regulations to be promulgated by
1216 it may permit the use, in substitution of the formal
1217 satisfaction of lien, of other methods of satisfaction, such as
1218 perforation, appropriate stamp, or otherwise, as it deems

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1219 reasonable and adequate.

1220 (3)~~(5)~~(a) The Department of Highway Safety and Motor
1221 Vehicles shall adopt rules to administer this section. The
1222 department may by rule require that a notice of satisfaction of
1223 a lien be notarized. The department shall prepare the forms of
1224 the notice of lien and the satisfaction of lien to be supplied,
1225 at a charge not to exceed 50 percent more than cost, to
1226 applicants for recording the liens or satisfactions and shall
1227 keep a record of such notices of lien and satisfactions
1228 available for inspection by the public at all reasonable times.
1229 The division may furnish certified copies of such satisfactions
1230 for a fee of \$1, which are admissible in evidence in all courts
1231 of this state under the same conditions and to the same effect
1232 as certified copies of other public records.

1233 (b) The department shall establish and administer an
1234 electronic titling program that requires the recording of vessel
1235 title information for new, transferred, and corrected
1236 certificates of title. Lienholders shall electronically transmit
1237 liens and lien satisfactions to the department in a format
1238 determined by the department. Individuals and lienholders who
1239 the department determines are not normally engaged in the
1240 business or practice of financing vessels are not required to
1241 participate in the electronic titling program.

1242 ~~(6) The Department of Highway Safety and Motor Vehicles is~~
1243 ~~entitled to a fee of \$1 for the recording of each notice of~~
1244 ~~lien. No fee shall be charged for recording the satisfaction of~~
1245 ~~a lien. All of the fees collected shall be paid into the Marine~~
1246 ~~Resources Conservation Trust Fund.~~

1247 (4)~~(7)~~(a) Should any person, firm, or corporation holding

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1248 such lien, which has been recorded by the Department of Highway
1249 Safety and Motor Vehicles, upon payment of such lien and on
1250 demand, fail or refuse, within 30 days after such payment and
1251 demand, to furnish the debtor or the registered owner of such
1252 vessel a satisfaction of the lien, then, in that event, such
1253 person, firm, or corporation shall be held liable for all costs,
1254 damages, and expenses, including reasonable attorney ~~attorney's~~
1255 fees, lawfully incurred by the debtor or the registered owner of
1256 such vessel in any suit which may be brought in the courts of
1257 this state for the cancellation of such lien.

1258 (b) Following satisfaction of a lien, the lienholder shall
1259 enter a satisfaction thereof in the space provided on the face
1260 of the certificate of title. If there are no subsequent liens
1261 shown thereon, the certificate shall be delivered by the
1262 lienholder to the person satisfying the lien or encumbrance and
1263 an executed satisfaction on a form provided by the department
1264 shall be forwarded to the department by the lienholder within 10
1265 days after satisfaction of the lien.

1266 (c) If the certificate of title shows a subsequent lien not
1267 then being discharged, an executed satisfaction of the first
1268 lien shall be delivered by the lienholder to the person
1269 satisfying the lien and the certificate of title showing
1270 satisfaction of the first lien shall be forwarded by the
1271 lienholder to the department within 10 days after satisfaction
1272 of the lien.

1273 (d) If, upon receipt of a title certificate showing
1274 satisfaction of the first lien, the department determines from
1275 its records that there are no subsequent liens or encumbrances
1276 upon the vessel, the department shall forward to the owner, as

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1277 shown on the face of the title, a corrected certificate showing
1278 no liens or encumbrances. If there is a subsequent lien not
1279 being discharged, the certificate of title shall be reissued
1280 showing the second or subsequent lienholder as the first
1281 lienholder and shall be delivered to the new first lienholder.
1282 The first lienholder shall be entitled to retain the certificate
1283 of title until his or her lien is satisfied. Upon satisfaction
1284 of the lien, the lienholder shall be subject to the procedures
1285 required of a first lienholder in this subsection ~~and in~~
1286 ~~subsection (2).~~

1287 (5)~~(8)~~ When the original certificate of title cannot be
1288 returned to the department by the lienholder and evidence
1289 satisfactory to the department is produced that all liens or
1290 encumbrances have been satisfied, upon application by the owner
1291 for a duplicate copy of the certificate of title, upon the form
1292 prescribed by the department, accompanied by the fee prescribed
1293 in this chapter, a duplicate copy of the certificate of title
1294 without statement of liens or encumbrances shall be issued by
1295 the department and delivered to the owner.

1296 (6)~~(9)~~ Any person who fails, within 10 days after receipt
1297 of a demand by the department by certified mail, to return a
1298 certificate of title to the department ~~as required by paragraph~~
1299 ~~(2) (e)~~ or who, upon satisfaction of a lien, fails within 10 days
1300 after receipt of such demand to forward the appropriate document
1301 to the department as required by paragraph (4) (b) ~~(7) (b)~~ or
1302 paragraph (4) (c) ~~(7) (e)~~ commits a misdemeanor of the second
1303 degree, punishable as provided in s. 775.082 or s. 775.083.

1304 (7)~~(10)~~ The department shall use the last known address as
1305 shown by its records when sending any notice required by this

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1306 section.

1307 ~~(8)~~~~(11)~~ If the original lienholder sells and assigns his or
1308 her lien to some other person, and if the assignee desires to
1309 have his or her name substituted on the certificate of title as
1310 the holder of the lien, he or she may, after delivering the
1311 original certificate of title to the department and providing a
1312 sworn statement of the assignment, have his or her name
1313 substituted as a lienholder. Upon substitution of the assignee's
1314 name as lienholder, the department shall deliver the certificate
1315 of title to the assignee as the first lienholder.

1316 (9) Subsections (1), (2), and (4)-(8) shall expire October
1317 1, 2026.

1318 Section 20. Section 328.16, Florida Statutes, is amended to
1319 read:

1320 328.16 Issuance in duplicate; delivery; liens, security
1321 interests, and encumbrances.—

1322 (1) The department shall assign a number to each
1323 certificate of title and shall issue each certificate of title
1324 and each corrected certificate in duplicate. The database record
1325 shall serve as the duplicate title certificate.

1326 (2) An authorized person must sign the original certificate
1327 of title and each corrected certificate and, if there are no
1328 liens, security interests, or encumbrances on the vessel, as
1329 shown in the records of the department or as shown in the
1330 application, must deliver the certificate to the applicant or to
1331 another person as directed by the applicant or person, agent, or
1332 attorney submitting the application. If there are one or more
1333 liens, security interests, or encumbrances on the vessel, the
1334 department must deliver the certificate to the first lienholder

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

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1364 interest on that particular vessel is still outstanding, the
1365 department shall not issue the certificate to anyone until after
1366 the conflict has been settled by the lien or security interest
1367 claimants involved or by a court of competent jurisdiction. If
1368 the conflict is not settled amicably within 10 days after the
1369 final date for filing an answer to the notice to show cause, the
1370 complaining party shall have 10 days to obtain a ruling, or a
1371 stay order, from a court of competent jurisdiction. If a ruling
1372 or stay order is not issued and served on the department within
1373 the 10-day period, the department shall issue the certificate
1374 showing no liens or security interests, except those shown in
1375 the application or thereafter filed, to the original applicant
1376 if there are no liens or security interests shown in the
1377 application and none are thereafter filed, or to the person
1378 indicated as the secured party of record or in the notice of
1379 lien filed by the lienholder whose name appears in the
1380 application as the first lienholder if there are liens shown in
1381 the application or thereafter filed. A duplicate certificate or
1382 corrected certificate must show only such security interest or
1383 interests or lien or liens as were shown in the application and
1384 subsequently filed liens or security interests that may be
1385 outstanding.

1386 (3) ~~Except as provided in s. 328.15(11),~~ The certificate of
1387 title shall be retained by the first lienholder or secured party
1388 of record. The first lienholder or secured party of record is
1389 entitled to retain the certificate until the first lien or
1390 security interest is satisfied.

1391 (4) Notwithstanding any requirements in this section ~~or in~~
1392 ~~s. 328.15~~ indicating that a lien or security interest on a

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1393 vessel shall be noted on the face of the Florida certificate of
1394 title, if there are one or more liens, security interests, or
1395 encumbrances on a vessel, the department shall electronically
1396 transmit the lien or security interest to the first lienholder
1397 or secured party and notify the first lienholder or secured
1398 party of any additional liens or security interests. Subsequent
1399 lien or security interest satisfactions shall be electronically
1400 transmitted to the department and must include the name and
1401 address of the person or entity satisfying the lien or security
1402 interest. When electronic transmission of liens or security
1403 interests and lien satisfactions or security interests are used,
1404 the issuance of a certificate of title may be waived until the
1405 last lien or security interest is satisfied and a clear
1406 certificate of title is issued to the owner of the vessel.

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

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1422 lienholder or secured party within the 10-day period. However,
1423 if the lienholder or secured party files with the department,
1424 within the 10-day period, a written statement that the lien or
1425 security interest is still outstanding, the department may not
1426 remove the lien or security interest until the lienholder or
1427 secured party presents a satisfaction of lien or satisfaction of
1428 security interest to the department.

1429 Section 21. Subsection (1) of section 328.165, Florida
1430 Statutes, is amended to read:

1431 328.165 Cancellation of certificates.-

1432 (1) If it appears that a certificate of title has been
1433 improperly issued, the department shall cancel the certificate.
1434 Upon cancellation of any certificate of title, the department
1435 shall notify the person to whom the certificate of title was
1436 issued, and any lienholders or secured parties appearing
1437 thereon, of the cancellation and shall demand the surrender of
1438 the certificate of title; however, the cancellation does not
1439 affect the validity of any lien or security interest noted
1440 thereon. The holder of the certificate of title shall
1441 immediately return it to the department. If a certificate of
1442 registration has been issued to the holder of a certificate of
1443 title so canceled, the department shall immediately cancel the
1444 certificate of registration and demand the return of the
1445 certificate of registration, and the holder of such certificate
1446 of registration shall immediately return it to the department.

1447 Section 22. Section 328.215, Florida Statutes, is created
1448 to read:

1449 328.215 Application for transfer of ownership or
1450 termination of security interest without certificate of title.-

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1451 (1) Except as otherwise provided in s. 328.23 or s. 328.24,
1452 if the department receives, unaccompanied by a signed
1453 certificate of title, an application for a new certificate that
1454 includes an indication of a transfer of ownership or a
1455 termination statement, the department may create a new
1456 certificate under this section only if:

1457 (a) All other requirements under ss. 328.01 and 328.09 are
1458 met;

1459 (b) The applicant provides an affidavit stating facts
1460 showing the applicant is entitled to a transfer of ownership or
1461 termination statement;

1462 (c) The applicant provides the department with satisfactory
1463 evidence that notification of the application has been sent to
1464 the owner of record and all persons indicated in the files of
1465 the department as having an interest, including a security
1466 interest, in the vessel; at least 45 days have passed since the
1467 notification was sent; and the department has not received an
1468 objection from any of those persons; and

1469 (d) The applicant submits any other information required by
1470 the department as evidence of the applicant's ownership or right
1471 to terminate the security interest, and the department has no
1472 credible information indicating theft, fraud, or an undisclosed
1473 or unsatisfied security interest, lien, or other claim to an
1474 interest in the vessel.

1475 (2) The department may indicate in a certificate of title
1476 created under subsection (1) that the certificate was created
1477 without submission of a signed certificate or termination
1478 statement. Unless credible information indicating theft, fraud,
1479 or an undisclosed or unsatisfied security interest, lien, or

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1480 other claim to an interest in the vessel is delivered to the
1481 department not later than 1 year after creation of the
1482 certificate, on request in a form and manner required by the
1483 department, the department shall remove the indication from the
1484 certificate.

1485 (3) Before the department creates a certificate of title
1486 under subsection (1), the department may require the applicant
1487 to post a reasonable bond or provide an equivalent source of
1488 indemnity or security. The bond, indemnity, or other security
1489 must be in a form required by the department and provide for
1490 indemnification of any owner, purchaser, or other claimant for
1491 any expense, loss, delay, or damage, including reasonable
1492 attorney fees and costs, but not including incidental or
1493 consequential damages, resulting from creation or amendment of
1494 the certificate.

1495 (4) Unless the department receives a claim for indemnity
1496 not later than 1 year after creation of a certificate of title
1497 under subsection (1), on request in a form and manner required
1498 by the department, the department shall release any bond,
1499 indemnity, or other security. The department is not liable to a
1500 person or entity for creating a certificate of title under this
1501 section when the department issues the certificate of title in
1502 good faith based on the information provided by an applicant. An
1503 applicant that submits erroneous or fraudulent information with
1504 the intent to mislead the department into issuing a certificate
1505 of title under this section is subject to the penalties
1506 established in s. 328.045(4) in addition to any other criminal
1507 or civil penalties provided by law.

1508 Section 23. Section 328.22, Florida Statutes, is created to

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1509 read:

1510 328.22 Transfer of ownership.—

1511 (1) On voluntary transfer of an ownership interest in a
1512 vessel covered by a certificate of title, the following
1513 requirements apply:

1514 (a) If the certificate is a written certificate of title
1515 and the transferor's interest is noted on the certificate, the
1516 transferor shall promptly sign the certificate and deliver it to
1517 the transferee. If the transferor does not have possession of
1518 the certificate, the person in possession of the certificate has
1519 a duty to facilitate the transferor's compliance with this
1520 paragraph. A secured party does not have a duty to facilitate
1521 the transferor's compliance with this paragraph if the proposed
1522 transfer is prohibited by the security agreement.

1523 (b) If the certificate of title is an electronic
1524 certificate of title, the transferor shall promptly sign by
1525 hand, or electronically if available, and deliver to the
1526 transferee a record evidencing the transfer of ownership to the
1527 transferee.

1528 (c) The transferee has a right enforceable by specific
1529 performance to require the transferor to comply with paragraph
1530 (a) or paragraph (b).

1531 (2) The creation of a certificate of title identifying the
1532 transferee as owner of record satisfies subsection (1).

1533 (3) A failure to comply with subsection (1) or to apply for
1534 a new certificate of title does not render a transfer of
1535 ownership of a vessel ineffective between the parties. Except as
1536 otherwise provided in s. 328.101, s. 328.14(1), s. 328.145, or
1537 s. 328.23, a transfer of ownership without compliance with

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1538 subsection (1) is not effective against another person claiming
1539 an interest in the vessel.

1540 (4) A transferor that complies with subsection (1) is not
1541 liable as owner of the vessel for an event occurring after the
1542 transfer, regardless of whether the transferee applies for a new
1543 certificate of title.

1544 Section 24. Section 328.23, Florida Statutes, is created to
1545 read:

1546 328.23 Transfer of ownership by secured party's transfer
1547 statement.—

1548 (1) For the purposes of this section, "secured party's
1549 transfer statement" means a record signed by the secured party
1550 of record stating:

1551 (a) That there has been a default on an obligation secured
1552 by the vessel;

1553 (b) That the secured party of record is exercising or has
1554 exercised post-default remedies with respect to the vessel;

1555 (c) That by reason of the exercise, the secured party of
1556 record has the right to transfer the ownership interest of an
1557 owner, and the name of the owner;

1558 (d) The name and last known mailing address of the owner of
1559 record and the secured party of record;

1560 (e) The name of the transferee;

1561 (f) Other information required by s. 328.01(2); and

1562 (g) One of the following:

1563 1. The certificate of title is an electronic certificate.

1564 2. The secured party does not have possession of the
1565 written certificate of title created in the name of the owner of
1566 record.

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1567 3. The secured party is delivering the written certificate
1568 of title to the department with the secured party's transfer
1569 statement.

1570 (2) Unless the department rejects a secured party's
1571 transfer statement for a reason stated in s. 328.09(3), not
1572 later than 30 days after delivery to the department of the
1573 statement and payment of fees and taxes payable under the laws
1574 of this state, other than this part, in connection with the
1575 statement or the acquisition or use of the vessel, the
1576 department shall:

1577 (a) Accept the statement;

1578 (b) Amend the files of the department to reflect the
1579 transfer; and

1580 (c) If the name of the owner whose ownership interest is
1581 being transferred is indicated on the certificate of title:

1582 1. Cancel the certificate even if the certificate has not
1583 been delivered to the department;

1584 2. Create a new certificate indicating the transferee as
1585 owner; and

1586 3. Deliver the new certificate or a record evidencing an
1587 electronic certificate.

1588 (3) An application under subsection (1) or the creation of
1589 a certificate of title under subsection (2) is not by itself a
1590 disposition of the vessel and does not by itself relieve the
1591 secured party of its duties under chapter 679.

1592 Section 25. Section 328.24, Florida Statutes, is created to
1593 read:

1594 328.24 Transfer by operation of law.—

1595 (1) For the purposes of this section, "by operation of law"

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1596 means pursuant to a law or judicial order affecting ownership of
1597 a vessel:

1598 (a) Because of death, divorce, or other family law
1599 proceeding, merger, consolidation, dissolution, or bankruptcy;

1600 (b) Through the exercise of the rights of a lien creditor
1601 or a person having a lien created by statute or rule of law; or

1602 (c) Through other legal process.

1603 (2) A transfer-by-law statement must contain:

1604 (a) The name and last known mailing address of the owner of
1605 record and the transferee and the other information required by
1606 s. 328.01;

1607 (b) Documentation sufficient to establish the transferee's
1608 ownership interest or right to acquire the ownership interest;

1609 (c) A statement that:

1610 1. The certificate of title is an electronic certificate of
1611 title;

1612 2. The transferee does not have possession of the written
1613 certificate of title created in the name of the owner of record;
1614 or

1615 3. The transferee is delivering the written certificate to
1616 the department with the transfer-by-law statement; and

1617 (d) Except for a transfer described in paragraph (1) (a),
1618 evidence that notification of the transfer and the intent to
1619 file the transfer-by-law statement has been sent to all persons
1620 indicated in the files of the department as having an interest,
1621 including a security interest, in the vessel.

1622 (3) Unless the department rejects a transfer-by-law
1623 statement for a reason stated in s. 328.09(3) or because the
1624 statement does not include documentation satisfactory to the

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1625 department as to the transferee's ownership interest or right to
1626 acquire the ownership interest, not later than 30 days after
1627 delivery to the department of the statement and payment of fees
1628 and taxes payable under the law of this state, other than this
1629 part, in connection with the statement or with the acquisition
1630 or use of the vessel, the department shall:

1631 (a) Accept the statement;

1632 (b) Amend the files of the department to reflect the
1633 transfer; and

1634 (c) If the name of the owner whose ownership interest is
1635 being transferred is indicated on the certificate of title:

1636 1. Cancel the certificate even if the certificate has not
1637 been delivered to the department;

1638 2. Create a new certificate indicating the transferee as
1639 owner;

1640 3. Indicate on the new certificate any security interest
1641 indicated on the canceled certificate, unless a court order
1642 provides otherwise; and

1643 4. Deliver the new certificate or a record evidencing an
1644 electronic certificate.

1645 (4) This section does not apply to a transfer of an
1646 interest in a vessel by a secured party under part VI of chapter
1647 679.

1648 Section 26. Section 328.25, Florida Statutes, is created to
1649 read:

1650 328.25 Supplemental principles of law and equity.—Unless
1651 displaced by a provision of this part, the principles of law and
1652 equity supplement its provisions.

1653 Section 27. Section 328.41, Florida Statutes, is created to

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1654 read:

1655 328.41 Rulemaking.—The department may adopt rules pursuant
1656 to ss. 120.536(1) and 120.54 to implement this part.

1657 Section 28. Section 409.2575, Florida Statutes, is amended
1658 to read:

1659 409.2575 Liens on motor vehicles and vessels.—

1660 (1) The director of the state IV-D program, or the
1661 director's designee, may cause a lien for unpaid and delinquent
1662 support to be placed upon motor vehicles, as defined in chapter
1663 320, and upon vessels, as defined in chapter 327, that are
1664 registered in the name of an obligor who is delinquent in
1665 support payments, if the title to the property is held by a
1666 lienholder, in the manner provided in chapter 319 or, if
1667 applicable in accordance with s. 328.15(9), chapter 328. Notice
1668 of lien shall not be mailed unless the delinquency in support
1669 exceeds \$600.

1670 (2) If the first lienholder fails, neglects, or refuses to
1671 forward the certificate of title to the appropriate department
1672 as requested pursuant to s. 319.24 or, if applicable in
1673 accordance with s. 328.15(9), s. 328.15, the director of the IV-
1674 D program, or the director's designee, may apply to the circuit
1675 court for an order to enforce the requirements of s. 319.24 or
1676 s. 328.15, whichever applies.

1677 Section 29. Subsection (2) of section 705.103, Florida
1678 Statutes, is amended to read:

1679 705.103 Procedure for abandoned or lost property.—

1680 (2) Whenever a law enforcement officer ascertains that an
1681 article of lost or abandoned property is present on public
1682 property and is of such nature that it cannot be easily removed,

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1683 the officer shall cause a notice to be placed upon such article
1684 in substantially the following form:
1685
1686 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
1687 PROPERTY. This property, to wit: ...(setting forth brief
1688 description)... is unlawfully upon public property known as
1689 ...(setting forth brief description of location)... and must be
1690 removed within 5 days; otherwise, it will be removed and
1691 disposed of pursuant to chapter 705, Florida Statutes. The owner
1692 will be liable for the costs of removal, storage, and
1693 publication of notice. Dated this: ...(setting forth the date of
1694 posting of notice)..., signed: ...(setting forth name, title,
1695 address, and telephone number of law enforcement officer)....
1696 Such notice shall be not less than 8 inches by 10 inches and
1697 shall be sufficiently weatherproof to withstand normal exposure
1698 to the elements. In addition to posting, the law enforcement
1699 officer shall make a reasonable effort to ascertain the name and
1700 address of the owner. If such is reasonably available to the
1701 officer, she or he shall mail a copy of such notice to the owner
1702 on or before the date of posting. If the property is a motor
1703 vehicle as defined in s. 320.01(1) or a vessel as defined in s.
1704 327.02, the law enforcement agency shall contact the Department
1705 of Highway Safety and Motor Vehicles in order to determine the
1706 name and address of the owner and any person who has filed a
1707 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)
1708 ~~or s. 328.15(1)~~. On receipt of this information, the law
1709 enforcement agency shall mail a copy of the notice by certified
1710 mail, return receipt requested, to the owner and to the
1711 lienholder, if any, except that a law enforcement officer who

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1712 has issued a citation for a violation of s. 823.11 to the owner
1713 of a derelict vessel is not required to mail a copy of the
1714 notice by certified mail, return receipt requested, to the
1715 owner. If, at the end of 5 days after posting the notice and
1716 mailing such notice, if required, the owner or any person
1717 interested in the lost or abandoned article or articles
1718 described has not removed the article or articles from public
1719 property or shown reasonable cause for failure to do so, the
1720 following shall apply:

1721 (a) For abandoned property, the law enforcement agency may
1722 retain any or all of the property for its own use or for use by
1723 the state or unit of local government, trade such property to
1724 another unit of local government or state agency, donate the
1725 property to a charitable organization, sell the property, or
1726 notify the appropriate refuse removal service.

1727 (b) For lost property, the officer shall take custody and
1728 the agency shall retain custody of the property for 90 days. The
1729 agency shall publish notice of the intended disposition of the
1730 property, as provided in this section, during the first 45 days
1731 of this time period.

1732 1. If the agency elects to retain the property for use by
1733 the unit of government, donate the property to a charitable
1734 organization, surrender such property to the finder, sell the
1735 property, or trade the property to another unit of local
1736 government or state agency, notice of such election shall be
1737 given by an advertisement published once a week for 2
1738 consecutive weeks in a newspaper of general circulation in the
1739 county where the property was found if the value of the property
1740 is more than \$100. If the value of the property is \$100 or less,

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1741 notice shall be given by posting a description of the property
1742 at the law enforcement agency where the property was turned in.
1743 The notice must be posted for not less than 2 consecutive weeks
1744 in a public place designated by the law enforcement agency. The
1745 notice must describe the property in a manner reasonably
1746 adequate to permit the rightful owner of the property to claim
1747 it.

1748 2. If the agency elects to sell the property, it must do so
1749 at public sale by competitive bidding. Notice of the time and
1750 place of the sale shall be given by an advertisement of the sale
1751 published once a week for 2 consecutive weeks in a newspaper of
1752 general circulation in the county where the sale is to be held.
1753 The notice shall include a statement that the sale shall be
1754 subject to any and all liens. The sale must be held at the
1755 nearest suitable place to that where the lost or abandoned
1756 property is held or stored. The advertisement must include a
1757 description of the goods and the time and place of the sale. The
1758 sale may take place no earlier than 10 days after the final
1759 publication. If there is no newspaper of general circulation in
1760 the county where the sale is to be held, the advertisement shall
1761 be posted at the door of the courthouse and at three other
1762 public places in the county at least 10 days prior to sale.
1763 Notice of the agency's intended disposition shall describe the
1764 property in a manner reasonably adequate to permit the rightful
1765 owner of the property to identify it.

1766 Section 30. Paragraph (c) of subsection (2) of section
1767 721.08, Florida Statutes, is amended to read:

1768 721.08 Escrow accounts; nondisturbance instruments;
1769 alternate security arrangements; transfer of legal title.-

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1770 (2) One hundred percent of all funds or other property
1771 which is received from or on behalf of purchasers of the
1772 timeshare plan or timeshare interest prior to the occurrence of
1773 events required in this subsection shall be deposited pursuant
1774 to an escrow agreement approved by the division. The funds or
1775 other property may be released from escrow only as follows:

1776 (c) *Compliance with conditions.*—

1777 1. Timeshare licenses.—If the timeshare plan is one in
1778 which timeshare licenses are to be sold and no cancellation or
1779 default has occurred, the escrow agent may release the escrowed
1780 funds or other property to or on the order of the developer upon
1781 presentation of:

1782 a. An affidavit by the developer that all of the following
1783 conditions have been met:

1784 (I) Expiration of the cancellation period.

1785 (II) Completion of construction.

1786 (III) Closing.

1787 (IV) Either:

1788 (A) Execution, delivery, and recordation by each
1789 interestholder of the nondisturbance and notice to creditors
1790 instrument, as described in this section; or

1791 (B) Transfer by the developer of legal title to the subject
1792 accommodations and facilities, or all use rights therein, into a
1793 trust satisfying the requirements of subparagraph 4. and the
1794 execution, delivery, and recordation by each other
1795 interestholder of the nondisturbance and notice to creditors
1796 instrument, as described in this section.

1797 b. A certified copy of each recorded nondisturbance and
1798 notice to creditors instrument.

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1799 c. One of the following:

1800 (I) A copy of a memorandum of agreement, as defined in s.
1801 721.05, together with satisfactory evidence that the original
1802 memorandum of agreement has been irretrievably delivered for
1803 recording to the appropriate official responsible for
1804 maintaining the public records in the county in which the
1805 subject accommodations and facilities are located. The original
1806 memorandum of agreement must be recorded within 180 days after
1807 the date on which the purchaser executed her or his purchase
1808 agreement.

1809 (II) A notice delivered for recording to the appropriate
1810 official responsible for maintaining the public records in each
1811 county in which the subject accommodations and facilities are
1812 located notifying all persons of the identity of an independent
1813 escrow agent or trustee satisfying the requirements of
1814 subparagraph 4. that shall maintain separate books and records,
1815 in accordance with good accounting practices, for the timeshare
1816 plan in which timeshare licenses are to be sold. The books and
1817 records shall indicate each accommodation and facility that is
1818 subject to such a timeshare plan and each purchaser of a
1819 timeshare license in the timeshare plan.

1820 2. Timeshare estates.—If the timeshare plan is one in which
1821 timeshare estates are to be sold and no cancellation or default
1822 has occurred, the escrow agent may release the escrowed funds or
1823 other property to or on the order of the developer upon
1824 presentation of:

1825 a. An affidavit by the developer that all of the following
1826 conditions have been met:

1827 (I) Expiration of the cancellation period.

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- 1828 (II) Completion of construction.
- 1829 (III) Closing.
- 1830 b. If the timeshare estate is sold by agreement for deed, a
- 1831 certified copy of the recorded nondisturbance and notice to
- 1832 creditors instrument, as described in this section.
- 1833 c. Evidence that each accommodation and facility:
- 1834 (I) Is free and clear of the claims of any interestholders,
- 1835 other than the claims of interestholders that, through a
- 1836 recorded instrument, are irrevocably made subject to the
- 1837 timeshare instrument and the use rights of purchasers made
- 1838 available through the timeshare instrument;
- 1839 (II) Is the subject of a recorded nondisturbance and notice
- 1840 to creditors instrument that complies with subsection (3) and s.
- 1841 721.17; or
- 1842 (III) Has been transferred into a trust satisfying the
- 1843 requirements of subparagraph 4.
- 1844 d. Evidence that the timeshare estate:
- 1845 (I) Is free and clear of the claims of any interestholders,
- 1846 other than the claims of interestholders that, through a
- 1847 recorded instrument, are irrevocably made subject to the
- 1848 timeshare instrument and the use rights of purchasers made
- 1849 available through the timeshare instrument; or
- 1850 (II) Is the subject of a recorded nondisturbance and notice
- 1851 to creditors instrument that complies with subsection (3) and s.
- 1852 721.17.
- 1853 3. Personal property timeshare interests.—If the timeshare
- 1854 plan is one in which personal property timeshare interests are
- 1855 to be sold and no cancellation or default has occurred, the
- 1856 escrow agent may release the escrowed funds or other property to

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1857 or on the order of the developer upon presentation of:

1858 a. An affidavit by the developer that all of the following
1859 conditions have been met:

1860 (I) Expiration of the cancellation period.

1861 (II) Completion of construction.

1862 (III) Closing.

1863 b. If the personal property timeshare interest is sold by
1864 agreement for transfer, evidence that the agreement for transfer
1865 complies fully with s. 721.06 and this section.

1866 c. Evidence that one of the following has occurred:

1867 (I) Transfer by the owner of the underlying personal
1868 property of legal title to the subject accommodations and
1869 facilities or all use rights therein into a trust satisfying the
1870 requirements of subparagraph 4.; or

1871 (II) Transfer by the owner of the underlying personal
1872 property of legal title to the subject accommodations and
1873 facilities or all use rights therein into an owners' association
1874 satisfying the requirements of subparagraph 5.

1875 d. Evidence of compliance with the provisions of
1876 subparagraph 6., if required.

1877 e. If a personal property timeshare plan is created with
1878 respect to accommodations and facilities that are located on or
1879 in an oceangoing vessel, including a "documented vessel" or a
1880 "foreign vessel," as defined and governed by 46 U.S.C. chapter
1881 301:

1882 (I) In making the transfer required in sub-subparagraph c.,
1883 the developer shall use as its transfer instrument a document
1884 that establishes and protects the continuance of the use rights
1885 in the subject accommodations and facilities in a manner that is

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1886 enforceable by the trust or owners' association.

1887 (II) The transfer instrument shall comply fully with the
1888 provisions of this chapter, shall be part of the timeshare
1889 instrument, and shall contain specific provisions that:

1890 (A) Prohibit the vessel owner, the developer, any manager
1891 or operator of the vessel, the owners' association or the
1892 trustee, the managing entity, or any other person from incurring
1893 any liens against the vessel except for liens that are required
1894 for the operation and upkeep of the vessel, including liens for
1895 fuel expenditures, repairs, crews' wages, and salvage, and
1896 except as provided in sub-sub-subparagraphs 4.b.(III) and
1897 5.b.(III). All expenses, fees, and taxes properly incurred in
1898 connection with the creation, satisfaction, and discharge of any
1899 such permitted lien, or a prorated portion thereof if less than
1900 all of the accommodations on the vessel are subject to the
1901 timeshare plan, shall be common expenses of the timeshare plan.

1902 (B) Grant a lien against the vessel in favor of the owners'
1903 association or trustee to secure the full and faithful
1904 performance of the vessel owner and developer of all of their
1905 obligations to the purchasers.

1906 (C) Establish governing law in a jurisdiction that
1907 recognizes and will enforce the timeshare instrument and the
1908 laws of the jurisdiction of registry of the vessel.

1909 (D) Require that a description of the use rights of
1910 purchasers be posted and displayed on the vessel in a manner
1911 that will give notice of such rights to any party examining the
1912 vessel. This notice must identify the owners' association or
1913 trustee and include a statement disclosing the limitation on
1914 incurring liens against the vessel described in sub-sub-sub-

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1915 subparagraph (A).

1916 (E) Include the nondisturbance and notice to creditors
1917 instrument for the vessel owner and any other interestholders.

1918 (F) The owners' association created under subparagraph 5.
1919 or trustee created under subparagraph 4. shall have access to
1920 any certificates of classification in accordance with the
1921 timeshare instrument.

1922 (III) If the vessel is a foreign vessel, the vessel must be
1923 registered in a jurisdiction that permits a filing evidencing
1924 the use rights of purchasers in the subject accommodations and
1925 facilities, offers protection for such use rights against
1926 unfiled and inferior claims, and recognizes the document or
1927 instrument creating such use rights as a lien against the
1928 vessel.

1929 (IV) In addition to the disclosures required by s.
1930 721.07(5), the public offering statement and purchase contract
1931 must contain a disclosure in conspicuous type in substantially
1932 the following form:

1933
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*

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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
1948 4. Trust.—

1949 a. If the subject accommodations or facilities, or all use
1950 rights therein, are to be transferred into a trust in order to
1951 comply with this paragraph, such transfer shall take place
1952 pursuant to this subparagraph. If the accommodations or
1953 facilities included in such transfer are subject to a lease, the
1954 unexpired term of the lease must be disclosed as the term of the
1955 timeshare plan pursuant to s. 721.07(5)(f)4.

1956 b. Prior to the transfer of the subject accommodations and
1957 facilities, or all use rights therein, to a trust, any lien or
1958 other encumbrance against such accommodations and facilities, or
1959 use rights therein, shall be made subject to a nondisturbance
1960 and notice to creditors instrument pursuant to subsection (3).
1961 No transfer pursuant to this subparagraph shall become effective
1962 until the trustee accepts such transfer and the responsibilities
1963 set forth herein. A trust established pursuant to this
1964 subparagraph shall comply with the following provisions:

1965 (I) The trustee shall be an individual or a business entity
1966 authorized and qualified to conduct trust business in this
1967 state. Any corporation authorized to do business in this state
1968 may act as trustee in connection with a timeshare plan pursuant
1969 to this chapter. The trustee must be independent from any
1970 developer or managing entity of the timeshare plan or any
1971 interestholder of any accommodation or facility of such plan.

1972 (II) The trust shall be irrevocable so long as any

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1973 purchaser has a right to occupy any portion of the timeshare
1974 property pursuant to the timeshare plan.

1975 (III) The trustee shall not convey, hypothecate, mortgage,
1976 assign, lease, or otherwise transfer or encumber in any fashion
1977 any interest in or portion of the timeshare property with
1978 respect to which any purchaser has a right of use or occupancy
1979 unless the timeshare plan is terminated pursuant to the
1980 timeshare instrument, or such conveyance, hypothecation,
1981 mortgage, assignment, lease, transfer, or encumbrance is
1982 approved by a vote of two-thirds of all voting interests of the
1983 timeshare plan. Subject to s. 721.552, a vote of the voting
1984 interests of the timeshare plan is not required for substitution
1985 or automatic deletion of accommodations or facilities.

1986 (IV) All purchasers of the timeshare plan or the owners'
1987 association of the timeshare plan shall be the express
1988 beneficiaries of the trust. The trustee shall act as a fiduciary
1989 to the beneficiaries of the trust. The personal liability of the
1990 trustee shall be governed by ss. 736.08125, 736.08163, 736.1013,
1991 and 736.1015. The agreement establishing the trust shall set
1992 forth the duties of the trustee. The trustee shall be required
1993 to furnish promptly to the division upon request a copy of the
1994 complete list of the names and addresses of the owners in the
1995 timeshare plan and a copy of any other books and records of the
1996 timeshare plan required to be maintained pursuant to s. 721.13
1997 that are in the possession, custody, or control of the trustee.
1998 All expenses reasonably incurred by the trustee in the
1999 performance of its duties, together with any reasonable
2000 compensation of the trustee, shall be common expenses of the
2001 timeshare plan.

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2002 (V) The trustee shall not resign upon less than 90 days'
2003 prior written notice to the managing entity and the division. No
2004 resignation shall become effective until a substitute trustee,
2005 approved by the division, is appointed by the managing entity
2006 and accepts the appointment.

2007 (VI) The documents establishing the trust arrangement shall
2008 constitute a part of the timeshare instrument.

2009 (VII) For trusts holding property in a timeshare plan
2010 located outside this state, the trust and trustee holding such
2011 property shall be deemed in compliance with the requirements of
2012 this subparagraph if such trust and trustee are authorized and
2013 qualified to conduct trust business under the laws of such
2014 jurisdiction and the agreement or law governing such trust
2015 arrangement provides substantially similar protections for the
2016 purchaser as are required in this subparagraph for trusts
2017 holding property in a timeshare plan in this state.

2018 (VIII) The trustee shall have appointed a registered agent
2019 in this state for service of process. In the event such a
2020 registered agent is not appointed, service of process may be
2021 served pursuant to s. 721.265.

2022 5. Owners' association.—

2023 a. If the subject accommodations or facilities, or all use
2024 rights therein, are to be transferred into an owners'
2025 association in order to comply with this paragraph, such
2026 transfer shall take place pursuant to this subparagraph.

2027 b. Before the transfer of the subject accommodations and
2028 facilities, or all use rights therein, to an owners'
2029 association, any lien or other encumbrance against such
2030 accommodations and facilities, or use rights therein, shall be

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2031 made subject to a nondisturbance and notice to creditors
2032 instrument pursuant to subsection (3). No transfer pursuant to
2033 this subparagraph shall become effective until the owners'
2034 association accepts such transfer and the responsibilities set
2035 forth herein. An owners' association established pursuant to
2036 this subparagraph shall comply with the following provisions:

2037 (I) The owners' association shall be a business entity
2038 authorized and qualified to conduct business in this state.
2039 Control of the board of directors of the owners' association
2040 must be independent from any developer or managing entity of the
2041 timeshare plan or any interestholder.

2042 (II) The bylaws of the owners' association shall provide
2043 that the corporation may not be voluntarily dissolved without
2044 the unanimous vote of all owners of personal property timeshare
2045 interests so long as any purchaser has a right to occupy any
2046 portion of the timeshare property pursuant to the timeshare
2047 plan.

2048 (III) The owners' association shall not convey,
2049 hypothecate, mortgage, assign, lease, or otherwise transfer or
2050 encumber in any fashion any interest in or portion of the
2051 timeshare property with respect to which any purchaser has a
2052 right of use or occupancy, unless the timeshare plan is
2053 terminated pursuant to the timeshare instrument, or unless such
2054 conveyance, hypothecation, mortgage, assignment, lease,
2055 transfer, or encumbrance is approved by a vote of two-thirds of
2056 all voting interests of the association and such decision is
2057 declared by a court of competent jurisdiction to be in the best
2058 interests of the purchasers of the timeshare plan. The owners'
2059 association shall notify the division in writing within 10 days

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2060 after receiving notice of the filing of any petition relating to
2061 obtaining such a court order. The division shall have standing
2062 to advise the court of the division's interpretation of the
2063 statute as it relates to the petition.

2064 (IV) All purchasers of the timeshare plan shall be members
2065 of the owners' association and shall be entitled to vote on
2066 matters requiring a vote of the owners' association as provided
2067 in this chapter or the timeshare instrument. The owners'
2068 association shall act as a fiduciary to the purchasers of the
2069 timeshare plan. The articles of incorporation establishing the
2070 owners' association shall set forth the duties of the owners'
2071 association. All expenses reasonably incurred by the owners'
2072 association in the performance of its duties, together with any
2073 reasonable compensation of the officers or directors of the
2074 owners' association, shall be common expenses of the timeshare
2075 plan.

2076 (V) The documents establishing the owners' association
2077 shall constitute a part of the timeshare instrument.

2078 (VI) For owners' associations holding property in a
2079 timeshare plan located outside this state, the owners'
2080 association holding such property shall be deemed in compliance
2081 with the requirements of this subparagraph if such owners'
2082 association is authorized and qualified to conduct owners'
2083 association business under the laws of such jurisdiction and the
2084 agreement or law governing such arrangement provides
2085 substantially similar protections for the purchaser as are
2086 required in this subparagraph for owners' associations holding
2087 property in a timeshare plan in this state.

2088 (VII) The owners' association shall have appointed a

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2089 registered agent in this state for service of process. In the
2090 event such a registered agent cannot be located, service of
2091 process may be made pursuant to s. 721.265.

2092 6. Personal property subject to certificate of title.—If
2093 any personal property that is an accommodation or facility of a
2094 timeshare plan is subject to a certificate of title in this
2095 state pursuant to chapter 319 or chapter 328, the following
2096 notation must be made on such certificate of title pursuant to
2097 s. 319.27(1) or s. 328.15 ~~s. 328.15(1)~~:

2098
2099 *The further transfer or encumbrance of the property subject to*
2100 *this certificate of title, or any lien or encumbrance thereon,*
2101 *is subject to the requirements of section 721.17, Florida*
2102 *Statutes, and the transferee or lienor agrees to be bound by all*
2103 *of the obligations set forth therein.*

2104
2105 7. If the developer has previously provided a certified
2106 copy of any document required by this paragraph, she or he may
2107 for all subsequent disbursements substitute a true and correct
2108 copy of the certified copy, provided no changes to the document
2109 have been made or are required to be made.

2110 8. In the event that use rights relating to an
2111 accommodation or facility are transferred into a trust pursuant
2112 to subparagraph 4. or into an owners' association pursuant to
2113 subparagraph 5., all other interestholders, including the owner
2114 of the underlying fee or underlying personal property, must
2115 execute a nondisturbance and notice to creditors instrument
2116 pursuant to subsection (3).

2117 Section 31. (1) The rights, duties, and interests flowing

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2118 from a transaction, certificate of title, or record relating to
2119 a vessel which was validly entered into or created before the
2120 effective date of this act and would be subject to this act if
2121 it had been entered into or created on or after the effective
2122 date of this act remain valid on and after the effective date of
2123 this act.

2124 (2) This act does not affect an action or a proceeding
2125 commenced before the effective date of this act.

2126 (3) Except as otherwise provided in subsection (4), a
2127 security interest that is enforceable immediately before the
2128 effective date of this act and would have priority over the
2129 rights of a person who becomes a lien creditor at that time is a
2130 perfected security interest under this act.

2131 (4) A security interest perfected immediately before the
2132 effective date of this act remains perfected until the earlier
2133 of:

2134 (a) The time perfection would have ceased under the law
2135 under which the security interest was perfected; or

2136 (b) Three years after the effective date of this act.

2137 (5) This act does not affect the priority of a security
2138 interest in a vessel if immediately before the effective date of
2139 this act the security interest is enforceable and perfected, and
2140 that priority is established.

2141 Section 32. Subject to section 25, this act applies to any
2142 transaction, certificate of title, or record relating to a
2143 vessel, even if the transaction, certificate of title, or record
2144 was entered into or created before the effective date of this
2145 act.

2146 Section 33. This act shall take effect July 1, 2023.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 676

INTRODUCER: Infrastructure and Security Committee and Senator Hooper

SUBJECT: Certificates of Title for Vessels

DATE: March 28, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	IS	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 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

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.

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 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;

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.

⁸ Section 328.01(3)(c), F.S.

⁹ Section 328.01(3)(d), F.S.

- 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 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, 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 law of the state 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 30 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 from an owner or insurer, the DHSMV has 30 days to create a new certificate that includes the title brand designation, "Hull Damaged." An owner or insurer who fails to comply with the above disclosures, or a person who solicits or colludes in a failure by an owner, or an insurer that fails to apply for a new, branded certificate, commits a noncriminal infraction under s. 327.73, F.S.,³⁴ for which the penalty is:

- \$5,000 for the first offense,
- \$15,000 for a second offense, and
- \$25,000 for each subsequent offense.

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;

³⁴ This section of current law provides penalties for violations of the state's vessel laws.

- 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 a 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 30 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, a DHSMV decision to reject an application for a certificate of title under this new section of law is subject to an administrative hearing during which the owner and any other interested person may present evidence in support of or opposition to rejection of application for a certificate of title or 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 unintended scrivener's errors or does not contain required information if DHSMV determines the missing information to be inconsequential to the issuance of a certificate of title or other record 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.

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 for recording each notice of lien.

The bill sunsets the following provisions of s. 328.15, F.S., on October 1, 2026, 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 the applicant to post a reasonable bond or provide an equivalent source of indemnity or security for a vessel title that has a transfer of ownership or security interest and is titled without a signed certificate of title. 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.

The bill provides the DHSMV is not liable to a person or entity for creating a certificate under this new section of law when the DHSMV issues the certificate in good faith based on the information provided by the applicant. An applicant that submits erroneous or fraudulent information with intent to mislead the DHSMV is subject, in addition to any other criminal or civil penalties provided by law, to the following penalties:

- \$5,000 for the first offense,
- \$15,000 for a second offense, and
- \$25,000 for each subsequent offense.

Transfer of Ownership

Section 23 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 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 by hand, or electronically if available, 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 within 30 days:

- 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 within 30 days:

- 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.

Rulemaking

Section 27 creates s. 328.41, F.S., authorizing the DHSMV to adopt rules to implement part I of ch. 328, F.S.

“Grandfather” Provisions

Sections 31 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 the effective date of the bill, July 1, 2023 remains valid.

The bill does not affect an action or proceeding commenced before July 1, 2023.

A security interest that is enforceable immediately before the effective date of the bill 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
- July 1, 2026.

The bill does not affect the priority of a security interest in a vessel if immediately before July 1, 2023, the security interest is enforceable and perfected, and that priority is established.

Retroactive Application

Section 32 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 July 1, 2023October 1, 2019.

Technical Revisions

Sections 20, 21, 28, 29, and 30 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 July 1, 2023.

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.³⁵

³⁵ 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.

In the case of an owner transferring ownership of a vessel, the owner could avoid paying the fee for a new certificate of title by choosing to indicate the brand on the owner's certificate of title and delivering it to the vessel purchaser. The owner has not engaged in any new transaction under that scenario. However, if the owner chooses for any reason to obtain a branded title prior to offering for sale or selling the vessel, applying for and receiving that branded title in the owner's name may be interpreted as a new transaction subject to the existing fee, as the transaction is not authorized under current law.

While the bill does not impose any new fee, the bill may result in a new transaction for which the existing fee must be paid. Article VII, s. 19 of the Florida Constitution requires the imposition, authorization, or raising of a state tax or fee be contained in a separate bill that contains no other subject and be approved by two-thirds of the membership of each house of the Legislature. As such, Article VII, s. 19 of the Florida Constitution may apply if the provisions in the bill relating to applications for new branded title certificates are interpreted to be new transactions requiring payment of an existing title fee.

The tax collector offices could see an increase in vessel certificate of title applications and application fees. However, the number of additional transactions is unknown.

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:

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.³⁶

The bill will require DHSMV to implement changes to vessel titling procedures and databases. However, with a delayed effective date of July 1, 2023, DHSMV can incorporate the required changes utilizing existing resources.

VI. Technical Deficiencies:

None.

³⁶ 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, 2026.

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.”³⁷

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.³⁸ 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.³⁹

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, 328.25, and 328.41.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes: (Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Infrastructure and Security on March 20, 2019:

The committee substitute:

- Increases the penalties for an owner or insurer who fails to comply with the required disclosures relating to a hull-damaged-branded certificate of title, or a person who solicits or colludes in such a failure by an owner, or an insurer that fails to apply for a new, branded certificate.

³⁷ 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.)

³⁸ See 42 U.S.C. s. 666(a)(4) and 42 U.S.C. 666(c)(1)(G)(iv).

³⁹ Conversation with DOR staff, March 18, 2019.

- Expands the DHSMV's rulemaking authorization from just one section in the bill to the entire part I, ch. 328, F.S.
- Removes provisions relating to creation of a certificate of title for a vessel valued at less than \$5,000, and removes a limitation on the bond amount the DHSMV is authorized to require, in connection with an application for transfer of ownership or termination of security interest without a certificate of title.
- Provides the DHSMV is not liable to a person or entity for creating a certificate of title when the certificate is issued in good faith based on information provided by an applicant, and specified penalties for an applicant that submits erroneous or fraudulent information with intent to mislead the DHSMV.
- Provides 30-day periods within which to take specified actions, rather than 20-day periods in the as-filed bill, in various sections of the bill.
- Revises the effective date of the act from October 1, 2019, to July 1, 2023.
- Delays the expiration of the specified subsections of s. 328.15, F.S., until October 1, 2026.
- Makes numerous non-substantive editorial revisions.

B. Amendments:

None.

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; creating s. 328.06, F.S.; providing
39 responsibilities of the department when creating a
40 certificate of title; creating s. 328.065, F.S.;
41 specifying effect of possession of a certificate of
42 title; providing construction; amending s. 328.09,
43 F.S.; providing duties of the department relating to
44 creation, issuance, refusal to issue, or cancellation
45 of a certificate of title; providing for a hearing;
46 creating s. 328.101, F.S.; specifying that a
47 certificate of title and certain other records are
48 effective despite missing or incorrect information;
49 amending s. 328.11, F.S.; providing requirements for
50 obtaining a duplicate certificate of title; creating

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

76 creating a certificate of title based on erroneous or
77 fraudulent information; providing penalties; creating
78 s. 328.22, F.S.; providing requirements for the
79 transfer of ownership in a vessel; providing effect of
80 noncompliance; creating s. 328.23, F.S.; providing a
81 definition; providing duties of the department upon
82 receipt of a secured party's transfer statement;
83 providing construction; creating s. 328.24, F.S.;
84 providing a definition; providing requirements for a
85 transfer of ownership by operation of law; providing
86 duties of the department; providing applicability;
87 creating s. 328.25, F.S.; providing that the
88 principles and law of equity supplement the provisions
89 of the act; creating s. 328.41, F.S.; authorizing the
90 department to adopt rules to implement vessel
91 registration provisions; amending ss. 409.2575,
92 705.103, and 721.08, F.S.; conforming provisions and
93 cross-references to changes made by the act; providing
94 construction and applicability regarding transactions,
95 certificates of title, and records entered into or
96 created, actions or proceedings commenced, and
97 security interests perfected before the effective date
98 of the act; providing applicability; providing an
99 effective date.

100

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

102

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

105 328.001 Short title.—This part may be cited as the
106 "Uniform Certificate of Title for Vessels Act."

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

109 328.0015 Definitions.—

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

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

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

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

117 (d) "Cancel," with respect to a certificate of title,
118 means 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
133 and 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 the
144 ownership of which is recorded in a registry maintained by a
145 country other than the United States which identifies each
146 person who has an ownership interest in a vessel and includes a
147 unique 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 that 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
166 vessel.

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

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

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

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

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

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

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

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

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

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

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

194 (y) "Security interest" means an interest in a vessel
195 which secures payment or performance of an obligation if the
196 interest is created by contract or arises under s. 672.401, s.
197 672.505, s. 672.711(3), or s. 680.508(5). The term includes any
198 interest of a consignor in a vessel in a transaction that is
199 subject to chapter 679. The term does not include the special
200 property interest of a buyer of a vessel on identification of

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

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

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

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

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

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

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

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

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
 250 sewage system;

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

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

256 (ff) "Vessel number" means the alphanumeric designation
257 for 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:

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

263 (b) "Buyer in ordinary course of business" as defined in
264 s. 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.

275 679.1021(1)(uuu).

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

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

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

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

281 328.01 Application for certificate of title.—

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

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

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

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

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

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

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

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

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

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

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

495 (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,
503 or 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
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~~
548 ~~Vehicles~~ shall prescribe and provide suitable forms for
549 applications, certificates of title, notices of security
550 interests, and other notices and forms necessary to carry out

551 the provisions of this chapter.

552 Section 4. Section 328.015, Florida Statutes, is created
553 to 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 or the
572 submission was accepted. A request under this section must
573 contain the hull identification number and be delivered by means
574 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,
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
584 in the request;

585 2. Identified by a vessel number designated in the
586 request; 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 law of the state under which a vessel's
 610 certificate of title is covered governs all issues relating to
 611 the certificate from the time the vessel becomes covered by the
 612 certificate until the vessel becomes covered by another
 613 certificate or becomes a documented vessel, even if no other
 614 relationship exists between the state and the vessel or its
 615 owner.

616 (2) A vessel becomes covered by a certificate of title
 617 when an application for the certificate and the applicable fee
 618 are delivered to the department in accordance with this part or
 619 to 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 30 days after the later of:

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

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

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

651 in full force and effect which was awarded to it pursuant to a
652 federally approved numbering system of another state or by the
653 United States Coast Guard in a state without a federally
654 approved numbering system, if the vessel is not located in this
655 state for a period in excess of 90 consecutive days; or

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

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

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

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

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

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

676 | ~~to 180 days after the date of application for a certificate of~~
677 | ~~title while the application is pending.~~

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

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

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

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

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

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

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

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

726 | for a vessel previously registered outside this state.

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

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

732 | 328.04 Content of certificate of title.—

733 | (1) A certificate of title must contain:

734 | (a) The date the certificate was created;

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

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

739 | (d) The hull identification number;

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

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

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

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

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

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

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

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

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

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

778 328.045 Title brands.-

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

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

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

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

796 (3) Before an insurer transfers an ownership interest in a
797 hull-damaged vessel that is covered by a certificate of title
798 created by the department, the insurer shall deliver to the
799 department an application for a new certificate that complies
800 with s. 328.01 and includes the title brand designation "Hull

801 Damaged." Not later than 30 days after delivery of the
802 application to the department, the department shall create a new
803 certificate that indicates that the vessel is branded "Hull
804 Damaged."

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

812 Section 9. Section 328.055, Florida Statutes, is created
813 to read:

814 328.055 Maintenance of and access to files.—

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

817 (a) Ascertain or assign the hull identification number for
818 the vessel;

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

823 (c) Index the files of the department as required by
824 subsection (2).

825 (2) The department shall maintain in its files the

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

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

837 Section 10. Section 328.06, Florida Statutes, is created
838 to read:

839 328.06 Action required on creation of certificate of
840 title.—

841 (1) On creation of a written certificate of title, the
842 department shall promptly send the certificate to the secured
843 party of record or, if none, to the owner of record at the
844 address indicated for that person in the files of the
845 department. On creation of an electronic certificate of title,
846 the department shall promptly send a record evidencing the
847 certificate to the owner of record and, if there is one, to the
848 secured party of record at the address indicated for each person
849 in the files of the department. The department may send the
850 record to the person's mailing address or, if indicated in the

851 files of the department, an electronic address.

852 (2) If the department creates a written certificate of
853 title, any electronic certificate of title for the vessel is
854 canceled and replaced by the written certificate. The department
855 shall maintain in the files of the department the date and time
856 of cancellation.

857 (3) Before the department creates an electronic
858 certificate of title, any written certificate for the vessel
859 must be surrendered to the department. If the department creates
860 an electronic certificate, the department shall destroy or
861 otherwise cancel the written certificate for the vessel which
862 has been surrendered to the department and maintain in the files
863 of the department the date and time of destruction or other
864 cancellation. If a written certificate being canceled is not
865 destroyed, the department shall indicate on the face of the
866 certificate that it has been canceled.

867 Section 11. Section 328.065, Florida Statutes, is created
868 to read:

869 328.065 Effect of possession of certificate of title;
870 judicial process.—Possession of a certificate of title does not
871 by itself provide a right to obtain possession of a vessel.
872 Garnishment, attachment, levy, replevin, or other judicial
873 process against the certificate is not effective to determine
874 possessory rights to the vessel. This part does not prohibit
875 enforcement under the laws of this state of a security interest

876 in, levy on, or foreclosure of a statutory or common-law lien on
877 a vessel. Absence of an indication of a statutory or common-law
878 lien on a certificate does not invalidate the lien.

879 Section 12. Section 328.09, Florida Statutes, is amended
880 to read:

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

883 328.09 Refusal to issue and authority to cancel a
884 certificate of title or registration.-

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

890 (2) If the department creates electronic certificates of
891 title, the department shall create an electronic certificate
892 unless in the application the secured party of record or, if
893 none, the owner of record requests that the department create a
894 written certificate.

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

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

899 (b) The application does not contain documentation

900 sufficient for the department to determine whether the applicant

901 is entitled to a certificate;

902 (c) There is a reasonable basis for concluding that the
 903 application is fraudulent or issuance of a certificate would
 904 facilitate a fraudulent or illegal act; or

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

907 (4) The department shall reject an application for a
 908 certificate of title for a vessel that is a documented vessel or
 909 a foreign-documented vessel.

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

912 (a) Could have rejected the application for the
 913 certificate under subsection (3);

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

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

918 (6) The decision by the department to reject an
 919 application for a certificate of title or cancel a certificate
 920 of title pursuant to this section is subject to a hearing
 921 pursuant to ss. 120.569 and 120.57 at which the owner and any
 922 other interested party may present evidence in support of or
 923 opposition to the rejection of the application for a certificate
 924 of title or the cancellation of a certificate of title.

925 Section 13. Section 328.101, Florida Statutes, is created

926 to read:

927 328.101 Effect of missing or incorrect information.—Except
 928 as otherwise provided in s. 679.337, a certificate of title or
 929 other record required or authorized by this part is effective
 930 even if it contains unintended scrivener's errors or does not
 931 contain certain required information if such missing information
 932 is determined by the department to be inconsequential to the
 933 issuing of a certificate of title or other record.

934 Section 14. Section 328.11, Florida Statutes, is amended
 935 to read:

936 328.11 Duplicate certificate of title.—

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

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

950 (3) A duplicate certificate of title created by the

951 department must comply with s. 328.04 and indicate on the face
952 of the certificate that it is a duplicate certificate.

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

957 ~~(5)(1) The Department of Highway Safety and Motor Vehicles~~
958 ~~may issue a duplicate certificate of title upon application by~~
959 ~~the person entitled to hold such a certificate if the department~~
960 ~~is satisfied that the original certificate has been lost,~~
961 ~~destroyed, or mutilated.~~ The department shall charge a fee of \$6
962 for issuing a duplicate certificate.

963 ~~(6)(2)~~ In addition to the fee imposed by subsection (5)
964 ~~(1)~~, the department of Highway Safety and Motor Vehicles shall
965 charge a fee of \$5 for expedited service in issuing a duplicate
966 certificate of title. Application for such expedited service may
967 be made by mail or in person. The department shall issue each
968 certificate of title applied for under this subsection within 5
969 working days after receipt of a proper application or shall
970 refund the additional \$5 fee upon written request by the
971 applicant.

972 ~~(3) If, following the issuance of an original, duplicate,~~
973 ~~or corrected certificate of title by the department, the~~
974 ~~certificate is lost in transit and is not delivered to the~~
975 ~~addressee, the owner of the vessel or the holder of a lien~~

976 ~~thereon may, within 180 days after the date of issuance of the~~
 977 ~~title, apply to the department for reissuance of the certificate~~
 978 ~~of title. An additional fee may not be charged for reissuance~~
 979 ~~under this subsection.~~

980 (7)(4) The department shall implement a system to verify
 981 that the application is signed by a person authorized to receive
 982 a duplicate title certificate under this section if the address
 983 shown on the application is different from the address shown for
 984 the applicant on the records of the department.

985 Section 15. Section 328.12, Florida Statutes, is created
 986 to read:

987 328.12 Perfection of security interest.—

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

995 (2) If the interest of a person named as owner, lessor,
 996 consignor, or bailor in an application for a certificate of
 997 title delivered to the department is a security interest, the
 998 application sufficiently identifies the person as a secured
 999 party. Identification on the application for a certificate of a
 1000 person as owner, lessor, consignor, or bailor is not by itself a

1001 factor in determining whether the person's interest is a
1002 security interest.

1003 (3) If the department has created a certificate of title
1004 for a vessel, a security interest in the vessel may be perfected
1005 by delivery to the department of an application, on a form the
1006 department may require, to have the security interest added to
1007 the certificate. The application must be signed by an owner of
1008 the vessel or by the secured party and must include:

1009 (a) The name of the owner of record;

1010 (b) The name and mailing address of the secured party;

1011 (c) The hull identification number for the vessel; and

1012 (d) If the department has created a written certificate of
1013 title for the vessel, the certificate.

1014 (4) A security interest perfected under subsection (3) is
1015 perfected on the later of delivery to the department of the
1016 application and all applicable fees or attachment of the
1017 security interest under s. 679.2031.

1018 (5) On delivery of an application that complies with
1019 subsection (3) and payment of all applicable fees, the
1020 department shall create a new certificate of title pursuant to
1021 s. 328.09 and deliver the new certificate or a record evidencing
1022 an electronic certificate pursuant to s. 328.06. The department
1023 shall maintain in the files of the department the date and time
1024 of delivery of the application to the department.

1025 (6) If a secured party assigns a perfected security

1026 interest in a vessel, the receipt by the department of a
1027 statement providing the name of the assignee as secured party is
1028 not required to continue the perfected status of the security
1029 interest against creditors of and transferees from the original
1030 debtor. A purchaser of a vessel subject to a security interest
1031 who obtains a release from the secured party indicated in the
1032 files of the department or on the certificate takes free of the
1033 security interest and of the rights of a transferee unless the
1034 transfer is indicated in the files of the department or on the
1035 certificate.

1036 (7) This section does not apply to a security interest:

1037 (a) Created in a vessel by a person during any period in
1038 which the vessel is inventory held for sale or lease by the
1039 person or is leased by the person as lessor if the person is in
1040 the business of selling vessels;

1041 (b) In a barge for which no application for a certificate
1042 of title has been delivered to the department; or

1043 (c) In a vessel before delivery if the vessel is under
1044 construction, or completed, pursuant to contract and for which
1045 no application for a certificate has been delivered to the
1046 department.

1047 (8) This subsection applies if a certificate of
1048 documentation for a documented vessel is deleted or canceled. If
1049 a security interest in the vessel was valid immediately before
1050 deletion or cancellation against a third party as a result of

1051 compliance with 46 U.S.C. s. 31321, the security interest is and
1052 remains perfected until the earlier of 4 months after
1053 cancellation of the certificate or the time the security
1054 interest becomes perfected under this part.

1055 (9) A security interest in a vessel arising under s.
1056 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is
1057 perfected when it attaches but becomes unperfected when the
1058 debtor obtains possession of the vessel, unless the security
1059 interest is perfected pursuant to subsection (1) or subsection
1060 (3) before the debtor obtains possession.

1061 (10) A security interest in a vessel as proceeds of other
1062 collateral is perfected to the extent provided in s. 679.3151.

1063 (11) A security interest in a vessel perfected under the
1064 law of another jurisdiction is perfected to the extent provided
1065 in s. 679.3161(4).

1066 (12) For purposes of this section and this part, the
1067 Department of Revenue shall be treated as a secured party when
1068 collecting unpaid support.

1069 Section 16. Section 328.125, Florida Statutes, is created
1070 to read:

1071 328.125 Termination statement.—

1072 (1) A secured party indicated in the files of the
1073 department as having a security interest in a vessel shall
1074 deliver a termination statement to the department and, on the
1075 debtor's request, to the debtor, by the earlier of:

1076 (a) Twenty days after the secured party receives a signed
1077 demand from an owner for a termination statement and there is no
1078 obligation secured by the vessel subject to the security
1079 interest and no commitment to make an advance, incur an
1080 obligation, or otherwise give value secured by the vessel; or

1081 (b) If the vessel is consumer goods, 30 days after there
1082 is no obligation secured by the vessel and no commitment to make
1083 an advance, incur an obligation, or otherwise give value secured
1084 by the vessel.

1085 (2) If a written certificate of title has been created and
1086 delivered to a secured party and a termination statement is
1087 required under subsection (1), the secured party, not later than
1088 the date required by subsection (1), shall deliver the
1089 certificate to the debtor or to the department with the
1090 statement. If the certificate is lost, stolen, mutilated,
1091 destroyed, or is otherwise unavailable or illegible, the secured
1092 party shall deliver with the statement, not later than the date
1093 required by subsection (1), an application for a duplicate
1094 certificate meeting the requirements of s. 328.11.

1095 (3) On delivery to the department of a termination
1096 statement authorized by the secured party, the security interest
1097 to which the statement relates ceases to be perfected. If the
1098 security interest to which the statement relates was indicated
1099 on the certificate of title, the department shall create a new
1100 certificate and deliver the new certificate or a record

1101 evidencing an electronic certificate. The department shall
1102 maintain in its files the date and time of delivery to the
1103 department of the statement.

1104 (4) A secured party that fails to comply with this section
1105 is liable for any loss that the secured party had reason to know
1106 might result from its failure to comply and which could not
1107 reasonably have been prevented and for the cost of an
1108 application for a certificate of title under s. 328.01 or s.
1109 328.11.

1110 Section 17. Section 328.14, Florida Statutes, is created
1111 to read:

1112 328.14 Rights of purchaser other than secured party.—

1113 (1) A buyer in ordinary course of business has the
1114 protections afforded by ss. 672.403(2) and 679.320(1) even if an
1115 existing certificate of title was not signed and delivered to
1116 the buyer or a new certificate listing the buyer as owner of
1117 record was not created.

1118 (2) Except as otherwise provided in ss. 328.145 and
1119 328.22, the rights of a purchaser of a vessel who is not a buyer
1120 in ordinary course of business or a lien creditor are governed
1121 by the Uniform Commercial Code.

1122 Section 18. Section 328.145, Florida Statutes, is created
1123 to read:

1124 328.145 Rights of secured party.—

1125 (1) Subject to subsection (2), the effect of perfection

1126 and nonperfection of a security interest and the priority of a
1127 perfected or unperfected security interest with respect to the
1128 rights of a purchaser or creditor, including a lien creditor, is
1129 governed by the Uniform Commercial Code.

1130 (2) If, while a security interest in a vessel is perfected
1131 by any method under this part, the department creates a
1132 certificate of title that does not indicate that the vessel is
1133 subject to the security interest or contain a statement that it
1134 may be subject to security interests not indicated on the
1135 certificate:

1136 (a) A buyer of the vessel, other than a person in the
1137 business of selling or leasing vessels of that kind, takes free
1138 of the security interest if the buyer, acting in good faith and
1139 without knowledge of the security interest, gives value and
1140 receives possession of the vessel; and

1141 (b) The security interest is subordinate to a conflicting
1142 security interest in the vessel that is perfected under s.
1143 328.12 after creation of the certificate and without the
1144 conflicting secured party's knowledge of the security interest.

1145 Section 19. Section 328.15, Florida Statutes, is amended
1146 to read:

1147 328.15 Notice of lien on vessel; recording.—

1148 ~~(1) No lien for purchase money or as security for a debt~~
1149 ~~in the form of retain title contract, conditional bill of sale,~~
1150 ~~chattel mortgage, or otherwise on a vessel shall be enforceable~~

1151 ~~in any of the courts of this state against creditors or~~
1152 ~~subsequent purchasers for a valuable consideration and without~~
1153 ~~notice unless a sworn notice of such lien is recorded. The lien~~
1154 ~~certificate shall contain the following information:~~

- 1155 ~~(a) Name and address of the registered owner;~~
1156 ~~(b) Date of lien;~~
1157 ~~(c) Description of the vessel to include make, type, motor~~
1158 ~~and serial number; and~~
1159 ~~(d) Name and address of lienholder.~~

1160
1161 ~~The lien shall be recorded by the Department of Highway Safety~~
1162 ~~and Motor Vehicles and shall be effective as constructive notice~~
1163 ~~when filed. The date of filing of the notice of lien is the date~~
1164 ~~of its receipt by the department's central office in~~
1165 ~~Tallahassee, if first filed there, or otherwise by the office of~~
1166 ~~a county tax collector or of the tax collector's agent.~~

1167 ~~(2)(a) The Department of Highway Safety and Motor Vehicles~~
1168 ~~shall not enter any lien upon its lien records, whether it is a~~
1169 ~~first lien or a subordinate lien, unless the official~~
1170 ~~certificate of title issued for the vessel is furnished with the~~
1171 ~~notice of lien, so that the record of lien, whether original or~~
1172 ~~subordinate, may be noted upon the face thereof. After the~~
1173 ~~department records the lien, it shall send the certificate of~~
1174 ~~title to the holder of the first lien who shall hold such~~
1175 ~~certificate until the lien is satisfied in full.~~

1176 ~~(b) When a vessel is registered in the names of two or~~
1177 ~~more persons as coowners in the alternative by the use of the~~
1178 ~~word "or," whether or not the coowners are husband and wife,~~
1179 ~~each coowner is considered to have granted to any other coowner~~
1180 ~~the absolute right to place a lien or encumbrance on the vessel,~~
1181 ~~and the signature of one coowner constitutes proper execution of~~
1182 ~~the notice of lien. When a vessel is registered in the names of~~
1183 ~~two or more persons as coowners in the conjunctive by the use of~~
1184 ~~the word "and," the signature of each coowner is required in~~
1185 ~~order to place a lien or encumbrance on the vessel.~~

1186 ~~(c) If the owner of the vessel as shown on the title~~
1187 ~~certificate or the director of the state child support~~
1188 ~~enforcement program desires to place a second or subsequent lien~~
1189 ~~or encumbrance against the vessel when the title certificate is~~
1190 ~~in the possession of the first lienholder, the owner shall send~~
1191 ~~a written request to the first lienholder by certified mail and~~
1192 ~~such first lienholder shall forward the certificate to the~~
1193 ~~department for endorsement. The department shall return the~~
1194 ~~certificate to the first lienholder, as indicated in the notice~~
1195 ~~of lien filed by the first lienholder, after endorsing the~~
1196 ~~second or subsequent lien on the certificate and on the~~
1197 ~~duplicate. If the first lienholder fails, neglects, or refuses~~
1198 ~~to forward the certificate of title to the department within 10~~
1199 ~~days after the date of the owner's or the director's request,~~
1200 ~~the department, on written request of the subsequent lienholder~~

1201 ~~or an assignee thereof, shall demand of the first lienholder the~~
 1202 ~~return of such certificate for the notation of the second or~~
 1203 ~~subsequent lien or encumbrance.~~

1204 (1)~~(3)~~ Upon the payment of a any such lien, the debtor or
 1205 the registered owner of the motorboat shall be entitled to
 1206 demand and receive from the lienholder a satisfaction of the
 1207 lien which shall likewise be filed with the Department of
 1208 Highway Safety and Motor Vehicles.

1209 (2)~~(4)~~ The Department of Highway Safety and Motor Vehicles
 1210 under precautionary rules and regulations to be promulgated by
 1211 it may permit the use, in substitution of the formal
 1212 satisfaction of lien, of other methods of satisfaction, such as
 1213 perforation, appropriate stamp, or otherwise, as it deems
 1214 reasonable and adequate.

1215 (3)~~(5)~~(a) The Department of Highway Safety and Motor
 1216 Vehicles shall adopt rules to administer this section. The
 1217 department may by rule require that a notice of satisfaction of
 1218 a lien be notarized. The department shall prepare the forms of
 1219 the notice of lien and the satisfaction of lien to be supplied,
 1220 at a charge not to exceed 50 percent more than cost, to
 1221 applicants for recording the liens or satisfactions and shall
 1222 keep a record of such notices of lien and satisfactions
 1223 available for inspection by the public at all reasonable times.
 1224 The division may furnish certified copies of such satisfactions
 1225 for a fee of \$1, which are admissible in evidence in all courts

1226 of this state under the same conditions and to the same effect
1227 as certified copies of other public records.

1228 (b) The department shall establish and administer an
1229 electronic titling program that requires the recording of vessel
1230 title information for new, transferred, and corrected
1231 certificates of title. Lienholders shall electronically transmit
1232 liens and lien satisfactions to the department in a format
1233 determined by the department. Individuals and lienholders who
1234 the department determines are not normally engaged in the
1235 business or practice of financing vessels are not required to
1236 participate in the electronic titling program.

1237 ~~(6) The Department of Highway Safety and Motor Vehicles is~~
1238 ~~entitled to a fee of \$1 for the recording of each notice of~~
1239 ~~lien. No fee shall be charged for recording the satisfaction of~~
1240 ~~a lien. All of the fees collected shall be paid into the Marine~~
1241 ~~Resources Conservation Trust Fund.~~

1242 (4)~~(7)~~(a) Should any person, firm, or corporation holding
1243 such lien, which has been recorded by the Department of Highway
1244 Safety and Motor Vehicles, upon payment of such lien and on
1245 demand, fail or refuse, within 30 days after such payment and
1246 demand, to furnish the debtor or the registered owner of such
1247 vessel a satisfaction of the lien, then, in that event, such
1248 person, firm, or corporation shall be held liable for all costs,
1249 damages, and expenses, including reasonable attorney ~~attorney's~~
1250 fees, lawfully incurred by the debtor or the registered owner of

1251 such vessel in any suit which may be brought in the courts of
1252 this state for the cancellation of such lien.

1253 (b) Following satisfaction of a lien, the lienholder shall
1254 enter a satisfaction thereof in the space provided on the face
1255 of the certificate of title. If there are no subsequent liens
1256 shown thereon, the certificate shall be delivered by the
1257 lienholder to the person satisfying the lien or encumbrance and
1258 an executed satisfaction on a form provided by the department
1259 shall be forwarded to the department by the lienholder within 10
1260 days after satisfaction of the lien.

1261 (c) If the certificate of title shows a subsequent lien
1262 not then being discharged, an executed satisfaction of the first
1263 lien shall be delivered by the lienholder to the person
1264 satisfying the lien and the certificate of title showing
1265 satisfaction of the first lien shall be forwarded by the
1266 lienholder to the department within 10 days after satisfaction
1267 of the lien.

1268 (d) If, upon receipt of a title certificate showing
1269 satisfaction of the first lien, the department determines from
1270 its records that there are no subsequent liens or encumbrances
1271 upon the vessel, the department shall forward to the owner, as
1272 shown on the face of the title, a corrected certificate showing
1273 no liens or encumbrances. If there is a subsequent lien not
1274 being discharged, the certificate of title shall be reissued
1275 showing the second or subsequent lienholder as the first

1276 | lienholder and shall be delivered to the new first lienholder.
1277 | The first lienholder shall be entitled to retain the certificate
1278 | of title until his or her lien is satisfied. Upon satisfaction
1279 | of the lien, the lienholder shall be subject to the procedures
1280 | required of a first lienholder in this subsection ~~and in~~
1281 | ~~subsection (2)~~.

1282 | (5)~~(8)~~ When the original certificate of title cannot be
1283 | returned to the department by the lienholder and evidence
1284 | satisfactory to the department is produced that all liens or
1285 | encumbrances have been satisfied, upon application by the owner
1286 | for a duplicate copy of the certificate of title, upon the form
1287 | prescribed by the department, accompanied by the fee prescribed
1288 | in this chapter, a duplicate copy of the certificate of title
1289 | without statement of liens or encumbrances shall be issued by
1290 | the department and delivered to the owner.

1291 | (6)~~(9)~~ Any person who fails, within 10 days after receipt
1292 | of a demand by the department by certified mail, to return a
1293 | certificate of title to the department ~~as required by paragraph~~
1294 | ~~(2)(e)~~ or who, upon satisfaction of a lien, fails within 10 days
1295 | after receipt of such demand to forward the appropriate document
1296 | to the department as required by paragraph (4)(b) ~~(7)(b)~~ or
1297 | paragraph (4)(c) ~~(7)(e)~~ commits a misdemeanor of the second
1298 | degree, punishable as provided in s. 775.082 or s. 775.083.

1299 | (7)~~(10)~~ The department shall use the last known address as
1300 | shown by its records when sending any notice required by this

1301 section.

1302 (8)~~(11)~~ If the original lienholder sells and assigns his
 1303 or her lien to some other person, and if the assignee desires to
 1304 have his or her name substituted on the certificate of title as
 1305 the holder of the lien, he or she may, after delivering the
 1306 original certificate of title to the department and providing a
 1307 sworn statement of the assignment, have his or her name
 1308 substituted as a lienholder. Upon substitution of the assignee's
 1309 name as lienholder, the department shall deliver the certificate
 1310 of title to the assignee as the first lienholder.

1311 (9) Subsections (1), (2), and (4)-(8) shall expire October
 1312 1, 2026.

1313 Section 20. Section 328.16, Florida Statutes, is amended
 1314 to read:

1315 328.16 Issuance in duplicate; delivery; liens, security
 1316 interests, and encumbrances.—

1317 (1) The department shall assign a number to each
 1318 certificate of title and shall issue each certificate of title
 1319 and each corrected certificate in duplicate. The database record
 1320 shall serve as the duplicate title certificate.

1321 (2) An authorized person must sign the original
 1322 certificate of title and each corrected certificate and, if
 1323 there are no liens, security interests, or encumbrances on the
 1324 vessel, as shown in the records of the department or as shown in
 1325 the application, must deliver the certificate to the applicant

1326 or to another person as directed by the applicant or person,
1327 agent, or attorney submitting the application. If there are one
1328 or more liens, security interests, or encumbrances on the
1329 vessel, the department must deliver the certificate to the first
1330 lienholder or secured party as shown by department records. The
1331 department shall deliver to the first lienholder or secured
1332 party, along with the certificate, a form to be subsequently
1333 used by the lienholder or secured party as a satisfaction. If
1334 the application for certificate of title shows the name of a
1335 first lienholder or secured party which is different from the
1336 name of the first lienholder or secured party as shown by the
1337 records of the department, the certificate shall not be issued
1338 to any person until after the department notifies all parties
1339 who appear to hold a lien or a security interest and the
1340 applicant for the certificate, in writing by certified mail. If
1341 the parties do not amicably resolve the conflict within 10 days
1342 after the date the notice was mailed, the department shall serve
1343 notice in writing by certified mail on all persons that appear
1344 to hold liens or security interests on that particular vessel,
1345 including the applicant for the certificate, to show cause
1346 within 15 days after the date the notice is mailed why it should
1347 not issue and deliver the certificate to the secured party of
1348 record or person indicated in the notice of lien filed by the
1349 lienholder whose name appears in the application as the first
1350 lienholder without showing any lien or liens as outstanding

1351 other than those appearing in the application or those filed
1352 subsequent to the filing of the application for the certificate
1353 of title. If, within the 15-day period, any person other than
1354 the lienholder or secured party of record shown in the
1355 application or a party filing a subsequent lien or security
1356 interest, in answer to the notice to show cause, appears in
1357 person or by a representative, or responds in writing, and files
1358 a written statement under oath that his or her lien or security
1359 interest on that particular vessel is still outstanding, the
1360 department shall not issue the certificate to anyone until after
1361 the conflict has been settled by the lien or security interest
1362 claimants involved or by a court of competent jurisdiction. If
1363 the conflict is not settled amicably within 10 days after the
1364 final date for filing an answer to the notice to show cause, the
1365 complaining party shall have 10 days to obtain a ruling, or a
1366 stay order, from a court of competent jurisdiction. If a ruling
1367 or stay order is not issued and served on the department within
1368 the 10-day period, the department shall issue the certificate
1369 showing no liens or security interests, except those shown in
1370 the application or thereafter filed, to the original applicant
1371 if there are no liens or security interests shown in the
1372 application and none are thereafter filed, or to the person
1373 indicated as the secured party of record or in the notice of
1374 lien filed by the lienholder whose name appears in the
1375 application as the first lienholder if there are liens shown in

1376 the application or thereafter filed. A duplicate certificate or
1377 corrected certificate must show only such security interest or
1378 interests or lien or liens as were shown in the application and
1379 subsequently filed liens or security interests that may be
1380 outstanding.

1381 (3) ~~Except as provided in s. 328.15(11),~~ The certificate
1382 of title shall be retained by the first lienholder or secured
1383 party of record. The first lienholder or secured party of record
1384 is entitled to retain the certificate until the first lien or
1385 security interest is satisfied.

1386 (4) Notwithstanding any requirements in this section ~~or in~~
1387 ~~s. 328.15~~ indicating that a lien or security interest on a
1388 vessel shall be noted on the face of the Florida certificate of
1389 title, if there are one or more liens, security interests, or
1390 encumbrances on a vessel, the department shall electronically
1391 transmit the lien or security interest to the first lienholder
1392 or secured party and notify the first lienholder or secured
1393 party of any additional liens or security interests. Subsequent
1394 lien or security interest satisfactions shall be electronically
1395 transmitted to the department and must include the name and
1396 address of the person or entity satisfying the lien or security
1397 interest. When electronic transmission of liens or security
1398 interest and lien satisfactions or security interest are used,
1399 the issuance of a certificate of title may be waived until the
1400 last lien or security interest is satisfied and a clear

1401 certificate of title is issued to the owner of the vessel.
1402 (5) The owner of a vessel~~7~~ upon which a lien or security
1403 interest has been filed with the department or noted upon a
1404 certificate of title for a period of 5 years~~7~~ may apply to the
1405 department in writing for such lien or security interest to be
1406 removed from the department files or from the certificate of
1407 title. The application must be accompanied by evidence
1408 satisfactory to the department that the applicant has notified
1409 the lienholder or secured party by certified mail, not less than
1410 20 days before ~~prior to~~ the date of the application, of his or
1411 her intention to apply to the department for removal of the lien
1412 or security interest. Ten days after receipt of the application,
1413 the department may remove the lien or security interest from its
1414 files or from the certificate of title, as the case may be, if
1415 no statement in writing protesting removal of the lien or
1416 security interest is received by the department from the
1417 lienholder or secured party within the 10-day period. However,
1418 if the lienholder or secured party files with the department,
1419 within the 10-day period, a written statement that the lien or
1420 security interest is still outstanding, the department may not
1421 remove the lien or security interest until the lienholder or
1422 secured party presents a satisfaction of lien or satisfaction of
1423 security interest to the department.

1424 Section 21. Subsection (1) of section 328.165, Florida
1425 Statutes, is amended to read:

1426 328.165 Cancellation of certificates.—

1427 (1) If it appears that a certificate of title has been
 1428 improperly issued, the department shall cancel the certificate.
 1429 Upon cancellation of any certificate of title, the department
 1430 shall notify the person to whom the certificate of title was
 1431 issued, and any lienholders or secured parties appearing
 1432 thereon, of the cancellation and shall demand the surrender of
 1433 the certificate of title; however, the cancellation does not
 1434 affect the validity of any lien or security interest noted
 1435 thereon. The holder of the certificate of title shall
 1436 immediately return it to the department. If a certificate of
 1437 registration has been issued to the holder of a certificate of
 1438 title so canceled, the department shall immediately cancel the
 1439 certificate of registration and demand the return of the
 1440 certificate of registration, and the holder of such certificate
 1441 of registration shall immediately return it to the department.

1442 Section 22. Section 328.215, Florida Statutes, is created
 1443 to read:

1444 328.215 Application for transfer of ownership or
 1445 termination of security interest without certificate of title.—

1446 (1) Except as otherwise provided in s. 328.23 or s.
 1447 328.24, if the department receives, unaccompanied by a signed
 1448 certificate of title, an application for a new certificate that
 1449 includes an indication of a transfer of ownership or a
 1450 termination statement, the department may create a new

1451 certificate under this section only if:

1452 (a) All other requirements under ss. 328.01 and 328.09 are
1453 met;

1454 (b) The applicant provides an affidavit stating facts
1455 showing the applicant is entitled to a transfer of ownership or
1456 termination statement;

1457 (c) The applicant provides the department with
1458 satisfactory evidence that notification of the application has
1459 been sent to the owner of record and all persons indicated in
1460 the files of the department as having an interest, including a
1461 security interest, in the vessel; at least 45 days have passed
1462 since the notification was sent; and the department has not
1463 received an objection from any of those persons; and

1464 (d) The applicant submits any other information required
1465 by the department as evidence of the applicant's ownership or
1466 right to terminate the security interest, and the department has
1467 no credible information indicating theft, fraud, or an
1468 undisclosed or unsatisfied security interest, lien, or other
1469 claim to an interest in the vessel.

1470 (2) The department may indicate in a certificate of title
1471 created under subsection (1) that the certificate was created
1472 without submission of a signed certificate or termination
1473 statement. Unless credible information indicating theft, fraud,
1474 or an undisclosed or unsatisfied security interest, lien, or
1475 other claim to an interest in the vessel is delivered to the

1476 department not later than 1 year after creation of the
1477 certificate, on request in a form and manner required by the
1478 department, the department shall remove the indication from the
1479 certificate.

1480 (3) Before the department creates a certificate of title
1481 under subsection (1), the department may require the applicant
1482 to post a reasonable bond or provide an equivalent source of
1483 indemnity or security. The bond, indemnity, or other security
1484 must be in a form required by the department and provide for
1485 indemnification of any owner, purchaser, or other claimant for
1486 any expense, loss, delay, or damage, including reasonable
1487 attorney fees and costs, but not including incidental or
1488 consequential damages, resulting from creation or amendment of
1489 the certificate.

1490 (4) Unless the department receives a claim for indemnity
1491 not later than 1 year after creation of a certificate of title
1492 under subsection (1), on request in a form and manner required
1493 by the department, the department shall release any bond,
1494 indemnity, or other security. The department is not liable to a
1495 person or entity for creating a certificate of title under this
1496 section when the department issues the certificate of title in
1497 good faith based on the information provided by an applicant. An
1498 applicant that submits erroneous or fraudulent information with
1499 the intent to mislead the department into issuing a certificate
1500 of title under this section is subject to the penalties

1501 established in s. 328.045(4) in addition to any other criminal
1502 or civil penalties provided by law.

1503 Section 23. Section 328.22, Florida Statutes, is created
1504 to read:

1505 328.22 Transfer of ownership.—

1506 (1) On voluntary transfer of an ownership interest in a
1507 vessel covered by a certificate of title, the following
1508 requirements apply:

1509 (a) If the certificate is a written certificate of title
1510 and the transferor's interest is noted on the certificate, the
1511 transferor shall promptly sign the certificate and deliver it to
1512 the transferee. If the transferor does not have possession of
1513 the certificate, the person in possession of the certificate has
1514 a duty to facilitate the transferor's compliance with this
1515 paragraph. A secured party does not have a duty to facilitate
1516 the transferor's compliance with this paragraph if the proposed
1517 transfer is prohibited by the security agreement.

1518 (b) If the certificate of title is an electronic
1519 certificate of title, the transferor shall promptly sign by
1520 hand, or electronically if available, and deliver to the
1521 transferee a record evidencing the transfer of ownership to the
1522 transferee.

1523 (c) The transferee has a right enforceable by specific
1524 performance to require the transferor to comply with paragraph
1525 (a) or paragraph (b).

1526 (2) The creation of a certificate of title identifying the
 1527 transferee as owner of record satisfies subsection (1).

1528 (3) A failure to comply with subsection (1) or to apply
 1529 for a new certificate of title does not render a transfer of
 1530 ownership of a vessel ineffective between the parties. Except as
 1531 otherwise provided in s. 328.101, s. 328.14(1), s. 328.145, or
 1532 s. 328.23, a transfer of ownership without compliance with
 1533 subsection (1) is not effective against another person claiming
 1534 an interest in the vessel.

1535 (4) A transferor that complies with subsection (1) is not
 1536 liable as owner of the vessel for an event occurring after the
 1537 transfer, regardless of whether the transferee applies for a new
 1538 certificate of title.

1539 Section 24. Section 328.23, Florida Statutes, is created
 1540 to read:

1541 328.23 Transfer of ownership by secured party's transfer
 1542 statement.—

1543 (1) In this section, "secured party's transfer statement"
 1544 means a record signed by the secured party of record stating:

1545 (a) That there has been a default on an obligation secured
 1546 by the vessel;

1547 (b) That the secured party of record is exercising or has
 1548 exercised post-default remedies with respect to the vessel;

1549 (c) That by reason of the exercise, the secured party of
 1550 record has the right to transfer the ownership interest of an

1551 owner, and the name of the owner;

1552 (d) The name and last known mailing address of the owner

1553 of record and the secured party of record;

1554 (e) The name of the transferee;

1555 (f) Other information required by s. 328.01(2); and

1556 (g) One of the following:

1557 1. The certificate of title is an electronic certificate;

1558 2. The secured party does not have possession of the

1559 written certificate of title created in the name of the owner of

1560 record; or

1561 3. The secured party is delivering the written certificate

1562 of title to the department with the secured party's transfer

1563 statement.

1564 (2) Unless the department rejects a secured party's

1565 transfer statement for a reason stated in s. 328.09(3), not

1566 later than 30 days after delivery to the department of the

1567 statement and payment of fees and taxes payable under the laws

1568 of this state other than this part in connection with the

1569 statement or the acquisition or use of the vessel, the

1570 department shall:

1571 (a) Accept the statement;

1572 (b) Amend the files of the department to reflect the

1573 transfer; and

1574 (c) If the name of the owner whose ownership interest is

1575 being transferred is indicated on the certificate of title:

1576 1. Cancel the certificate even if the certificate has not
1577 been delivered to the department;

1578 2. Create a new certificate indicating the transferee as
1579 owner; and

1580 3. Deliver the new certificate or a record evidencing an
1581 electronic certificate.

1582 (3) An application under subsection (1) or the creation of
1583 a certificate of title under subsection (2) is not by itself a
1584 disposition of the vessel and does not by itself relieve the
1585 secured party of its duties under chapter 679.

1586 Section 25. Section 328.24, Florida Statutes, is created
1587 to read:

1588 328.24 Transfer by operation of law.—

1589 (1) In this section, "by operation of law" means pursuant
1590 to a law or judicial order affecting ownership of a vessel:

1591 (a) Because of death, divorce, or other family law
1592 proceeding, merger, consolidation, dissolution, or bankruptcy;

1593 (b) Through the exercise of the rights of a lien creditor
1594 or a person having a lien created by statute or rule of law; or

1595 (c) Through other legal process.

1596 (2) A transfer-by-law statement must contain:

1597 (a) The name and last known mailing address of the owner
1598 of record and the transferee and the other information required
1599 by s. 328.01;

1600 (b) Documentation sufficient to establish the transferee's

1601 ownership interest or right to acquire the ownership interest;
1602 (c) A statement that:
1603 1. The certificate of title is an electronic certificate
1604 of title;
1605 2. The transferee does not have possession of the written
1606 certificate of title created in the name of the owner of record;
1607 or
1608 3. The transferee is delivering the written certificate to
1609 the department with the transfer-by-law statement; and
1610 (d) Except for a transfer described in paragraph (1)(a),
1611 evidence that notification of the transfer and the intent to
1612 file the transfer-by-law statement has been sent to all persons
1613 indicated in the files of the department as having an interest,
1614 including a security interest, in the vessel.
1615 (3) Unless the department rejects a transfer-by-law
1616 statement for a reason stated in s. 328.09(3) or because the
1617 statement does not include documentation satisfactory to the
1618 department as to the transferee's ownership interest or right to
1619 acquire the ownership interest, not later than 30 days after
1620 delivery to the department of the statement and payment of fees
1621 and taxes payable under the law of this state other than this
1622 part in connection with the statement or with the acquisition or
1623 use of the vessel, the department shall:
1624 (a) Accept the statement;
1625 (b) Amend the files of the department to reflect the

1626 transfer; and

1627 (c) If the name of the owner whose ownership interest is

1628 being transferred is indicated on the certificate of title:

1629 1. Cancel the certificate even if the certificate has not

1630 been delivered to the department;

1631 2. Create a new certificate indicating the transferee as

1632 owner;

1633 3. Indicate on the new certificate any security interest

1634 indicated on the canceled certificate, unless a court order

1635 provides otherwise; and

1636 4. Deliver the new certificate or a record evidencing an

1637 electronic certificate.

1638 (4) This section does not apply to a transfer of an

1639 interest in a vessel by a secured party under part VI of chapter

1640 679.

1641 Section 26. Section 328.25, Florida Statutes, is created

1642 to read:

1643 328.25 Supplemental principles of law and equity.—Unless

1644 displaced by a provision of this part, the principles of law and

1645 equity supplement its provisions.

1646 Section 27. Section 328.41, Florida Statutes, is created

1647 to read:

1648 328.41 Rulemaking.—The department may adopt rules pursuant

1649 to ss. 120.536(1) and 120.54 to implement this part.

1650 Section 28. Section 409.2575, Florida Statutes, is amended

1651 to read:

1652 409.2575 Liens on motor vehicles and vessels.—

1653 (1) The director of the state IV-D program, or the
 1654 director's designee, may cause a lien for unpaid and delinquent
 1655 support to be placed upon motor vehicles, as defined in chapter
 1656 320, and upon vessels, as defined in chapter 327, that are
 1657 registered in the name of an obligor who is delinquent in
 1658 support payments, if the title to the property is held by a
 1659 lienholder, in the manner provided in chapter 319 or, if
 1660 applicable in accordance with s. 328.15(9), chapter 328. Notice
 1661 of lien shall not be mailed unless the delinquency in support
 1662 exceeds \$600.

1663 (2) If the first lienholder fails, neglects, or refuses to
 1664 forward the certificate of title to the appropriate department
 1665 as requested pursuant to s. 319.24 or, if applicable in
 1666 accordance with s. 328.15(9), s. 328.15, the director of the IV-
 1667 D program, or the director's designee, may apply to the circuit
 1668 court for an order to enforce the requirements of s. 319.24 or
 1669 s. 328.15, whichever applies.

1670 Section 29. Subsection (2) of section 705.103, Florida
 1671 Statutes, is amended to read:

1672 705.103 Procedure for abandoned or lost property.—

1673 (2) Whenever a law enforcement officer ascertains that an
 1674 article of lost or abandoned property is present on public
 1675 property and is of such nature that it cannot be easily removed,

1676 the officer shall cause a notice to be placed upon such article
1677 in substantially the following form:
1678 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
1679 PROPERTY. This property, to wit: ...(setting forth brief
1680 description)... is unlawfully upon public property known as
1681 ...(setting forth brief description of location)... and must be
1682 removed within 5 days; otherwise, it will be removed and
1683 disposed of pursuant to chapter 705, Florida Statutes. The owner
1684 will be liable for the costs of removal, storage, and
1685 publication of notice. Dated this: ...(setting forth the date of
1686 posting of notice)..., signed: ...(setting forth name, title,
1687 address, and telephone number of law enforcement officer)....
1688 Such notice shall be not less than 8 inches by 10 inches and
1689 shall be sufficiently weatherproof to withstand normal exposure
1690 to the elements. In addition to posting, the law enforcement
1691 officer shall make a reasonable effort to ascertain the name and
1692 address of the owner. If such is reasonably available to the
1693 officer, she or he shall mail a copy of such notice to the owner
1694 on or before the date of posting. If the property is a motor
1695 vehicle as defined in s. 320.01(1) or a vessel as defined in s.
1696 327.02, the law enforcement agency shall contact the Department
1697 of Highway Safety and Motor Vehicles in order to determine the
1698 name and address of the owner and any person who has filed a
1699 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)
1700 ~~or s. 328.15(1)~~. On receipt of this information, the law

1701 enforcement agency shall mail a copy of the notice by certified
1702 mail, return receipt requested, to the owner and to the
1703 lienholder, if any, except that a law enforcement officer who
1704 has issued a citation for a violation of s. 823.11 to the owner
1705 of a derelict vessel is not required to mail a copy of the
1706 notice by certified mail, return receipt requested, to the
1707 owner. If, at the end of 5 days after posting the notice and
1708 mailing such notice, if required, the owner or any person
1709 interested in the lost or abandoned article or articles
1710 described has not removed the article or articles from public
1711 property or shown reasonable cause for failure to do so, the
1712 following shall apply:

1713 (a) For abandoned property, the law enforcement agency may
1714 retain any or all of the property for its own use or for use by
1715 the state or unit of local government, trade such property to
1716 another unit of local government or state agency, donate the
1717 property to a charitable organization, sell the property, or
1718 notify the appropriate refuse removal service.

1719 (b) For lost property, the officer shall take custody and
1720 the agency shall retain custody of the property for 90 days. The
1721 agency shall publish notice of the intended disposition of the
1722 property, as provided in this section, during the first 45 days
1723 of this time period.

1724 1. If the agency elects to retain the property for use by
1725 the unit of government, donate the property to a charitable

1726 organization, surrender such property to the finder, sell the
1727 property, or trade the property to another unit of local
1728 government or state agency, notice of such election shall be
1729 given by an advertisement published once a week for 2
1730 consecutive weeks in a newspaper of general circulation in the
1731 county where the property was found if the value of the property
1732 is more than \$100. If the value of the property is \$100 or less,
1733 notice shall be given by posting a description of the property
1734 at the law enforcement agency where the property was turned in.
1735 The notice must be posted for not less than 2 consecutive weeks
1736 in a public place designated by the law enforcement agency. The
1737 notice must describe the property in a manner reasonably
1738 adequate to permit the rightful owner of the property to claim
1739 it.

1740 2. If the agency elects to sell the property, it must do
1741 so at public sale by competitive bidding. Notice of the time and
1742 place of the sale shall be given by an advertisement of the sale
1743 published once a week for 2 consecutive weeks in a newspaper of
1744 general circulation in the county where the sale is to be held.
1745 The notice shall include a statement that the sale shall be
1746 subject to any and all liens. The sale must be held at the
1747 nearest suitable place to that where the lost or abandoned
1748 property is held or stored. The advertisement must include a
1749 description of the goods and the time and place of the sale. The
1750 sale may take place no earlier than 10 days after the final

1751 publication. If there is no newspaper of general circulation in
 1752 the county where the sale is to be held, the advertisement shall
 1753 be posted at the door of the courthouse and at three other
 1754 public places in the county at least 10 days prior to sale.
 1755 Notice of the agency's intended disposition shall describe the
 1756 property in a manner reasonably adequate to permit the rightful
 1757 owner of the property to identify it.

1758 Section 30. Paragraph (c) of subsection (2) of section
 1759 721.08, Florida Statutes, is amended to read:

1760 721.08 Escrow accounts; nondisturbance instruments;
 1761 alternate security arrangements; transfer of legal title.-

1762 (2) One hundred percent of all funds or other property
 1763 which is received from or on behalf of purchasers of the
 1764 timeshare plan or timeshare interest prior to the occurrence of
 1765 events required in this subsection shall be deposited pursuant
 1766 to an escrow agreement approved by the division. The funds or
 1767 other property may be released from escrow only as follows:

1768 (c) Compliance with conditions.-

1769 1. Timeshare licenses.-If the timeshare plan is one in
 1770 which timeshare licenses are to be sold and no cancellation or
 1771 default has occurred, the escrow agent may release the escrowed
 1772 funds or other property to or on the order of the developer upon
 1773 presentation of:

1774 a. An affidavit by the developer that all of the following
 1775 conditions have been met:

1776 (I) Expiration of the cancellation period.
 1777 (II) Completion of construction.
 1778 (III) Closing.
 1779 (IV) Either:
 1780 (A) Execution, delivery, and recordation by each
 1781 interestholder of the nondisturbance and notice to creditors
 1782 instrument, as described in this section; or
 1783 (B) Transfer by the developer of legal title to the
 1784 subject accommodations and facilities, or all use rights
 1785 therein, into a trust satisfying the requirements of
 1786 subparagraph 4. and the execution, delivery, and recordation by
 1787 each other interestholder of the nondisturbance and notice to
 1788 creditors instrument, as described in this section.
 1789 b. A certified copy of each recorded nondisturbance and
 1790 notice to creditors instrument.
 1791 c. One of the following:
 1792 (I) A copy of a memorandum of agreement, as defined in s.
 1793 721.05, together with satisfactory evidence that the original
 1794 memorandum of agreement has been irretrievably delivered for
 1795 recording to the appropriate official responsible for
 1796 maintaining the public records in the county in which the
 1797 subject accommodations and facilities are located. The original
 1798 memorandum of agreement must be recorded within 180 days after
 1799 the date on which the purchaser executed her or his purchase
 1800 agreement.

1801 (II) A notice delivered for recording to the appropriate
1802 official responsible for maintaining the public records in each
1803 county in which the subject accommodations and facilities are
1804 located notifying all persons of the identity of an independent
1805 escrow agent or trustee satisfying the requirements of
1806 subparagraph 4. that shall maintain separate books and records,
1807 in accordance with good accounting practices, for the timeshare
1808 plan in which timeshare licenses are to be sold. The books and
1809 records shall indicate each accommodation and facility that is
1810 subject to such a timeshare plan and each purchaser of a
1811 timeshare license in the timeshare plan.

1812 2. Timeshare estates.—If the timeshare plan is one in
1813 which timeshare estates are to be sold and no cancellation or
1814 default has occurred, the escrow agent may release the escrowed
1815 funds or other property to or on the order of the developer upon
1816 presentation of:

1817 a. An affidavit by the developer that all of the following
1818 conditions have been met:

1819 (I) Expiration of the cancellation period.

1820 (II) Completion of construction.

1821 (III) Closing.

1822 b. If the timeshare estate is sold by agreement for deed,
1823 a certified copy of the recorded nondisturbance and notice to
1824 creditors instrument, as described in this section.

1825 c. Evidence that each accommodation and facility:

1826 (I) Is free and clear of the claims of any
 1827 interestholders, other than the claims of interestholders that,
 1828 through a recorded instrument, are irrevocably made subject to
 1829 the timeshare instrument and the use rights of purchasers made
 1830 available through the timeshare instrument;

1831 (II) Is the subject of a recorded nondisturbance and
 1832 notice to creditors instrument that complies with subsection (3)
 1833 and s. 721.17; or

1834 (III) Has been transferred into a trust satisfying the
 1835 requirements of subparagraph 4.

1836 d. Evidence that the timeshare estate:

1837 (I) Is free and clear of the claims of any
 1838 interestholders, other than the claims of interestholders that,
 1839 through a recorded instrument, are irrevocably made subject to
 1840 the timeshare instrument and the use rights of purchasers made
 1841 available through the timeshare instrument; or

1842 (II) Is the subject of a recorded nondisturbance and
 1843 notice to creditors instrument that complies with subsection (3)
 1844 and s. 721.17.

1845 3. Personal property timeshare interests.—If the timeshare
 1846 plan is one in which personal property timeshare interests are
 1847 to be sold and no cancellation or default has occurred, the
 1848 escrow agent may release the escrowed funds or other property to
 1849 or on the order of the developer upon presentation of:

1850 a. An affidavit by the developer that all of the following

1851 conditions have been met:

1852 (I) Expiration of the cancellation period.

1853 (II) Completion of construction.

1854 (III) Closing.

1855 b. If the personal property timeshare interest is sold by
 1856 agreement for transfer, evidence that the agreement for transfer
 1857 complies fully with s. 721.06 and this section.

1858 c. Evidence that one of the following has occurred:

1859 (I) Transfer by the owner of the underlying personal
 1860 property of legal title to the subject accommodations and
 1861 facilities or all use rights therein into a trust satisfying the
 1862 requirements of subparagraph 4.; or

1863 (II) Transfer by the owner of the underlying personal
 1864 property of legal title to the subject accommodations and
 1865 facilities or all use rights therein into an owners' association
 1866 satisfying the requirements of subparagraph 5.

1867 d. Evidence of compliance with the provisions of
 1868 subparagraph 6., if required.

1869 e. If a personal property timeshare plan is created with
 1870 respect to accommodations and facilities that are located on or
 1871 in an oceangoing vessel, including a "documented vessel" or a
 1872 "foreign vessel," as defined and governed by 46 U.S.C. chapter
 1873 301:

1874 (I) In making the transfer required in sub-subparagraph
 1875 c., the developer shall use as its transfer instrument a

1876 document that establishes and protects the continuance of the
1877 use rights in the subject accommodations and facilities in a
1878 manner that is enforceable by the trust or owners' association.

1879 (II) The transfer instrument shall comply fully with the
1880 provisions of this chapter, shall be part of the timeshare
1881 instrument, and shall contain specific provisions that:

1882 (A) Prohibit the vessel owner, the developer, any manager
1883 or operator of the vessel, the owners' association or the
1884 trustee, the managing entity, or any other person from incurring
1885 any liens against the vessel except for liens that are required
1886 for the operation and upkeep of the vessel, including liens for
1887 fuel expenditures, repairs, crews' wages, and salvage, and
1888 except as provided in sub-sub-subparagraphs 4.b.(III) and
1889 5.b.(III). All expenses, fees, and taxes properly incurred in
1890 connection with the creation, satisfaction, and discharge of any
1891 such permitted lien, or a prorated portion thereof if less than
1892 all of the accommodations on the vessel are subject to the
1893 timeshare plan, shall be common expenses of the timeshare plan.

1894 (B) Grant a lien against the vessel in favor of the
1895 owners' association or trustee to secure the full and faithful
1896 performance of the vessel owner and developer of all of their
1897 obligations to the purchasers.

1898 (C) Establish governing law in a jurisdiction that
1899 recognizes and will enforce the timeshare instrument and the
1900 laws of the jurisdiction of registry of the vessel.

1901 (D) Require that a description of the use rights of
 1902 purchasers be posted and displayed on the vessel in a manner
 1903 that will give notice of such rights to any party examining the
 1904 vessel. This notice must identify the owners' association or
 1905 trustee and include a statement disclosing the limitation on
 1906 incurring liens against the vessel described in sub-sub-sub-
 1907 subparagraph (A).

1908 (E) Include the nondisturbance and notice to creditors
 1909 instrument for the vessel owner and any other interestholders.

1910 (F) The owners' association created under subparagraph 5.
 1911 or trustee created under subparagraph 4. shall have access to
 1912 any certificates of classification in accordance with the
 1913 timeshare instrument.

1914 (III) If the vessel is a foreign vessel, the vessel must
 1915 be registered in a jurisdiction that permits a filing evidencing
 1916 the use rights of purchasers in the subject accommodations and
 1917 facilities, offers protection for such use rights against
 1918 unfiled and inferior claims, and recognizes the document or
 1919 instrument creating such use rights as a lien against the
 1920 vessel.

1921 (IV) In addition to the disclosures required by s.
 1922 721.07(5), the public offering statement and purchase contract
 1923 must contain a disclosure in conspicuous type in substantially
 1924 the following form:

1925 The laws of the State of Florida govern the offering of this

1926 | timeshare plan in this state. There are inherent risks in
 1927 | purchasing a timeshare interest in this timeshare plan because
 1928 | the accommodations and facilities of the timeshare plan are
 1929 | located on a vessel that will sail into international waters and
 1930 | into waters governed by many different jurisdictions. Therefore,
 1931 | the laws of the State of Florida cannot fully protect your
 1932 | purchase of an interest in this timeshare plan. Specifically,
 1933 | management and operational issues may need to be addressed in
 1934 | the jurisdiction in which the vessel is registered, which is
 1935 | (insert jurisdiction in which vessel is registered). Concerns of
 1936 | purchasers may be sent to (insert name of applicable regulatory
 1937 | agency and address).

1938 | 4. Trust.—

1939 | a. If the subject accommodations or facilities, or all use
 1940 | rights therein, are to be transferred into a trust in order to
 1941 | comply with this paragraph, such transfer shall take place
 1942 | pursuant to this subparagraph. If the accommodations or
 1943 | facilities included in such transfer are subject to a lease, the
 1944 | unexpired term of the lease must be disclosed as the term of the
 1945 | timeshare plan pursuant to s. 721.07(5)(f)4.

1946 | b. Prior to the transfer of the subject accommodations and
 1947 | facilities, or all use rights therein, to a trust, any lien or
 1948 | other encumbrance against such accommodations and facilities, or
 1949 | use rights therein, shall be made subject to a nondisturbance
 1950 | and notice to creditors instrument pursuant to subsection (3).

1951 No transfer pursuant to this subparagraph shall become effective
1952 until the trustee accepts such transfer and the responsibilities
1953 set forth herein. A trust established pursuant to this
1954 subparagraph shall comply with the following provisions:

1955 (I) The trustee shall be an individual or a business
1956 entity authorized and qualified to conduct trust business in
1957 this state. Any corporation authorized to do business in this
1958 state may act as trustee in connection with a timeshare plan
1959 pursuant to this chapter. The trustee must be independent from
1960 any developer or managing entity of the timeshare plan or any
1961 interestholder of any accommodation or facility of such plan.

1962 (II) The trust shall be irrevocable so long as any
1963 purchaser has a right to occupy any portion of the timeshare
1964 property pursuant to the timeshare plan.

1965 (III) The trustee shall not convey, hypothecate, mortgage,
1966 assign, lease, or otherwise transfer or encumber in any fashion
1967 any interest in or portion of the timeshare property with
1968 respect to which any purchaser has a right of use or occupancy
1969 unless the timeshare plan is terminated pursuant to the
1970 timeshare instrument, or such conveyance, hypothecation,
1971 mortgage, assignment, lease, transfer, or encumbrance is
1972 approved by a vote of two-thirds of all voting interests of the
1973 timeshare plan. Subject to s. 721.552, a vote of the voting
1974 interests of the timeshare plan is not required for substitution
1975 or automatic deletion of accommodations or facilities.

1976 (IV) All purchasers of the timeshare plan or the owners'
 1977 association of the timeshare plan shall be the express
 1978 beneficiaries of the trust. The trustee shall act as a fiduciary
 1979 to the beneficiaries of the trust. The personal liability of the
 1980 trustee shall be governed by ss. 736.08125, 736.08163, 736.1013,
 1981 and 736.1015. The agreement establishing the trust shall set
 1982 forth the duties of the trustee. The trustee shall be required
 1983 to furnish promptly to the division upon request a copy of the
 1984 complete list of the names and addresses of the owners in the
 1985 timeshare plan and a copy of any other books and records of the
 1986 timeshare plan required to be maintained pursuant to s. 721.13
 1987 that are in the possession, custody, or control of the trustee.
 1988 All expenses reasonably incurred by the trustee in the
 1989 performance of its duties, together with any reasonable
 1990 compensation of the trustee, shall be common expenses of the
 1991 timeshare plan.

1992 (V) The trustee shall not resign upon less than 90 days'
 1993 prior written notice to the managing entity and the division. No
 1994 resignation shall become effective until a substitute trustee,
 1995 approved by the division, is appointed by the managing entity
 1996 and accepts the appointment.

1997 (VI) The documents establishing the trust arrangement
 1998 shall constitute a part of the timeshare instrument.

1999 (VII) For trusts holding property in a timeshare plan
 2000 located outside this state, the trust and trustee holding such

2001 property shall be deemed in compliance with the requirements of
2002 this subparagraph if such trust and trustee are authorized and
2003 qualified to conduct trust business under the laws of such
2004 jurisdiction and the agreement or law governing such trust
2005 arrangement provides substantially similar protections for the
2006 purchaser as are required in this subparagraph for trusts
2007 holding property in a timeshare plan in this state.

2008 (VIII) The trustee shall have appointed a registered agent
2009 in this state for service of process. In the event such a
2010 registered agent is not appointed, service of process may be
2011 served pursuant to s. 721.265.

2012 5. Owners' association.—

2013 a. If the subject accommodations or facilities, or all use
2014 rights therein, are to be transferred into an owners'
2015 association in order to comply with this paragraph, such
2016 transfer shall take place pursuant to this subparagraph.

2017 b. Before the transfer of the subject accommodations and
2018 facilities, or all use rights therein, to an owners'
2019 association, any lien or other encumbrance against such
2020 accommodations and facilities, or use rights therein, shall be
2021 made subject to a nondisturbance and notice to creditors
2022 instrument pursuant to subsection (3). No transfer pursuant to
2023 this subparagraph shall become effective until the owners'
2024 association accepts such transfer and the responsibilities set
2025 forth herein. An owners' association established pursuant to

2026 | this subparagraph shall comply with the following provisions:

2027 | (I) The owners' association shall be a business entity
 2028 | authorized and qualified to conduct business in this state.
 2029 | Control of the board of directors of the owners' association
 2030 | must be independent from any developer or managing entity of the
 2031 | timeshare plan or any interestholder.

2032 | (II) The bylaws of the owners' association shall provide
 2033 | that the corporation may not be voluntarily dissolved without
 2034 | the unanimous vote of all owners of personal property timeshare
 2035 | interests so long as any purchaser has a right to occupy any
 2036 | portion of the timeshare property pursuant to the timeshare
 2037 | plan.

2038 | (III) The owners' association shall not convey,
 2039 | hypothecate, mortgage, assign, lease, or otherwise transfer or
 2040 | encumber in any fashion any interest in or portion of the
 2041 | timeshare property with respect to which any purchaser has a
 2042 | right of use or occupancy, unless the timeshare plan is
 2043 | terminated pursuant to the timeshare instrument, or unless such
 2044 | conveyance, hypothecation, mortgage, assignment, lease,
 2045 | transfer, or encumbrance is approved by a vote of two-thirds of
 2046 | all voting interests of the association and such decision is
 2047 | declared by a court of competent jurisdiction to be in the best
 2048 | interests of the purchasers of the timeshare plan. The owners'
 2049 | association shall notify the division in writing within 10 days
 2050 | after receiving notice of the filing of any petition relating to

2051 obtaining such a court order. The division shall have standing
2052 to advise the court of the division's interpretation of the
2053 statute as it relates to the petition.

2054 (IV) All purchasers of the timeshare plan shall be members
2055 of the owners' association and shall be entitled to vote on
2056 matters requiring a vote of the owners' association as provided
2057 in this chapter or the timeshare instrument. The owners'
2058 association shall act as a fiduciary to the purchasers of the
2059 timeshare plan. The articles of incorporation establishing the
2060 owners' association shall set forth the duties of the owners'
2061 association. All expenses reasonably incurred by the owners'
2062 association in the performance of its duties, together with any
2063 reasonable compensation of the officers or directors of the
2064 owners' association, shall be common expenses of the timeshare
2065 plan.

2066 (V) The documents establishing the owners' association
2067 shall constitute a part of the timeshare instrument.

2068 (VI) For owners' associations holding property in a
2069 timeshare plan located outside this state, the owners'
2070 association holding such property shall be deemed in compliance
2071 with the requirements of this subparagraph if such owners'
2072 association is authorized and qualified to conduct owners'
2073 association business under the laws of such jurisdiction and the
2074 agreement or law governing such arrangement provides
2075 substantially similar protections for the purchaser as are

2076 required in this subparagraph for owners' associations holding
 2077 property in a timeshare plan in this state.

2078 (VII) The owners' association shall have appointed a
 2079 registered agent in this state for service of process. In the
 2080 event such a registered agent cannot be located, service of
 2081 process may be made pursuant to s. 721.265.

2082 6. Personal property subject to certificate of title.—If
 2083 any personal property that is an accommodation or facility of a
 2084 timeshare plan is subject to a certificate of title in this
 2085 state pursuant to chapter 319 or chapter 328, the following
 2086 notation must be made on such certificate of title pursuant to
 2087 s. 319.27(1) or s. 328.15 ~~s. 328.15(1)~~:

2088 The further transfer or encumbrance of the property subject to
 2089 this certificate of title, or any lien or encumbrance thereon,
 2090 is subject to the requirements of section 721.17, Florida
 2091 Statutes, and the transferee or lienor agrees to be bound by all
 2092 of the obligations set forth therein.

2093 7. If the developer has previously provided a certified
 2094 copy of any document required by this paragraph, she or he may
 2095 for all subsequent disbursements substitute a true and correct
 2096 copy of the certified copy, provided no changes to the document
 2097 have been made or are required to be made.

2098 8. In the event that use rights relating to an
 2099 accommodation or facility are transferred into a trust pursuant
 2100 to subparagraph 4. or into an owners' association pursuant to

2101 subparagraph 5., all other interestholders, including the owner
2102 of the underlying fee or underlying personal property, must
2103 execute a nondisturbance and notice to creditors instrument
2104 pursuant to subsection (3).

2105 Section 31. (1) The rights, duties, and interests flowing
2106 from a transaction, certificate of title, or record relating to
2107 a vessel which was validly entered into or created before the
2108 effective date of this act and would be subject to this act if
2109 it had been entered into or created on or after the effective
2110 date of this act remain valid on and after the effective date of
2111 this act.

2112 (2) This act does not affect an action or proceeding
2113 commenced before the effective date of this act.

2114 (3) Except as otherwise provided in subsection (4), a
2115 security interest that is enforceable immediately before the
2116 effective date of this act and would have priority over the
2117 rights of a person who becomes a lien creditor at that time is a
2118 perfected security interest under this act.

2119 (4) A security interest perfected immediately before the
2120 effective date of this act remains perfected until the earlier
2121 of:

2122 (a) The time perfection would have ceased under the law
2123 under which the security interest was perfected; or

2124 (b) Three years after the effective date of this act.

2125 (5) This act does not affect the priority of a security

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2019

2126 | interest in a vessel if immediately before the effective date of
2127 | this act the security interest is enforceable and perfected, and
2128 | that priority is established.

2129 | Section 32. Subject to section 31, this act applies to any
2130 | transaction, certificate of title, or record relating to a
2131 | vessel, even if the transaction, certificate of title, or record
2132 | was entered into or created before the effective date of this
2133 | act.

2134 | Section 33. This act shall take effect July 1, 2023.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 475 Certificates of Title for Vessels

SPONSOR(S): State Affairs Committee, Transportation & Tourism Appropriations Subcommittee, Transportation & Infrastructure Subcommittee, Williamson and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/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	19 Y, 0 N, As CS	Roth	Williamson

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 and the duties and responsibilities of the Department of Highway Safety and Motor Vehicles (DHSMV) relating to vessel titling. In general, the bill:

- Creates the "Uniform Certificate of Title for Vessels Act."
- Provides new requirements for the contents of a certificate of title, including the requirement that an application 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 any applicable 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 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 for such certificate.
- 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 issuing 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.

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 true name of the owner, the address of the owner, and the complete description of the vessel, including the hull identification number. The owner must sign the application and 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 and, if the vessel is 16 feet or more in length, a certificate of inspection from the Fish and Wildlife Conservation Commission.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) and (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) and (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 first lien holder will hold the certificate of title 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 and the satisfaction of lien is then filed with DHSMV.²¹ DHSMV may collect a \$1 fee for the recording of each notice of lien, but no fee may be collected for recording the satisfaction of a lien.²²

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 DHSMV within 10 days after satisfaction of the lien.²³ A lienholder who is noncompliant with the 10-day time period commits a misdemeanor of the second degree.²⁴

If the original certificate of title cannot be returned to DHSMV and the owner has satisfied all liens, upon application, a duplicate copy of the certificate of title without lien will be issued to the owner.²⁵ If the

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(6), F.S.

²³ Section 328.15(7), F.S.

²⁴ Section 328.15(9), F.S.

²⁵ Section 328.15(8), F.S.

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

Uniform Law Commission

The Uniform Law Commission (ULC), also known as the National Conference of Commissioners on Uniform State Laws, provides states with legislation that strives to bring clarity to areas of state statutory law.²⁷ 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 where uniformity is desirable and practical.²⁸ The ULC aims to strengthen the federal system by providing rules and procedures that are consistent from state to state.²⁹

Uniform Certificate of Title for Vessels Act

The Uniform Certificate of Title for Vessels Act (UCOTVA) was drafted by the ULC in 2011.³⁰ 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.³¹ The UCOTVA has been enacted in Virginia (2013), Connecticut (2014), Washington D.C. (2015), and Hawaii (2018).³²

Proposed Changes

The bill creates the "Uniform Certificate of Title for Vessels Act" (Act), which incorporates the UCOTVA into Florida's existing vessel titling law. As such, the bill includes numerous changes to the title application requirements and the duties and responsibilities of DHSMV as it relates to vessel titles.

²⁶ Section 328.15(11), F.S.

²⁷ Uniform Law Commission, *About Us*, available at <http://www.uniformlaws.org/aboutulc/overview> (last visited January 29, 2019).

²⁸ *Id.*

²⁹ *Id.*

³⁰ 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).

³¹ *Id.* at p. 2-3.

³² 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).

Application for Certificate of Title

The bill amends s. 328.01, F.S., revising provisions related to an application for certificate of title. The bill requires an applicant to sign the application for certificate of title, which must include:

- The applicant's name, residence address, and, if different, the 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.
- The vessel number for the vessel or, if none issued by DHSMV, an application for a vessel number.
- A description of the vessel.³³
- An indication of all known security interests in the vessel and the name and mailing address of each secured party.
- A statement that the vessel is not a documented vessel³⁴ 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. For purposes of the Act, the term "title brand" means a designation of previous damage, use, or condition that must be indicated on a certificate of title.
- If the applicant knows the vessel is hull damaged, a statement indicating such.
- 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.
- 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 requires 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. Either the certificate must identify the applicant as the owner of the vessel or be accompanied by a record identifying the applicant as the owner. If there is no certificate of title:

- If the vessel was a documented vessel, a record issued by the United States Coast Guard that 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 that 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 requires DHSMV to maintain any records submitted in connection with an application and authorizes the department to require an application for a certificate of title be accompanied by payment of all fees and taxes by the applicant.

DHSMV Records

The bill creates s. 328.015, F.S., specifying the duties and operation of DHSMV. The bill requires DHSMV to retain 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 it receives a termination statement regarding the security interest, and such information must be accessible by the hull identification number for the vessel.

³³ The description must include the official number for the vessel assigned by the U.S. Coast Guard; the name of the manufacturer, builder, or maker; the model year or 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; and the fuel type.

³⁴ The bill defines the term "documented vessel" to mean a vessel covered by a certificate of documentation issued pursuant to 46 U.S.C. s. 12105, but does not include a foreign-documented vessel. A "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.

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

Applicability of State Law

The bill creates s. 328.02, F.S., which provides that state law under which a vessel's certificate of title is covered governs all issues relating to the certificate until the vessel becomes covered by another certificate or becomes a documented vessel.³⁵

Application Submission and Exceptions

The bill amends s. 328.03, F.S., to require a vessel owner to deliver to DHSMV an application for a certificate of title, with the applicable fee, not later than 30 days after the later of the date of a transfer of ownership or the date Florida becomes the state of principal use. The bill creates the following additional exceptions to titling vessels in Florida:

- A documented vessel;
- A foreign-documented vessel;
- A barge;³⁶
- 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 deletes the following exceptions found in current law:

- 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; and
- A vessel owned and operated by the state or a political subdivision.

Additionally, the bill prohibits DHSMV from issuing, transferring, or renewing a number issued to an undocumented vessel under federal law unless the department has created a certificate of title for the vessel or an application for a certificate and the applicable fee has been delivered to DHSMV.

The bill deletes 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 provisions prohibiting a person from selling, assigning, or transferring a titled vessel without the seller delivering a valid certificate of title to the purchaser or transferee.

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

Content of the Certificate of Title

The bill creates s. 328.04, F.S., to establish 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;

³⁶ The bill defines the term "barge" to mean a vessel that is not self-propelled or fitted for propulsion by sail, paddle, oar, or similar device.

- A description of the vessel;
- 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 that all owners indicated on the certificate may sign to evidence consent to a transfer of an ownership interest. The form must include a certification, signed under penalty of perjury. The written certificate of title must also contain a form for the owner of record to indicate that the vessel is hull damaged.

Branded Titles for Hull-Damaged Vessels

The bill creates s. 328.045, F.S., establishing responsibilities of a vessel owner or insurer of a hull-damaged vessel. If damage occurred to a vessel while a person was the owner and the person 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 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 the information is received, DHSMV has 30 days to create a new certificate indicating the vessel is branded "Hull Damaged."

An owner or insurer who fails to comply with the disclosure requirements 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 every subsequent offense.

Maintenance of and Access to Vessel Title Files

The bill creates s. 328.055, F.S., requiring DHSMV to maintain information contained in all certificates of title and information submitted with an application. 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, including the date and time the record was delivered to the department; 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 maintain in its files all known title brands, the name of each known secured party, the name of each known person to be claiming an ownership interest in the vessel, and all stolen property reports DHSMV has received.

Creation of Certificate of Title

The bill creates s. 328.06, F.S., relating to creation of 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 and maintain in its files the date and time of destruction.

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.

Refusal to Issue and Authority to Cancel Certificate of Title

The bill amends s. 328.09, F.S., providing DHSMV with duties relating to refusal to issue and authority to cancel a certificate of title or registration.

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 must 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 it creates only if the department could have rejected the application for the certificate; is required to cancel the certificate under another provision; or receives satisfactory evidence that the vessel is a documented vessel or a foreign-documented vessel. 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.³⁷

Effect of Incorrect or Missing 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.

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, and the application must include the existing certificate unless the certificate is lost, stolen, mutilated, destroyed, or otherwise unavailable. A duplicate certificate of title created by DHSMV must comply with all the requirements for a certificate of title and 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.

The bill removes authorization for an applicant for a 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.

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.

³⁷ The decision is subject to a hearing pursuant to ss. 120.569 and 120.57, F.S.

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 the person is named as an owner, lessor, consignor, or bailor in an application for a certificate of title.

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, 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, and must maintain the date and time of delivery of the application. 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 that s. 328.12, F.S, 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 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.

The bill also specifies when a perfected security interest attaches depending on the law under which the security interest arises.

Finally, the bill requires the Department of Revenue to be treated as a secured party when collecting unpaid child support.

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 the department. A secured party that fails to comply with these requirements is liable for any loss the secured party had reason to know might result from its lack of compliance.

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. The bill provides that 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.

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 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.

Repeal of Notice of Lien on Vessel

The bill sunsets the following provisions of s. 328.15, F.S., on October 1, 2026, 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 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 DHSMV or for failure to forward satisfactions of lien after such demand.
- Provisions requiring DHSMV to 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.

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 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 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 with a penalty of \$5,000 for the first offense, \$15,000 for a second offense, and \$25,000 per offense for every subsequent offense.

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 requirements apply:

- If the transferor's interest is noted on the paper certificate, the transferor must sign 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 these requirements or to apply for a new certificate of title 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 requirements is not liable as owner of the vessel for an event occurring after the transfer.

Transfer of Ownership by Secured Party

The bill creates s. 328.23, F.S., relating to transfer of ownership by a secured party's transfer statement. It defines the term "secured party's transfer statement" as 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 and 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.

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

The bill creates s. 328.24, F.S., relating to transfers by operation of law. It defines the term “by operation of law” To mean 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 requires a transfer-by-law statement to contain:

- The name and last known mailing address of the owner of record and the transferee and 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 DHSMV 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.

Principles of Law and Equity

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

Grandfather Provisions

The bill creates an undesignated section of law that 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 in certain circumstances, 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 the 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, which is July 1, 2023.

Retroactive Application

The bill provides that subject to section 31, 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.

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 31, 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 estimates an insignificant, but positive impact on 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 requires DHSMV to implement changes to vessel titling procedures and databases. However, with a delayed effective date of July 1, 2023, 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 title 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 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:

Article VII, s. 19 of the Florida Constitution requires the imposition, authorization, or raising of a state tax or fee be contained in a separate bill that contains no other subject and be approved by two-thirds of the membership of each house of the Legislature. As such, Article VII, s. 19 of the Florida Constitution may apply if the fee provisions in the bill are interpreted to be a new or increased state fee.

B. RULE-MAKING AUTHORITY:

This bill authorizes DHSMV to adopt rules to implement the provisions of the Act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

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 & 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.

On March 28, 2019, the State Affairs Committee adopted four amendments and reported the bill favorably as a committee substitute. The amendments:

- Restored existing provisions in s. 328.01, F.S., relating to application for transfer of title from a deceased title holder.
- Removed unnecessary language relating to public records.
- Required the Department of Revenue to be treated as a secured party when collecting unpaid child support.
- Corrected a cross-reference to a section of the bill.

This analysis is drafted to the committee substitute as passed by the State Affairs Committee.

By Senator Rouson

19-01529A-19

20191530__

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

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

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

22 327.332 Special hazards.—

23 (1) A vessel operator shall reduce speed to slow speed,
24 minimum wake upon seeing a vessel or person in a hazardous or
25 vulnerable position, if the wake from the operator's vessel is
26 likely to cause property damage or injury to the vulnerable
27 vessel or person. A vessel is not in a hazardous or vulnerable
28 position under this subsection if it is docked and unattended.

29 (2) A vessel operator shall reduce to slow speed, minimum

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30 wake upon approaching within 300 feet of any emergency vessel,
31 including, but not limited to, a law enforcement vessel, a
32 United States Coast Guard vessel or auxiliary vessel, a fire
33 vessel, or a tow vessel, with its emergency lights activated.

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

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

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

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

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

52 (e) The vessel does not have or is unable to demonstrate an
53 effective means of propulsion for safe navigation within 72
54 hours after the vessel owner or operator receives telephonic or
55 written notice, which may be provided by facsimile, electronic
56 mail, or other electronic means, stating such from an officer,
57 does not have a declared destination upon inquiry by a law
58 enforcement officer, and the vessel owner or operator is unable

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59 to provide a receipt, proof of purchase, or other documentation
60 of having ordered necessary parts for vessel repair. The
61 commission may adopt rules to implement this paragraph.

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

67 Section 3. Section 328.21, Florida Statutes, is amended to
68 read:

69 328.21 Transfer without delivery of certificate; operation
70 or use without certificate; failure to surrender; other
71 violations.—A person who:

72 (1) Except as otherwise provided for in this chapter,
73 purports to sell or transfer a vessel for which a certificate of
74 title is required without delivering to the purchaser or
75 transferee thereof a certificate of title thereto which is duly
76 assigned to the purchaser as provided in this chapter or who
77 operates or uses in this state a vessel for which a certificate
78 of title is required, without the certificate having been
79 obtained in accordance with this chapter, or upon which the
80 certificate of title has been canceled;

81 (2) Fails to surrender any certificate of title,
82 certificate of registration, or sticker upon cancellation of the
83 same by the department and notice thereof as prescribed in this
84 chapter;

85 (3) Fails to surrender the certificate of title to the
86 department as provided in this chapter when the vessel has been
87 destroyed, dismantled, or changed so that it is not the vessel

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88 described in the certificate of title; ~~or~~

89 (4) Fails to present the certificate of title to the
 90 department with the new owner information to ensure proper
 91 transfer of ownership of the vessel; or

92 (5) ~~(4)~~ Violates any of the other provisions of this
 93 chapter, or any lawful rule adopted under this chapter,
 94
 95 is guilty of a misdemeanor of the second degree, punishable as
 96 provided in s. 775.082 or s. 775.083, for each offense.

97 Section 4. Paragraphs (aa) and (bb) of subsection (1) of
 98 section 327.73, Florida Statutes, are amended, and paragraph
 99 (cc) is added to that subsection, to read:

100 327.73 Noncriminal infractions.—

101 (1) Violations of the following provisions of the vessel
 102 laws of this state are noncriminal infractions:

103 (aa) Section 327.4107, relating to vessels at risk of
 104 becoming derelict on waters of this state, for which the civil
 105 penalty is:

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

107 2. For a second offense occurring 30 days or more after a
 108 first offense, \$250 ~~\$100~~.

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

113 (bb) Section 327.4109, relating to anchoring or mooring in
 114 a prohibited area, for which the penalty is:

115 1. For a first offense, up to a maximum of \$100 ~~\$50~~.

116 2. For a second offense, up to a maximum of \$250 ~~\$100~~.

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117 3. For a third or subsequent offense, up to a maximum of
118 \$500 ~~\$250~~. A person cited more than 3 times within a 12-month
119 period may have their vessel impounded by law enforcement.

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

122 1. For a first offense, \$50.

123 2. For a second offense occurring within 12 months after a
124 prior conviction, \$250.

125 3. For a third offense occurring within 36 months after a
126 prior conviction, \$500.

127 4. For a fourth or subsequent offense occurring within 72
128 months after a prior conviction, \$1,000.

129
130 Any person cited for a violation of any provision of this
131 subsection shall be deemed to be charged with a noncriminal
132 infraction, shall be cited for such an infraction, and shall be
133 cited to appear before the county court. The civil penalty for
134 any such infraction is \$50, except as otherwise provided in this
135 section. Any person who fails to appear or otherwise properly
136 respond to a uniform boating citation shall, in addition to the
137 charge relating to the violation of the boating laws of this
138 state, be charged with the offense of failing to respond to such
139 citation and, upon conviction, be guilty of a misdemeanor of the
140 second degree, punishable as provided in s. 775.082 or s.
141 775.083. A written warning to this effect shall be provided at
142 the time such uniform boating citation is issued.

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

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.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 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 the Committee on Community Affairs; and Senator Gruters

578-03525-19

20191792c1

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
20 exceptions; 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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20191792c1

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 exception; providing an
56 effective date.

57
58 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Paragraphs (b) and (c) of subsection (1) of section 125.0103, Florida Statutes, are amended to read:

125.0103 Ordinances and rules imposing price controls; findings required; procedures.—

(1)

(b) ~~The provisions of~~ This section does ~~shall~~ not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, or port rates, rates for towing of vehicles or vessels from, or immobilization of vehicles or vessels on, private property, or rates for removal and storage of wrecked or disabled vehicles or vessels from an accident scene or the removal and storage of vehicles or vessels in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel.

(c) Counties must establish maximum rates that ~~which~~ may be charged for ~~on~~ the towing of vehicles or vessels from, or immobilization of vehicles or vessels on, private property, the removal and storage of wrecked or disabled vehicles or vessels from an accident scene or ~~for~~ the removal and storage of vehicles or vessels, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel. However, if a municipality chooses to enact an ordinance establishing the maximum rates ~~fees~~ for the towing or

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88 immobilization of vehicles or vessels as described in paragraph
89 (b), the county's ordinance does ~~shall~~ not apply within such
90 municipality. For purposes of this paragraph, the term
91 "immobilize" means the act of rendering a vehicle or vessel
92 inoperable by the use of a device such as a "boot" or "club,"
93 the "Barnacle," or any other device that renders a vehicle or
94 vessel inoperable.

95 Section 2. Section 125.01047, Florida Statutes, is created
96 to read:

97 125.01047 Rules and ordinances relating to towing and to
98 vehicle immobilization services.-

99 (1) A county may not enact an ordinance or rule that would
100 impose a fee or charge on an authorized wrecker operator as
101 defined in s. 323.002(1); a towing business for towing,
102 impounding, or storing a vehicle or vessel; or a vehicle
103 immobilization service as defined in s. 715.08. As used in this
104 section, the term "towing business" means a business that
105 provides towing services for monetary gain.

106 (2) The prohibition imposed in subsection (1) does not
107 affect a county's authority to:

108 (a) Levy a reasonable business tax under s. 205.0315, s.
109 205.033, or s. 205.0535.

110 (b) Impose on and collect from the registered owner or
111 other legally authorized person in control of a vehicle or
112 vessel, or the lienholder of a vehicle or vessel, a reasonable
113 administrative fee or charge not to exceed 25 percent of the
114 maximum towing or of the immobilization rate, to cover the cost
115 of enforcement, including parking enforcement, by the county
116 when the vehicle or vessel is towed from or immobilized on

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117 public property. However, an authorized wrecker operator, towing
118 business, or vehicle immobilization service may impose and
119 collect the administrative fee or charge on behalf of the county
120 and shall remit such fee or charge to the county after it is
121 collected.

122 (3) This section does not affect an ordinance, resolution,
123 or regulation enacted on or before January 1, 2019, by a charter
124 county with a population exceeding 1.3 million according to the
125 most recent decennial census which relates to the towing,
126 immobilization, removal, or storage of vehicles or vessels,
127 including any amendment or revision made to such ordinance,
128 resolution, or regulation after July 1, 2019.

129 Section 3. Paragraphs (b) and (c) of subsection (1) of
130 section 166.043, Florida Statutes, are amended to read:

131 166.043 Ordinances and rules imposing price controls;
132 findings required; procedures.—

133 (1)

134 (b) ~~The provisions of~~ This section does ~~shall~~ not prevent
135 the enactment by local governments of public service rates
136 otherwise authorized by law, including water, sewer, solid
137 waste, public transportation, taxicab, or port rates, rates for
138 towing of vehicles or vessels from, or immobilization of
139 vehicles or vessels on, private property, or rates for removal
140 and storage of wrecked or disabled vehicles or vessels from an
141 accident scene or the removal and storage of vehicles or vessels
142 in the event the owner or operator is incapacitated,
143 unavailable, leaves the procurement of wrecker service to the
144 law enforcement officer at the scene, or otherwise does not
145 consent to the removal of the vehicle or vessel.

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146 (c) Counties must establish maximum rates ~~that~~ which may be
147 charged ~~for~~ on the towing of vehicles or vessels from, or
148 immobilization of vehicles or vessels on, private property, the
149 removal and storage of wrecked or disabled vehicles or vessels
150 from an accident scene or ~~for~~ the removal and storage of
151 vehicles or vessels, in the event the owner or operator is
152 incapacitated, unavailable, leaves the procurement of wrecker
153 service to the law enforcement officer at the scene, or
154 otherwise does not consent to the removal of the vehicle or
155 vessel. However, if a municipality chooses to enact an ordinance
156 establishing the maximum rates ~~fees~~ for the towing or
157 immobilization of vehicles or vessels as described in paragraph
158 (b), the county's ordinance established under s. 125.0103 does
159 ~~shall~~ not apply within such municipality. For purposes of this
160 paragraph, the term "immobilize" means the act of rendering a
161 vehicle or a vessel inoperable by the use of a device such as a
162 "boot" or "club," the "Barnacle," or any other device that
163 renders the vehicle or the vessel inoperable.

164 Section 4. Section 166.04465, Florida Statutes, is created
165 to read:

166 166.04465 Rules and ordinances relating to towing or to
167 vehicle immobilization services.-

168 (1) A municipality may not enact an ordinance or rule that
169 would impose a fee or charge on an authorized wrecker operator
170 as defined in s. 323.002(1); on a towing business for towing,
171 impounding, or storing a vehicle or vessel; or a vehicle
172 immobilization service as defined in s. 715.08. As used in this
173 section, the term "towing business" means a business that
174 provides towing services for monetary gain.

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175 (2) The prohibition imposed in subsection (1) does not
176 affect a municipality's authority to:

177 (a) Levy a reasonable business tax under s. 205.0315, s.
178 205.043, or s. 205.0535.

179 (b) Impose on and collect from the registered owner or
180 other legally authorized person in control of a vehicle or
181 vessel, or the lienholder of a vehicle or vessel, a reasonable
182 administrative fee or charge not to exceed 25 percent of the
183 maximum towing or immobilization rate, to cover the cost of
184 enforcement, including parking enforcement, by the municipality
185 when the vehicle or vessel is towed from or immobilized on
186 public property. However, an authorized wrecker operator, towing
187 business, or vehicle immobilization service may impose and
188 collect the administrative fee or charge on behalf of the
189 municipality and shall remit such fee or charge to the
190 municipality after it is collected.

191 Section 5. Present subsection (4) of section 323.002,
192 Florida Statutes, is redesignated as subsection (5), and a new
193 subsection (4) is added to that section, to read:

194 323.002 County and municipal wrecker operator systems;
195 penalties for operation outside of system.-

196 (4) (a) Except as provided in paragraph (b), a county or
197 municipality may not adopt or maintain an ordinance or rule that
198 imposes a charge, cost, expense, fine, fee, or penalty on a
199 registered owner or other legally authorized person in custody
200 or in control of a vehicle or vessel, or the lienholder of a
201 vehicle or vessel, when the vehicle or vessel is towed by an
202 authorized wrecker operator under this chapter.

203 (b) A county or municipality may adopt or maintain an

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204 ordinance or rule that imposes a reasonable administrative fee
205 or charge on the registered owner or other legally authorized
206 person in control of a vehicle or vessel, or the lienholder of a
207 vehicle or vessel, when the vehicle or vessel is towed by an
208 authorized wrecker operator. The fee or charge may not exceed 25
209 percent of the maximum towing rate, to cover the cost of
210 enforcement, including parking enforcement, by the county or
211 municipality when the vehicle or vessel is towed from public
212 property. However, an authorized wrecker operator or towing
213 business may impose and collect the administrative fee or charge
214 on behalf of the county or municipality and shall remit such fee
215 or charge to the county or municipality after it is collected.

216 (c) This subsection does not affect an ordinance,
217 resolution, or regulation enacted on or before January 1, 2019,
218 by a charter county with a population exceeding 1.3 million
219 according to the most recent decennial census which imposes a
220 charge, cost, expense, fine, fee, or penalty on a registered
221 owner or other legally authorized person in control of a vehicle
222 or vessel, or the lienholder of a vehicle or vessel, when the
223 vehicle or vessel is towed by an authorized wrecker operator
224 under this chapter.

225 Section 6. Subsection (2) of section 713.78, Florida
226 Statutes, is amended to read:

227 713.78 Liens for recovering, towing, or storing vehicles
228 and vessels.—

229 (2) Whenever a person regularly engaged in the business of
230 transporting vehicles or vessels by wrecker, tow truck, or car
231 carrier recovers, removes, or stores a vehicle or vessel upon
232 instructions from:

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233 (a) The owner thereof;

234 (b) The owner or lessor, or a person authorized by the
235 owner or lessor, of property on which such vehicle or vessel is
236 wrongfully parked, and the removal is done in compliance with s.
237 715.07;

238 (c) The landlord or a person authorized by the landlord,
239 when such motor vehicle or vessel remained on the premises after
240 the tenancy terminated and the removal is done in compliance
241 with s. 83.806 or s. 715.104; or

242 (d) Any law enforcement agency,

243

244 she or he shall have a lien on the vehicle or vessel for a
245 reasonable towing fee, for a reasonable administrative fee or
246 charge imposed by a county or a municipality, and for a
247 reasonable storage fee; except that a ~~no~~ storage fee may not
248 ~~shall~~ be charged if the vehicle or the vessel is stored for less
249 than 6 hours.

250 Section 7. Subsection (2) and present subsection (4) of
251 section 715.07, Florida Statutes, are amended, and present
252 subsection (5) of that section is redesignated as subsection
253 (4), to read:

254 715.07 Vehicles or vessels parked on private property;
255 towing.—

256 (2) The owner or lessee of real property, or any person
257 authorized by the owner or lessee, which person may be the
258 designated representative of the condominium association if the
259 real property is a condominium, may cause any vehicle or vessel
260 parked on such property without her or his permission to be
261 removed by a person regularly engaged in the business of towing

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262 vehicles or vessels, without liability for the costs of removal,
263 transportation, or storage or damages caused by such removal,
264 transportation, or storage, under any of the following
265 circumstances:

266 (a) The towing or removal of any vehicle or vessel from
267 private property without the consent of the registered owner or
268 other legally authorized person in control of that vehicle or
269 vessel is subject to strict compliance with the following
270 conditions and restrictions:

271 1.a. Any towed or removed vehicle or vessel must be stored
272 at a site within a 10-mile radius of the point of removal in any
273 county of 500,000 population or more, and within a 15-mile
274 radius of the point of removal in any county of less than
275 500,000 population. That site must be open for the purpose of
276 redemption of vehicles on any day that the person or firm towing
277 such vehicle or vessel is open for towing purposes, from 8:00
278 a.m. to 6:00 p.m., and, when closed, shall have prominently
279 posted a sign indicating a telephone number where the operator
280 of the site can be reached at all times. Upon receipt of a
281 telephoned request to open the site to redeem a vehicle or
282 vessel, the operator shall return to the site within 1 hour or
283 she or he will be in violation of this section.

284 b. If no towing business providing such service is located
285 within the area of towing limitations set forth in sub-
286 subparagraph a., the following limitations apply: any towed or
287 removed vehicle or vessel must be stored at a site within a 20-
288 mile radius of the point of removal in any county of 500,000
289 population or more, and within a 30-mile radius of the point of
290 removal in any county of less than 500,000 population.

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291 2. The person or firm towing or removing the vehicle or
292 vessel shall, within 30 minutes after completion of such towing
293 or removal, notify the municipal police department or, in an
294 unincorporated area, the sheriff, of such towing or removal, the
295 storage site, the time the vehicle or vessel was towed or
296 removed, and the make, model, color, and license plate number of
297 the vehicle or description and registration number of the vessel
298 and shall obtain the name of the person at that department to
299 whom such information was reported and note that name on the
300 trip record.

301 3. A person in the process of towing or removing a vehicle
302 or vessel from the premises or parking lot in which the vehicle
303 or vessel is not lawfully parked must stop when a person seeks
304 the return of the vehicle or vessel. The vehicle or vessel must
305 be returned upon the payment of a reasonable service fee of not
306 more than one-half of the posted rate for the towing or removal
307 service as provided in subparagraph 6. The vehicle or vessel may
308 be towed or removed if, after a reasonable opportunity, the
309 owner or legally authorized person in control of the vehicle or
310 vessel is unable to pay the service fee. If the vehicle or
311 vessel is redeemed, a detailed signed receipt must be given to
312 the person redeeming the vehicle or vessel.

313 4. A person may not pay or accept money or other valuable
314 consideration for the privilege of towing or removing vehicles
315 or vessels from a particular location.

316 5. Except for property appurtenant to and obviously a part
317 of a single-family residence, and except for instances when
318 notice is personally given to the owner or other legally
319 authorized person in control of the vehicle or vessel that the

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320 area in which that vehicle or vessel is parked is reserved or
321 otherwise unavailable for unauthorized vehicles or vessels and
322 that the vehicle or vessel is subject to being removed at the
323 owner's or operator's expense, any property owner or lessee, or
324 person authorized by the property owner or lessee, prior to
325 towing or removing any vehicle or vessel from private property
326 without the consent of the owner or other legally authorized
327 person in control of that vehicle or vessel, must post a notice
328 meeting the following requirements:

329 a. The notice must be prominently placed at each driveway
330 access or curb cut allowing vehicular access to the property,
331 ~~within 5 feet from the public right-of-way line.~~ If there are no
332 curbs or access barriers, the signs must be posted not less than
333 one sign for each 25 feet of lot frontage.

334 b. The notice must clearly indicate, ~~in not less than 2-~~
335 ~~inch high, light-reflective letters on a contrasting background,~~
336 that unauthorized vehicles will be towed away at the owner's
337 expense. The words "tow-away zone" must be included on the sign
338 ~~in not less than 4-inch high letters.~~

339 c. The notice must also provide the name and current
340 telephone number of the person or firm towing or removing the
341 vehicles or vessels.

342 d. The sign structure containing the required notices must
343 be permanently installed with the words "tow-away zone" ~~not less~~
344 ~~than 3 feet and not more than 6 feet above ground level~~ and must
345 be continuously maintained on the property for not less than 24
346 hours prior to the towing or removal of any vehicles or vessels.

347 e. The local government may require permitting and
348 inspection of these signs prior to any towing or removal of

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349 vehicles or vessels being authorized.

350 f. A business with 20 or fewer parking spaces satisfies the
351 notice requirements of this subparagraph by prominently
352 displaying a sign that clearly states ~~stating~~ "Reserved Parking
353 for Customers Only Unauthorized Vehicles or Vessels Will be
354 Towed Away At the Owner's Expense." ~~in not less than 4-inch~~
355 ~~high, light-reflective letters on a contrasting background.~~

356 g. A property owner towing or removing vessels from real
357 property must post notice, consistent with the requirements in
358 sub-subparagraphs a.-f., which apply to vehicles, that
359 unauthorized vehicles or vessels will be towed away at the
360 owner's expense.

361
362 A business owner or lessee may authorize the removal of a
363 vehicle or vessel by a towing company when the vehicle or vessel
364 is parked in such a manner that restricts the normal operation
365 of business; and if a vehicle or vessel parked on a public
366 right-of-way obstructs access to a private driveway the owner,
367 lessee, or agent may have the vehicle or vessel removed by a
368 towing company upon signing an order that the vehicle or vessel
369 be removed without a posted tow-away zone sign.

370 6. Any person or firm that tows or removes vehicles or
371 vessels and proposes to require an owner, operator, or person in
372 custody or control of a vehicle or vessel to pay the costs of
373 towing and storage prior to redemption of the vehicle or vessel
374 must file and keep on record with the local law enforcement
375 agency a complete copy of the current rates to be charged for
376 such services and post at the storage site an identical rate
377 schedule and any written contracts with property owners,

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378 lessees, or persons in control of property which authorize such
379 person or firm to remove vehicles or vessels as provided in this
380 section.

381 7. Any person or firm towing or removing any vehicles or
382 vessels from private property without the consent of the owner
383 or other legally authorized person in custody or control of the
384 vehicles or vessels shall, on any trucks, wreckers as defined in
385 s. 713.78(1)(c), or other vehicles used in the towing or
386 removal, have the name, address, and telephone number of the
387 company performing such service clearly printed ~~in contrasting~~
388 ~~colors~~ on the driver and passenger sides of the vehicle. ~~The~~
389 ~~name shall be in at least 3-inch permanently affixed letters,~~
390 ~~and the address and telephone number shall be in at least 1-inch~~
391 ~~permanently affixed letters.~~

392 8. Vehicle entry for the purpose of removing the vehicle or
393 vessel shall be allowed with reasonable care on the part of the
394 person or firm towing the vehicle or vessel. Such person or firm
395 shall be liable for any damage occasioned to the vehicle or
396 vessel if such entry is not in accordance with the standard of
397 reasonable care.

398 9. When a vehicle or vessel has been towed or removed
399 pursuant to this section, it must be released to its owner or to
400 the person in custody or control ~~custodian~~ within one hour after
401 requested. Any vehicle or vessel owner or the person in custody
402 or control ~~agent~~ shall have the right to inspect the vehicle or
403 vessel before accepting its return, and no release or waiver of
404 any kind which would release the person or firm towing the
405 vehicle or vessel from liability for damages noted by the owner
406 or by the person in custody or control ~~other legally authorized~~

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407 ~~person~~ at the time of the redemption may be required from any
408 vehicle or vessel owner, ~~custodian,~~ or person in custody or
409 control agent as a condition of release of the vehicle or vessel
410 to its owner. A detailed, signed receipt showing the legal name
411 of the company or person towing or removing the vehicle or
412 vessel must be given to the person paying towing or storage
413 charges at the time of payment, whether requested or not.

414 (b) These requirements are minimum standards and do not
415 preclude enactment of additional regulations by any municipality
416 or county, including the right to regulate rates when vehicles
417 or vessels are towed from private property.

418 ~~(4) When a person improperly causes a vehicle or vessel to~~
419 ~~be removed, such person shall be liable to the owner or lessee~~
420 ~~of the vehicle or vessel for the cost of removal,~~
421 ~~transportation, and storage; any damages resulting from the~~
422 ~~removal, transportation, or storage of the vehicle or vessel;~~
423 ~~attorney's fees; and court costs.~~

424 Section 8. Section 715.08, Florida Statutes, is created to
425 read:

426 715.08 Vehicle immobilization services.-

427 (1) DEFINITIONS.-As used in this section, the term:

428 (a) "Immobilize" means the act of rendering a vehicle or a
429 vessel inoperable by the use of a vehicle immobilization device.

430 (b) "License" means a license, a permit, or other similar
431 grant of authority to operate issued to an operator by a local
432 government.

433 (c) "Operator" means any person, as defined in s. 1.01(3),
434 individual, or entity, including, but not limited to, a sole
435 proprietor, an independent contractor, a partnership, or a

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436 similar business entity, offering or operating a vehicle
437 immobilization service.

438 (d) "Vehicle immobilization device" means any mechanical
439 device that is designed or used to be attached to a wheel, a
440 tire, or other part of a parked motor vehicle which includes,
441 but is not limited to, a "boot" or "club," the "Barnacle," or
442 any other device that renders a vehicle or vessel inoperable.

443 (e) "Vehicle immobilization service" means any service in
444 which vehicles are immobilized.

445 (2) VEHICLE IMMOBILIZATION OPERATIONS; REQUIREMENTS.-

446 (a) Vehicle immobilization devices may be used on
447 trespassing motor vehicles as provided for under this section.

448 (b) It is unlawful for any person to act as an operator
449 within this state unless the person is properly licensed or
450 approved by a local government.

451 (c) It is unlawful for any person to act as an operator if
452 the person also has ownership or any other valuable
453 consideration in property or a lot being used for the business
454 of parking, or allowing for the parking of, motor vehicles or is
455 engaged in the business of parking lot or valet parking
456 operations.

457 (d) Each operator shall conduct vehicle immobilization
458 services using a name that is distinguishable from any other
459 existing operator.

460 (e)1. An operator shall issue all individuals under the
461 operator's employment, or who are acting on behalf of the
462 operator, including the operator himself or herself, or
463 partners, members, or officers of the operator, a photo
464 identification with the name of the operator. Such an individual

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465 shall carry this operator-issued identification with him or her
466 at all times while performing vehicle immobilization services.

467 2. All individuals under an operator's employment, or who
468 are acting on behalf of the operator, including the operator
469 himself or herself, or partners, members, or officers of the
470 operator, shall wear a uniform that clearly identifies the name
471 of the operator while performing vehicle immobilization
472 services.

473 3. All vehicles being used by operators or individuals
474 under an operator's employment to perform vehicle immobilization
475 services must have prominently displayed on both sides of each
476 vehicle the name of the operator and that the operator performs
477 vehicle immobilization services, the address from which the
478 operator conducts business, and the telephone number of the
479 operator. The lettering must be in a contrasting color to the
480 color of the vehicle, or if a vehicle magnet or decal is used,
481 the lettering must be in a contrasting color to the color of the
482 magnet or decal. The lettering must be at least one and one-half
483 inches in height.

484 (f)1. An operator may conduct vehicle immobilization
485 services 24 hours per day, 7 days per week, and 365 days per
486 year.

487 2. An operator shall maintain a telephone number that is
488 staffed by a live individual 24 hours per day and 365 days per
489 year to communicate immediately with a driver or owner of an
490 immobilized vehicle.

491 (g) An operator who has immobilized a vehicle shall
492 immediately affix a notice to the driver's side window
493 containing, at minimum, the following information:

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494 1. A warning that any attempt to move the vehicle may
495 result in damage to the vehicle; and

496 2. The fee required to remove the immobilization device,
497 the name of the operator, and the telephone number to call to
498 have the immobilization device removed.

499 (h) It is unlawful for a vehicle immobilization service or
500 operator to:

501 1. Immobilize vehicles on any private property without
502 having entered into a valid written contract for vehicle
503 immobilization services with the private property owner, the
504 lawful lessee, the managing agent, or other person in control of
505 the property;

506 2. Fail to arrive on the site where a vehicle was
507 immobilized within 1 hour of being contacted by the owner, the
508 driver, or the person in custody or in control of the vehicle;

509 3. Fail to release a vehicle from immobilization within 1
510 hour after receipt of payment from the owner, the driver, or the
511 person in charge of a vehicle that has been immobilized; and

512 4. Fail to provide a receipt of payment of the
513 immobilization fee to the owner, the driver, or the person in
514 custody or in control of an immobilized vehicle. The receipt
515 must have the name, address, and telephone number of the
516 operator; the name of the individual under the operator's
517 employment or the partner, member, or officer of such operator
518 who removed the immobilization device; and the operator's
519 license number as issued by the department.

520 (i)1. If the application of a vehicle immobilization device
521 damages a vehicle, the operator shall pay the cost of repairs
522 for that damage.

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523 2. If the owner, the driver, or the person in charge of a
524 motor vehicle to which an immobilization device has been
525 installed attempts to operate such motor vehicle or to remove
526 the device, then the operator is not liable for any damage to
527 the vehicle resulting from such attempt. In such an instance,
528 the owner, the driver, or the person in charge of the
529 immobilized vehicle is liable to the operator for the cost of
530 damage to the vehicle immobilization device.

531 (j) An operator shall maintain minimum insurance coverage
532 in the amount of \$1 million in commercial general liability, \$1
533 million in commercial automobile liability, \$1 million in garage
534 liability, \$1 million in professional liability, and \$1 million
535 in umbrella coverage and shall have workers' compensation
536 coverage on all employees.

537 (3) PROHIBITED ACTIVITIES.—An operator may not do any of
538 the following:

539 (a) Procure a license issued by a local government by
540 fraudulent conduct or by a false statement of a material fact.

541 (b) Pay, in the form of a gratuity or any other valuable
542 consideration, any person who does not have ownership in
543 property or in a lot being used for the business of parking, or
544 allowing for the parking of, motor vehicles for information as
545 to illegally parked vehicles.

546 (c) Make any payment or other valuable consideration to an
547 owner, an employee, an agent, or a person in possession of
548 property or a lot that is being used for the business of
549 parking, or allowing for the parking of, motor vehicles in
550 excess of the reasonable and customary fee ordinarily charged by
551 such person in possession of such property or lot for parking

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552 thereon.

553 (d) Charge fees in excess of those provided for in this
554 section.

555 (e) Impound any vehicle located on any portion of a public
556 way within this state, unless such operator is contracted to do
557 so by a governmental agency.

558 (4) SIGNAGE; REQUIREMENTS.-

559 (a) It is unlawful for any operator to install or to attach
560 a device to any motor vehicle without posting signs meeting the
561 following requirements:

562 1. The operator shall install signs at each designated
563 entrance to a parking lot or parking area where parking
564 prohibitions are in effect. If there is no designated entrance,
565 the operator shall erect the signs so they are clearly visible
566 from every parking space;

567 2. Signs must be a minimum of 18 inches by 24 inches, or if
568 not allowed in such size, the maximum allowable size, with
569 lettering a minimum height of one and one-half inches; and

570 3. Sign lettering must be in a solid color that contrasts
571 with the sign's background.

572 (b) An operator's signs must clearly state the following,
573 at a minimum:

574
575 1. WARNING: IMMOBILIZATION ENFORCED 24/7.

576 2. UNAUTHORIZED VEHICLES MAY BE IMMOBILIZED AT OWNER'S RISK
577 AND EXPENSE.

578 3. THE IMMOBILIZATION OPERATOR IS ... (insert name of
579 vehicle immobilization service)....

580 4. THE TELEPHONE NUMBER FOR IMMOBILIZATION REMOVAL IS

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581 ...(insert operator's telephone number)....

582

583 (c) No abbreviations may be used on signs required under
584 this subsection.

585 (5) ADMINISTRATIVE ACTIONS; OPERATOR RIGHTS.—

586 (a) A local government that has jurisdiction over, and that
587 issued a license to, an operator may impose a fine upon the
588 operator and may revoke, suspend, or not renew the operator's
589 license for due cause.

590 (b) Adverse actions may not be taken regarding any license
591 issued pursuant to this section until and after notice has been
592 provided and a hearing has been held by the local government.
593 Notice of such hearing must be given in writing and served at
594 least 30 days before the date of a hearing. The notice must
595 state the grounds of the complaint against the holder of such
596 license and must designate the time and place where such hearing
597 will be held. The notice must be served upon the license holder
598 via certified mail, signature required, addressed to the license
599 holder at the address provided on the operator's current
600 application.

601 (c) Any operator whose license has been revoked pursuant to
602 this section is disqualified from reapplying to the local
603 government for another license for 12 months immediately
604 following the revocation. The violation of any provision of this
605 section by any person with any ownership interest in the vehicle
606 immobilization service may result in the revocation of the
607 operator's license.

608 (d) The maximum fine for any violation of this section is
609 \$1,000. The maximum suspension of a license for any one

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610 violation of this section is 30 days.

611 (6) COUNTY ORDINANCES NOT AFFECTED.—This section does not
612 affect an ordinance, resolution, or regulation enacted on or
613 before January 1, 2019, by a charter county with a population
614 exceeding 1.3 million according to the most recent decennial
615 census which relates to the towing, immobilization, removal, or
616 storage of vehicles or vessels, including any amendment or
617 revision made to such ordinance, resolution, or regulation after
618 July 1, 2019.

619 Section 9. 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: CS/SB 1792

INTRODUCER: Community Affairs Committee and Senator Gruters

SUBJECT: Towing and Immobilizing of Vehicles and Vessels

DATE: March 27, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Yeatman	CA	Fav/CS
2.			IS	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1792 requires a county or municipality to establish maximum rates for the towing and storage of vessels, as well as placing a cap on the maximum rate for immobilizing a vessel. The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on an authorized wrecker operator, a towing business, or a vehicle immobilization service. The bill does not impact the ability of a county or municipality to impose a reasonable administrative fee on the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel to cover the cost of enforcement actions on public property. The bill provides that an authorized wrecker operator, a towing business, or vehicle immobilization service 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 additional fees on the registered owner or lienholder of a vehicle or vessel when the vehicle or vessel is towed by an authorized wrecker operator. The bill provides that the reasonable administrative fee or charge imposed by the county or municipality must be included as part of the lien on the vehicle or vessel by the towing operator. The bill creates s. 715.08, F.S., regarding vehicle immobilization services. Additionally, CS/SB 1792 provides exemptions to bill requirements for ordinances enacted by a charter county with a population exceeding 1.3 million on or before January 1, 2019.

II. 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 at least \$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 Section 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(20)*, 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 Section 323.002(1)(c), F.S.

³ Section 323.002(1)(a)-(b), F.S.

⁴ Section 323.002(2)(b), F.S.

⁵ Section 323.002(2)(c), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ Section 323.002(2)(d), F.S.

⁹ Section 323.002(2)(c) and (d), F.S.

¹⁰ Section 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 where the officer has probable cause to believe the vehicle:

- Should be seized under the Florida Contraband Forfeiture Act¹⁴ or ch. 379, F.S.;¹⁵
- 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.¹⁶

An officer may also apply a hold when the vehicle is impounded pursuant to ss. 316.193 (driving under the influence) or 322.34 (driving while license suspended, revoked, canceled, or disqualified), F.S., and when the officer is complying with a court order.¹⁷ 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 (including its color, make, model, body style, and year; VIN (Vehicle Identification Number); registration license plate number, state, year; and validation sticker number, state and year), the specific reason for placing the hold, the condition of the vehicle, the location where the vehicle is being held, and the name, address, and telephone number of the wrecker operator and storage facility.¹⁸

The investigating agency must inform the wrecker operator in writing within the five day holding period if the agency intends to hold the vehicle for a longer period of time.¹⁹ 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.²⁰

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

¹¹ Sections 125.0103(1)(c) and 166.043(1)(c), F.S.

¹² Compare 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 Section 323.001(1), F.S.

¹⁴ Sections 932.701-932.7062, F.S.

¹⁵ Chapter 379, F.S., includes multiple instances when a vehicle or vessel may be forfeited due to unlawful acts committed with such vehicle or vessel concerning fish and wildlife conservation.

¹⁶ Section 323.001(4)(a)-(e), F.S.

¹⁷ Section 323.001(4)(f)-(g), F.S.

¹⁸ Section 323.001(5), F.S.

¹⁹ Section 323.001(2), F.S.

²⁰ Section 323.001(2)(a)-(b), F.S.

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 or lessor of property on which the vehicle or vessel is wrongly parked (as long as the removal is performed in compliance with 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 ss. 83.806 or 715.104, F.S.); or
- Any law enforcement agency.²¹

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.²² 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.²³ 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.²⁴ 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.”²⁵ Usually a fee is applied 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.²⁶

Fees Related to Towing, Storage, and Wrecker Operators

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.

The City of Sarasota seizes the vehicle of those arrested for crimes related to drugs or prostitution.²⁷ 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), hearing costs

²¹ Section 713.78(2), F.S

²² FLA. CONST., art. VII, s. 1(a).

²³ *City of Boca Raton v. State*, 595 So. 2d 25, 30 (Fla. 1992).

²⁴ *City of Miami v. Quik Cash Jewelry & Pawn, Inc.*, 811 So.2d 756, 758 (Fla. 3rd DCA 2002).

²⁵ *Id.*

²⁶ See *Jasinski v. City of Miami*, 269 F. Supp. 2d 1341, 1348 (S.D. Fla. 2003).

²⁷ Sarasota Police Department, *Vehicle Seizure Program*, available at <https://www.sarasotapd.org/about-us/vehicle-seizure-program> (last visited March 22, 2019).

(\$50), and towing and storage fees to receive the vehicle back pending the outcome of the hearing, or the owner may leave the vehicle in impound, incurring additional fees; or

- The registered owner may waive the right to a hearing and pay the civil penalty (\$500).

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 a similar process and rate structure.²⁸

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.²⁹

The City of Winter Springs imposes an administrative fee for impoundment arising from twelve offenses enumerated in the authorizing ordinance, ranging from prostitution to dumping litter weighing more than 15 pounds.³⁰ 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). If the registered owner waives the right to hearing, the administrative fee is reduced to \$250.

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.³¹

Additionally, a county or municipality may require a fee from a towing business in order to be licensed to operate within that county or municipality. For example, to operate a towing business in Miami-Dade County a person or corporation must apply to be a registered towing business with the county, which includes a \$412 annual fee, a vehicle safety inspection with a \$94 decal fee, proof of insurance requirements, and background checks (\$24 fee) of the owners of the towing business.³²

²⁸ Bradenton, Fla. Code of Ordinances, ch. 54, art. IV, *available at* https://library.municode.com/fl/bradenton/codes/code_of_ordinances?nodeId=PTIICOOR_CH54OFMIPR_ARTIVIMMOVE_USFAPRDRRECR (last visited March 22, 2019).

²⁹ Sweetwater, Fla. Code of Ordinances, ch. 42-1, s. 42.1(c), *available at* https://library.municode.com/fl/sweetwater/codes/code_of_ordinances?nodeId=PTIICOOR_CH42MOVETR_ARTIINGE_S_42-1IMMOVE (last visited March 22, 2019).

³⁰ Winter Springs, Fla. Code of Ordinances, ch. 12, art. V., s. 12-100, *available at* https://library.municode.com/fl/winter_springs/codes/code_of_ordinances?nodeId=PTIICOOR_CH12MOVETR_ARTVIMMOVE_S12-100IMMOVEUSFACEMICRPATRRE (last visited March 22, 2019).

³¹ City of Sarasota, *Agreement for Wrecker Towing and Storage Services* (May 5, 2010) (on file with the Senate Community Affairs Committee).

³² Miami-Dade County, *Towing License*, *available at* <http://www.miamidade.gov/licenses/towing.asp> (last visited March 22, 2019).

III. Effect of Proposed Changes:

Sections 1 and 3 amend ss. 125.0103 and 166.043, F.S., to authorize a county or municipality to regulate the rates for the towing or immobilization of vessels. A county or municipality is required to establish a maximum rate that may be charged for the towing, immobilization or storage of vessels. The bill defines the term “immobilize” 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 a vehicle or vessel inoperable.

Sections 2 and 4 create ss. 125.01047 and 166.04465, F.S., to prohibit a county or municipality from enacting a rule or ordinance that imposes a fee or charge on an authorized wrecker operator, a towing business for towing, impounding, or storing a vehicle or vessel, or a vehicle immobilization service. The term “towing business” means a business that provides towing services for monetary gain.

The prohibition does not affect the county or municipality’s ability to levy a business tax under ss. 205.0315, 205.033, 205.043, or 205.0535, F.S., or to impose and collect a reasonable administrative fee or charge from the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, to cover the cost of enforcement, including parking enforcement, by the county when the vehicle or vessel is towed from or immobilized on public property. The reasonable administrative fee may not exceed 25 percent of the maximum towing or immobilization rate.

The bill authorizes an authorized wrecker operator, towing business, or vehicle immobilization service to impose and collect the administrative fee or charge on behalf of the county or municipality, but only remit such fee or charge after it is collected.

The bill provides that s. 125.0147, F.S., does not affect an ordinance, resolution, or regulation enacted on or before January 1, 2019, by a charter county with a population exceeding 1.3 million according to the most recent decennial census which relates to the towing, immobilization, removal, or storage of vehicles or vessels, including any amendment or revision made to such ordinance, resolution, or regulation after July 1, 2019.

An ordinance enacted by such charter county on or before January 1, 2019, would be exempt from imposing a fee on an authorized wrecker operator and from imposing an administrative fee of up to a 25 percent on the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel owner.

Section 5 amends s. 332.002, F.S., to prohibit a county or municipality from adopting or maintaining an ordinance or rule that imposes a charge, cost, expense, fine, fee, or penalty, on a registered owner or other legally authorized person in custody or in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, when the vehicle or vessel is towed by an authorized wrecker operator.

A county or municipality may adopt or maintain an ordinance or rule that imposes a reasonable administrative fee or charge on the registered owner or other legally authorized person in control

of a vehicle or vessel, or the lienholder of a vehicle or vessel, when the vehicle or vessel is towed by an authorized wrecker operator.

The fee or charge may not exceed 25 percent of the maximum towing rate, to cover the cost of enforcement, including parking enforcement, by the county or municipality when the vehicle or vessel is towed from public property. The authorized wrecker operator or towing business is authorized to collect the administrative fee or charge on behalf of the county and municipality and must remit such fee or charge to the county or municipality after it is collected.

The bill provides that s. 323.002, F.S., does not affect an ordinance, resolution, or regulation enacted on or before January 1, 2019, by a charter county with a population exceeding 1.3 million according to the most recent decennial census which imposes a charge, cost, expense, fine, fee, or penalty on a registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, when the vehicle or vessel is towed by an authorized wrecker operator under ch. 323, F.S.

An ordinance enacted by such charter county on or before January 1, 2019, would be exempt from imposing a fee on a registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, when the vehicle or vessel is towed by an authorized wrecker operator and from imposing an administrative fee of up to a 25 percent on the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel owner.

Section 6 amends s. 713.78, F.S., to provide that a reasonable administrative fee or charge imposed by a county or municipality must be included as part of the lien on the vehicle or vessel held by the towing operator.

Section 7 amends s. 715.07, F.S., to revise notice requirements for towing a vehicle from private property.

Section 8 creates s. 715.08, F.S., regarding vehicle immobilization services.

The bill defines the following terms:

- “Immobilize” means the act of rendering a vehicle or a vessel inoperable by the use of a vehicle immobilization device.
- “License” means a license, a permit, or other similar grant of authority to operate issued to an operator by a local government.
- “Operator” means any person, as defined in s. 1.01(3)³³, F.S., individual, or entity, including, but not limited to, a sole proprietor, an independent contractor, a partnership, or a similar business entity, offering or operating a vehicle immobilization service.
- “Vehicle immobilization device” means any mechanical device that is designed or used to be attached to a wheel, a tire, or other part of a parked motor vehicle which includes, but is not

³³ Section 1.01(3), F.S., provides that “person” includes individuals, children, firms, associations, joint adventurers, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

limited to, a “boot” or “club,” the “Barnacle,” or any other device that renders a vehicle or vessel inoperable.

- “Vehicle immobilization service” means any service in which vehicles are immobilized.

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.

The bill requires each operator to conduct vehicle immobilization services using a name that is distinguishable from any other existing operator.

An operator must issue all individuals under the operator’s employment, or who are acting on behalf of the operator, including the operator himself or herself, or partners, members, or officers of the operator, a photo identification with the name of the operator. Such individual must carry this operator-issued identification with him or her at all times while performing vehicle immobilization services.

All individuals under an operator’s employment, or who are acting on behalf of the operator, including the operator himself or herself, or partners, members, or officers of the operator, are required to wear a uniform that clearly identifies the name of the operator while performing vehicle immobilization services.

All vehicles being used by operators or individuals under an operator’s employment to perform vehicle immobilization services must have prominently displayed on both sides of each vehicle the name of the operator and that the operator performs vehicle immobilization services, the address from which the operator conducts business, and the telephone number of the operator. The lettering must be in a contrasting color to the color of the vehicle, or if a vehicle magnet or decal is used, the lettering must be in a contrasting color to the color of the magnet or decal. The lettering must be at least one and one-half inches in height.

The bill authorizes an operator to conduct vehicle immobilization services 24 hours per day, 7 days per week, and 365 days per year. The operator must maintain a telephone number that is staffed by a live individual 24 hours per day and 365 days per year to communicate immediately with a driver or owner of an immobilized vehicle.

An operator who has immobilized a vehicle is required to immediately affix a notice to the driver’s side window containing, at minimum, the following information:

- A warning that any attempt to move the vehicle may result in damage to the vehicle; and
- The fee required to remove the immobilization device, the name of the operator, and the telephone number to call to have the immobilization device removed.

It is unlawful for a vehicle immobilization service or operator to:

- Immobilize vehicles on any private property without having entered into a valid written contract for vehicle immobilization services with the private property owner, the lawful

lessee, the managing agent, or other person in control of the property;

- Fail to arrive on the site where a vehicle was immobilized within 1 hour of being contacted by the owner, the driver, or the person in custody or in control of the vehicle;
- Fail to release a vehicle from immobilization within 1 hour after receipt of payment from the owner, the driver, or the person in charge of a vehicle that has been immobilized; and
- Fail to provide a receipt of payment of the immobilization fee to the owner, the driver, or the person in custody or in control of an immobilized vehicle. The receipt must have the name, address, and telephone number of the operator; the name of the individual under the operator's employment or the partner, member, or officer of such operator who removed the immobilization device; and the operator's license number as issued by the department.

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 to 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 to the operator for damages to the device.

An operator is required to maintain minimum insurance coverage in the amount of \$1 million in commercial general liability, \$1 million in commercial automobile liability, \$1 million in garage liability, \$1 million in professional liability, and \$1 million in umbrella coverage and must have workers' compensation coverage on all employees.

The bill prohibits an operator from doing the following:

- Procure a license issued by a local government by fraudulent conduct or by a false statement of a material fact.
- Pay, in the form of a gratuity or any other valuable consideration, any person who does not have ownership in property or in a lot being used for the business of parking, or allowing for the parking of, motor vehicles for information as to illegally parked vehicles.
- Make any payment or other valuable consideration to an owner, an employee, an agent, or a person in possession of property or a lot that is being used for the business of parking, or allowing for the parking of, motor vehicles in excess of the reasonable and customary fee ordinarily charged by such person in possession of such property or lot for parking thereon.
- Charge fees in excess of those provided for in the bill.
- Impound any vehicle located on any portion of a public way within this state, unless such operator is contracted to do so by a governmental agency.

The bill establishes signage requirements. An operator is prohibited from installing or attaching a device to any motor vehicle without posting signs that meet the following requirements:

- The operator must install signs at each designated entrance to a parking lot or parking area where parking prohibitions are in effect. If there is no designated entrance, the operator shall erect the signs so they are clearly visible from every parking space;
- Signs must be a minimum of 18 inches by 24 inches, or if not allowed in such size, the maximum allowable size, with lettering a minimum height of one and one-half inches; and
- Sign lettering must be in a solid color that contrasts with the sign's background.

An operator's signs must clearly state the following, at a minimum:

- 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)....
- 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 upon the license holder by certified mail, signature required, at the address on the operator’s current license application.

Any operator whose license has been revoked is disqualified from reapplying to the local government for another license for 12 months immediately following the revocation. The violation of any provision of this section by any person with any ownership interest in the vehicle immobilization service may result in the revocation of the operator’s license.

The maximum fine for any violation is \$1,000. The maximum suspension of a license for any one violation is 30 days.

The bill provides that s. 715.08, F.S., does not affect an ordinance, resolution, or regulation enacted on or before January 1, 2019, by a charter county with a population exceeding 1.3 million according to the most recent decennial census which relates to the towing, immobilization, removal, or storage of vehicles or vessels, including any amendment or revision made to such ordinance, resolution, or regulation after July 1, 2019.

An ordinance enacted by such charter county on or before January 1, 2019, would be exempt from the vehicle immobilization services requirements and regulation.

Section 9 provides the bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will reduce expenses for towing companies that are located in counties or municipalities currently charging a fee on authorized wrecker operators.

C. Government Sector Impact:

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 which are currently charged by some jurisdictions, while authorizing the collection of administrative fees for the cost of enforcement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 125.0103, 166.043, 323.002, 713.78, and 715.07 of the Florida Statutes.

This bill creates sections 125.01047, 166.04465, and 715.08 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on March 26, 2019:

The committee substitute provides that certain provisions in the bill do not affect an ordinance, resolution, or regulation enacted on or before January 1, 2019 by a charter county with a population exceeding 1.3 million.

- B. **Amendments:**

None.

1 A bill to be entitled
2 An act relating to towing and immobilizing 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 creating ss. 125.01047 and 166.04465, F.S.;
8 prohibiting counties or municipalities from enacting
9 certain ordinances or rules that impose fees or
10 charges on authorized wrecker operators or towing
11 businesses; defining the term "towing business";
12 providing exceptions; amending s. 323.002, F.S.;
13 prohibiting counties or municipalities from adopting
14 or maintaining in effect certain ordinances or rules
15 that impose 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; prohibiting counties or
20 municipalities from enacting certain ordinances or
21 rules that require authorized wrecker operators to
22 accept a specified form of payment; amending s.
23 713.78, F.S.; authorizing certain persons to place
24 liens on vehicles or vessels to recover specified fees
25 or charges; amending s. 715.07, F.S.; removing a

26 requirement regarding notices and signs concerning the
 27 towing or removal of vehicles or vessels; prohibiting
 28 counties or municipalities from enacting certain
 29 ordinances or rules that require towing businesses to
 30 accept a specified form of payment; prohibiting
 31 counties or municipalities from authorizing attorney
 32 fees or court costs in connection with certain towing
 33 activities; preempting to the state the regulation of
 34 attorney fees and court costs in connection with
 35 certain towing activities; removing a provision
 36 regarding certain persons being liable for improperly
 37 causing a vehicle or vessel to be removed; providing
 38 an effective date.

39

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

41

42 Section 1. Paragraphs (b) and (c) of subsection (1) of
 43 section 125.0103, Florida Statutes, are amended to read:

44 125.0103 Ordinances and rules imposing price controls;
 45 findings required; procedures.—

46 (1)

47 (b) ~~The provisions of~~ This section does ~~shall~~ not prevent
 48 the enactment by local governments of public service rates
 49 otherwise authorized by law, including water, sewer, solid
 50 waste, public transportation, taxicab, or port rates, rates for

51 towing of vehicles or vessels from or immobilization of vehicles
52 or vessels on private property, or rates for removal and storage
53 of wrecked or disabled vehicles or vessels from an accident
54 scene or the removal and storage of vehicles or vessels in the
55 event the owner or operator is incapacitated, unavailable,
56 leaves the procurement of wrecker service to the law enforcement
57 officer at the scene, or otherwise does not consent to the
58 removal of the vehicle or vessel.

59 (c) Counties must establish maximum rates which may be
60 charged on the towing of vehicles or vessels from or
61 immobilization of vehicles or vessels on private property,
62 removal and storage of wrecked or disabled vehicles or vessels
63 from an accident scene or for the removal and storage of
64 vehicles or vessels, in the event the owner or operator is
65 incapacitated, unavailable, leaves the procurement of wrecker
66 service to the law enforcement officer at the scene, or
67 otherwise does not consent to the removal of the vehicle or
68 vessel. However, if a municipality chooses to enact an ordinance
69 establishing the maximum rates ~~fees~~ for the towing or
70 immobilization of vehicles or vessels as described in paragraph
71 (b), the county's ordinance shall not apply within such
72 municipality.

73 Section 2. Section 125.01047, Florida Statutes, is created
74 to read:

75 125.01047 Rules and ordinances relating to towing

76 services.-

77 (1) A county may not enact an ordinance or rule that would
78 impose a fee or charge on an authorized wrecker operator, as
79 defined in s. 323.002(1), or on a towing business for towing,
80 impounding, or storing a vehicle or vessel. As used in this
81 section, the term "towing business" means a business that
82 provides towing services for monetary gain.

83 (2) The prohibition set forth in subsection (1) does not
84 affect a county's authority to:

85 (a) Levy a reasonable business tax under s. 205.0315, s.
86 205.033, or s. 205.0535.

87 (b) Impose and collect a reasonable administrative fee or
88 charge on the registered owner or other legally authorized
89 person in control of a vehicle or vessel, or the lienholder of a
90 vehicle or vessel, not to exceed 25 percent of the maximum
91 towing rate, to cover the cost of enforcement, including parking
92 enforcement, by the county when the vehicle or vessel is towed
93 from public property. However, an authorized wrecker operator or
94 towing business may impose and collect the administrative fee or
95 charge on behalf of the county and shall remit such fee or
96 charge to the county only after it is collected.

97 (3) Subsection (1) does not apply to a county with an
98 existing towing license program as of January 1, 2019. However,
99 such a county may not levy a business tax as set forth in
100 paragraph (2) (a) or impose and collect an administrative fee or

101 charge as set forth in paragraph (2) (b).

102 Section 3. Paragraphs (b) and (c) of subsection (1) of
 103 section 166.043, Florida Statutes, are amended to read:

104 166.043 Ordinances and rules imposing price controls;
 105 findings required; procedures.—

106 (1)

107 (b) ~~The provisions of~~ This section does ~~shall~~ not prevent
 108 the enactment by local governments of public service rates
 109 otherwise authorized by law, including water, sewer, solid
 110 waste, public transportation, taxicab, or port rates, rates for
 111 towing of vehicles or vessels from or immobilization of vehicles
 112 or vessels on private property, or rates for removal and storage
 113 of wrecked or disabled vehicles or vessels from an accident
 114 scene or the removal and storage of vehicles or vessels in the
 115 event the owner or operator is incapacitated, unavailable,
 116 leaves the procurement of wrecker service to the law enforcement
 117 officer at the scene, or otherwise does not consent to the
 118 removal of the vehicle or vessel.

119 (c) Counties must establish maximum rates which may be
 120 charged on the towing of vehicles or vessels from or
 121 immobilization of vehicles or vessels on private property,
 122 removal and storage of wrecked or disabled vehicles or vessels
 123 from an accident scene or for the removal and storage of
 124 vehicles or vessels, in the event the owner or operator is
 125 incapacitated, unavailable, leaves the procurement of wrecker

126 | service to the law enforcement officer at the scene, or
 127 | otherwise does not consent to the removal of the vehicle or
 128 | vessel. However, if a municipality chooses to enact an ordinance
 129 | establishing the maximum rates ~~fees~~ for the towing or
 130 | immobilization of vehicles or vessels as described in paragraph
 131 | (b), the county's ordinance established under s. 125.0103 shall
 132 | not apply within such municipality.

133 | Section 4. Section 166.04465, Florida Statutes, is created
 134 | to read:

135 | 166.04465 Rules and ordinances relating to towing
 136 | services.-

137 | (1) A municipality may not enact an ordinance or rule that
 138 | would impose a fee or charge on an authorized wrecker operator,
 139 | as defined in s. 323.002(1), or on a towing business for towing,
 140 | impounding, or storing a vehicle or vessel. As used in this
 141 | section, the term "towing business" means a business that
 142 | provides towing services for monetary gain.

143 | (2) The prohibition set forth in subsection (1) does not
 144 | affect a municipality's authority to:

145 | (a) Levy a reasonable business tax under s. 205.0315, s.
 146 | 205.043, or s. 205.0535.

147 | (b) Impose and collect a reasonable administrative fee or
 148 | charge on the registered owner or other legally authorized
 149 | person in control of a vehicle or vessel, or the lienholder of a
 150 | vehicle or vessel, not to exceed 25 percent of the maximum

151 towing rate, to cover the cost of enforcement, including parking
152 enforcement, by the municipality when the vehicle or vessel is
153 towed from public property. However, an authorized wrecker
154 operator or towing business may impose and collect the
155 administrative fee or charge on behalf of the municipality and
156 shall remit such fee or charge to the municipality only after it
157 is collected.

158 Section 5. Subsection (4) of section 323.002, Florida
159 Statutes, is renumbered as subsection (5), and a new subsection
160 (4) is added to that section to read:

161 323.002 County and municipal wrecker operator systems;
162 penalties for operation outside of system.—

163 (4) (a) Except as provided in paragraph (b), a county or
164 municipality may not adopt or maintain in effect an ordinance or
165 rule that imposes a charge, cost, expense, fine, fee, or penalty
166 on an authorized wrecker operator, registered owner or other
167 legally authorized person in control of a vehicle or vessel, or
168 the lienholder of a vehicle or vessel, when the vehicle or
169 vessel is towed by an authorized wrecker operator under this
170 chapter.

171 (b) A county or municipality may adopt or maintain an
172 ordinance or rule that imposes a reasonable administrative fee
173 or charge on the registered owner or other legally authorized
174 person in control of a vehicle or vessel, or the lienholder of a
175 vehicle or vessel, that is towed by an authorized wrecker

176 operator, not to exceed 25 percent of the maximum towing rate,
177 to cover the cost of enforcement, including parking enforcement,
178 by the county or municipality when the vehicle or vessel is
179 towed from public property. However, an authorized wrecker
180 operator or towing business may impose and collect the
181 administrative fee or charge on behalf of the county or
182 municipality and shall remit such fee or charge to the county or
183 municipality only after it is collected.

184 (c) A county or municipality may not enact an ordinance or
185 rule that requires an authorized wrecker operator to accept a
186 check as a form of payment.

187 Section 6. Subsection (2) of section 713.78, Florida
188 Statutes, is amended to read:

189 713.78 Liens for recovering, towing, or storing vehicles
190 and vessels.—

191 (2) Whenever a person regularly engaged in the business of
192 transporting vehicles or vessels by wrecker, tow truck, or car
193 carrier recovers, removes, or stores a vehicle or vessel upon
194 instructions from:

195 (a) The owner thereof;

196 (b) The owner or lessor, or a person authorized by the
197 owner or lessor, of property on which such vehicle or vessel is
198 wrongfully parked, and the removal is done in compliance with s.
199 715.07;

200 (c) The landlord or a person authorized by the landlord,

201 when such motor vehicle or vessel remained on the premises after
 202 the tenancy terminated and the removal is done in compliance
 203 with s. 83.806 or s. 715.104; or

204 (d) Any law enforcement agency,

205
 206 she or he shall have a lien on the vehicle or vessel for a
 207 reasonable towing fee, for a reasonable administrative fee or
 208 charge imposed by a county or municipality, and for a reasonable
 209 storage fee; except that no storage fee shall be charged if the
 210 vehicle or vessel is stored for less than 6 hours.

211 Section 7. Subsection (5) of section 715.07, Florida
 212 Statutes, is renumbered as subsection (4) and subsection (2) and
 213 present subsection (4) of that section are amended to read:

214 715.07 Vehicles or vessels parked on private property;
 215 towing.—

216 (2) The owner or lessee of real property, or any person
 217 authorized by the owner or lessee, which person may be the
 218 designated representative of the condominium association if the
 219 real property is a condominium, may cause any vehicle or vessel
 220 parked on such property without her or his permission to be
 221 removed by a person regularly engaged in the business of towing
 222 vehicles or vessels, without liability for the costs of removal,
 223 transportation, or storage or damages caused by such removal,
 224 transportation, or storage, under any of the following
 225 circumstances:

226 (a) The towing or removal of any vehicle or vessel from
227 private property without the consent of the registered owner or
228 other legally authorized person in control of that vehicle or
229 vessel is subject to substantial ~~strict~~ compliance with the
230 following conditions and restrictions:

231 1.a. Any towed or removed vehicle or vessel must be stored
232 at a site within a 10-mile radius of the point of removal in any
233 county of 500,000 population or more, and within a 15-mile
234 radius of the point of removal in any county of less than
235 500,000 population. That site must be open for the purpose of
236 redemption of vehicles on any day that the person or firm towing
237 such vehicle or vessel is open for towing purposes, from 8:00
238 a.m. to 6:00 p.m., and, when closed, shall have prominently
239 posted a sign indicating a telephone number where the operator
240 of the site can be reached at all times. Upon receipt of a
241 telephoned request to open the site to redeem a vehicle or
242 vessel, the operator shall return to the site within 1 hour or
243 she or he will be in violation of this section.

244 b. If no towing business providing such service is located
245 within the area of towing limitations set forth in sub-
246 subparagraph a., the following limitations apply: any towed or
247 removed vehicle or vessel must be stored at a site within a 20-
248 mile radius of the point of removal in any county of 500,000
249 population or more, and within a 30-mile radius of the point of
250 removal in any county of less than 500,000 population.

251 2. The person or firm towing or removing the vehicle or
252 vessel shall, within 30 minutes after completion of such towing
253 or removal, notify the municipal police department or, in an
254 unincorporated area, the sheriff, of such towing or removal, the
255 storage site, the time the vehicle or vessel was towed or
256 removed, and the make, model, color, and license plate number of
257 the vehicle or description and registration number of the vessel
258 and shall obtain the name of the person at that department to
259 whom such information was reported and note that name on the
260 trip record.

261 3. A person in the process of towing or removing a vehicle
262 or vessel from the premises or parking lot in which the vehicle
263 or vessel is not lawfully parked must stop when a person seeks
264 the return of the vehicle or vessel. The vehicle or vessel must
265 be returned upon the payment of a reasonable service fee of not
266 more than one-half of the posted rate for the towing or removal
267 service as provided in subparagraph 6. The vehicle or vessel may
268 be towed or removed if, after a reasonable opportunity, the
269 owner or legally authorized person in control of the vehicle or
270 vessel is unable to pay the service fee. If the vehicle or
271 vessel is redeemed, a detailed signed receipt must be given to
272 the person redeeming the vehicle or vessel.

273 4. A person may not pay or accept money or other valuable
274 consideration for the privilege of towing or removing vehicles
275 or vessels from a particular location.

276 5. Except for property appurtenant to and obviously a part
277 of a single-family residence, and except for instances when
278 notice is personally given to the owner or other legally
279 authorized person in control of the vehicle or vessel that the
280 area in which that vehicle or vessel is parked is reserved or
281 otherwise unavailable for unauthorized vehicles or vessels and
282 that the vehicle or vessel is subject to being removed at the
283 owner's or operator's expense, any property owner or lessee, or
284 person authorized by the property owner or lessee, prior to
285 towing or removing any vehicle or vessel from private property
286 without the consent of the owner or other legally authorized
287 person in control of that vehicle or vessel, must post a notice
288 meeting the following requirements:

289 a. The notice must be prominently placed at each driveway
290 access or curb cut allowing vehicular access to the property,
291 ~~within 5 feet from the public right-of-way line.~~ If there are no
292 curbs or access barriers, the signs must be posted not less than
293 one sign for each 25 feet of lot frontage.

294 b. The notice must ~~clearly~~ indicate, in not less than 2-
295 inch high, light-reflective letters on a contrasting background,
296 that unauthorized vehicles will be towed away at the owner's
297 expense. The words "tow-away zone" must be included on the sign
298 in not less than 4-inch high letters.

299 c. The notice must also provide the name and current
300 telephone number of the person or firm towing or removing the

301 vehicles or vessels.

302 d. The sign structure containing the required notices must
303 be permanently installed with the words "tow-away zone" ~~not less~~
304 ~~than 3 feet and not more than 6 feet above ground level~~ and must
305 be continuously maintained on the property for not less than 24
306 hours prior to the towing or removal of any vehicles or vessels.

307 e. The local government may require permitting and
308 inspection of these signs prior to any towing or removal of
309 vehicles or vessels being authorized.

310 f. A business with 20 or fewer parking spaces satisfies
311 the notice requirements of this subparagraph by prominently
312 displaying a sign stating "Reserved Parking for Customers Only
313 Unauthorized Vehicles or Vessels Will be Towed Away At the
314 Owner's Expense" in not less than 4-inch high, light-reflective
315 letters on a contrasting background.

316 g. A property owner towing or removing vessels from real
317 property must post notice, consistent with the requirements in
318 sub-subparagraphs a.-f., which apply to vehicles, that
319 unauthorized vehicles or vessels will be towed away at the
320 owner's expense.

321
322 A business owner or lessee may authorize the removal of a
323 vehicle or vessel by a towing company when the vehicle or vessel
324 is parked in such a manner that restricts the normal operation
325 of business; and if a vehicle or vessel parked on a public

326 right-of-way obstructs access to a private driveway the owner,
327 lessee, or agent may have the vehicle or vessel removed by a
328 towing company upon signing an order that the vehicle or vessel
329 be removed without a posted tow-away zone sign.

330 6. Any person or firm that tows or removes vehicles or
331 vessels and proposes to require an owner, operator, or person in
332 control or custody of a vehicle or vessel to pay the costs of
333 towing and storage prior to redemption of the vehicle or vessel
334 must file and keep on record with the local law enforcement
335 agency a complete copy of the current rates to be charged for
336 such services and post at the storage site an identical rate
337 schedule and any written contracts with property owners,
338 lessees, or persons in control of property which authorize such
339 person or firm to remove vehicles or vessels as provided in this
340 section.

341 7. Any person or firm towing or removing any vehicles or
342 vessels from private property without the consent of the owner
343 or other legally authorized person in control or custody of the
344 vehicles or vessels shall, on any trucks, wreckers as defined in
345 s. 713.78(1)(c), or other vehicles used in the towing or
346 removal, have the name, address, and telephone number of the
347 company performing such service clearly printed in contrasting
348 colors on the driver and passenger sides of the vehicle. The
349 name shall be in at least 3-inch permanently affixed letters,
350 and the address and telephone number shall be in at least 1-inch

351 permanently affixed letters.

352 8. Vehicle entry for the purpose of removing the vehicle
353 or vessel shall be allowed with reasonable care on the part of
354 the person or firm towing the vehicle or vessel. Such person or
355 firm shall be liable for any damage occasioned to the vehicle or
356 vessel if such entry is not in accordance with the standard of
357 reasonable care.

358 9. When a vehicle or vessel has been towed or removed
359 pursuant to this section, it must be released to its owner or
360 person in control or custody ~~eustodian~~ within one hour after
361 requested. Any vehicle or vessel owner or person in control or
362 custody has ~~agent shall have~~ the right to inspect the vehicle or
363 vessel before accepting its return, and no release or waiver of
364 any kind which would release the person or firm towing the
365 vehicle or vessel from liability for damages noted by the owner
366 or the person in control or custody ~~other legally authorized~~
367 ~~person~~ at the time of the redemption may be required from any
368 vehicle or vessel owner, or person in control or custody
369 ~~eustodian, or agent~~ as a condition of release of the vehicle or
370 vessel to its owner. A detailed, signed receipt showing the
371 legal name of the company or person towing or removing the
372 vehicle or vessel must be given to the person paying towing or
373 storage charges at the time of payment, whether requested or
374 not.

375 (b) These requirements are minimum standards and do not

376 preclude enactment of additional regulations by any municipality
377 or county including the right to regulate rates when vehicles or
378 vessels are towed from private property, except that a county or
379 municipality may not enact an ordinance or rule that requires a
380 towing business to accept a check as a form of payment.
381 Notwithstanding the foregoing, a county or municipality may not
382 authorize attorney fees or court costs in connection with the
383 towing of vehicles or vessels from private property. This
384 paragraph expressly preempts to the state the regulation of
385 attorney fees and court courts in connection with the towing of
386 vehicles or vessels from private property and supersedes any
387 county or municipal ordinance on the subject.

388 ~~(4) When a person improperly causes a vehicle or vessel to~~
389 ~~be removed, such person shall be liable to the owner or lessee~~
390 ~~of the vehicle or vessel for the cost of removal,~~
391 ~~transportation, and storage; any damages resulting from the~~
392 ~~removal, transportation, or storage of the vehicle or vessel;~~
393 ~~attorney's fees; and court costs.~~

394 Section 8. This act shall take effect July 1, 2019.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1237 Towing and Immobilizing of Vehicles and Vessels
SPONSOR(S): Business & Professions Subcommittee; 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	14 Y, 0 N, As CS	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 by ordinance or rule maximum rates for the towing and storage of vehicles. 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.

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 counties and municipalities to establish maximum rates for the towing and immobilization of vessels, and 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 exempts a county with an existing towing license program as of January 1, 2019, from the prohibition on imposing a fee or charge on an authorized wrecker operator or on a towing business. However, the county would not be authorized to levy a business tax or impose and collect an administrative fee or charge.

The bill prohibits a municipality or county from enacting an ordinance or rule requiring an authorized wrecker operator to accept checks as a form of payment, and from authorizing attorney fees or court costs in connection with the towing of vehicles or vessels from private property. The bill expressly preempts the regulation of attorney fees and court costs in connection with the towing of vehicles or vessels from private property to the state and supersedes any municipal or county ordinance on the subject.

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 vessels. A county or municipality is required to establish a maximum rate that may be charged for the towing or immobilization of a vessel.

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.

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 exempts a county with an existing towing license program as of January 1, 2019, from the prohibition on enacting an ordinance or rule that would impose a fee or charge on an authorized wrecker operator or on a towing business. However, such county would not be authorized to levy a business tax under ss. 205.0315, 205.033, or 205.0535, F.S., or impose and collect an administrative fee or charge.

The bill prohibits a municipality or county from:

- enacting an ordinance or rule requiring an authorized wrecker operator to accept checks as a form of payment; and
- authorizing attorney fees or court costs in connection with the towing of vehicles or vessels from private property.

The bill expressly preempts the regulation of attorney fees and court costs in connection with the towing of vehicles or vessels from private property to the state and supersedes any municipal or county ordinance on the subject.

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 and immobilization of vessels.
- Section 2: Creates s. 125.01047, F.S., prohibiting counties from enacting ordinances imposing specific fees and charges on authorized wrecker operators; provision exceptions.
- Section 3: Amends s. 166.043, F.S., requiring municipalities to establish maximum rates for the towing of vessels.
- 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: 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.⁴² 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.⁴³

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 26, 2019, the Business & Professions Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The committee substitute made the following changes to the bill:

- Removes requirements for businesses engaged in vehicle immobilization operations;
- Allows a county with an existing towing license program to impose a fee or charge on an authorized wrecker operator or on a towing business. Such county would not be authorized to levy a business tax under ss. 205.0315, 205.033, or 205.0535, F.S., or impose and collect an administrative fee or charge;
- Prohibits a municipality or county from requiring an authorized wrecker operator to accept checks as a form of payment;
- Prohibits a municipality or county from authorizing attorney fees or court costs in connection with the towing of vehicles or vessels from private property; and
- Preempts the regulation of attorney fees and court costs in connection with the towing of vehicles or vessels from private property to the state.

The staff analysis is drafted to the committee substitute as passed by the Business & Professions Subcommittee.

APPENDIX A

⁴² Art. I, s. 10, Fla. Const.

⁴³ *Menendez v. Progressive Exp. Ins. Co, Inc.*, 35 So. 3d 873, 877 (Fla. 2010).



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 the Committee on Environment and Natural Resources; and
Senator Flores

592-03515-19

20191666c1

1 A bill to be entitled
2 An act relating to vessels; amending s. 327.395, F.S.;
3 requiring all persons, rather than only persons born
4 after a specified date, to have a specified boating
5 safety identification card in their possession before
6 operating certain vessels; amending s. 327.4109, F.S.;
7 defining a term; directing the Fish and Wildlife
8 Conservation Commission to conduct, contingent upon
9 appropriation, a specified study of the impacts of
10 long-term stored vessels and certain anchored and
11 moored vessels on local communities and the state and
12 to submit a report to the Governor and Legislature
13 within a specified time; providing for expiration of
14 the study; amending s. 327.60, F.S.; authorizing
15 certain counties to create no-discharge zones;
16 defining the term "at sea"; reenacting and amending s.
17 327.73, F.S., relating to noncriminal infractions;
18 specifying the fines for such violations; amending s.
19 328.72, F.S.; revising the distribution of vessel
20 registration fees to provide grants for derelict
21 vessel removal; amending s. 376.15, F.S.; conforming
22 provisions to changes made by the act; amending s.
23 823.11, F.S.; prohibiting persons from residing or
24 dwelling on certain derelict vessels until certain
25 conditions are met; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsection (1) of section 327.395, Florida

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20191666c1

30 Statutes, is amended to read:

31 327.395 Boating safety identification cards.—

32 (1) A person ~~born on or after January 1, 1988,~~ may not
33 operate a vessel powered by a motor of 10 horsepower or greater
34 unless such person has in his or her possession aboard the
35 vessel photographic identification and a boater safety
36 identification card issued by the commission, or a state-issued
37 identification card or driver license indicating possession of
38 the boater safety identification card, which shows that he or
39 she has:

40 (a) Completed a commission-approved boater education course
41 that meets the minimum 8-hour instruction requirement
42 established by the National Association of State Boating Law
43 Administrators;

44 (b) Passed a course equivalency examination approved by the
45 commission; or

46 (c) Passed a temporary certificate examination developed or
47 approved by the commission.

48 Section 2. Subsection (6) is added to section 327.4109,
49 Florida Statutes, to read:

50 327.4109 Anchoring or mooring prohibited; exceptions;
51 penalties.—

52 (6) (a) As used in this subsection, and applied only for the
53 purposes of the study required by this subsection and not for
54 any other purposes, the term "long-term stored vessel" means a
55 vessel on the waters of the state which is not under the
56 supervision and control of a person capable of operating,
57 maintaining, or moving it from one location to another and which
58 has remained anchored or moored outside of a public mooring

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59 field for at least 30 days out of a 60-day period.

60 (b) The commission shall conduct, or contract with a
61 private vendor to conduct, for not longer than 2 years, a study
62 of the impacts of long-term stored vessels on local communities
63 and this state.

64 (c) The study shall:

65 1. Investigate whether, and to what extent, long-term
66 stored vessels and vessels anchored or moored outside of public
67 mooring fields for more than 30 days contribute to the number of
68 derelict and abandoned vessels on the waters of the state.

69 2. Investigate the impacts of long-term stored vessels,
70 vessels anchored or moored outside of public mooring fields for
71 more than 30 days, and vessels moored within public mooring
72 fields on the local and state economies, public safety, and the
73 environment during and after significant tropical storm and
74 hurricane events.

75 3. Provide recommendations for appropriate management
76 options for long-term stored vessels and vessels anchored or
77 moored outside public mooring fields for more than 30 days to
78 mitigate any identified negative impacts to local communities
79 and this state.

80 (d) The commission shall submit a report of its findings
81 and recommendations to the Governor, the President of the
82 Senate, and the Speaker of the House of Representatives within 6
83 months after the study is completed.

84 (e) This subsection is contingent upon appropriation by the
85 Legislature.

86 (f) This subsection expires January 1, 2024.

87 Section 3. Present paragraphs (c) and (d) of subsection (4)

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88 of section 327.60, Florida Statutes, are redesignated as
89 paragraphs (d) and (e), respectively, and a new paragraph (c) is
90 added to that subsection, to read:

91 327.60 Local regulations; limitations.-

92 (4)

93 (c) A county designated as a rural area of opportunity may
94 create a no-discharge zone for freshwater waterbodies within the
95 county's jurisdiction in which treated and untreated sewage
96 discharges from live-aboard vessels, houseboats, floating
97 structures, and commercial vessels are prohibited. Within no-
98 discharge zone boundaries, vessel operators shall retain their
99 sewage on board for discharge at sea or on shore at a pumpout
100 facility. For the purposes of this section, the term "at sea"
101 means more than 3 miles off the coast in the Atlantic Ocean or
102 more than 10 miles off the coast in the Gulf of Mexico.
103 Violations of this paragraph are punishable as provided in s.
104 327.53(6) and (7).

105 Section 4. Paragraph (r) of subsection (1) of section
106 327.73, Florida Statutes, is amended, and paragraph (s) of that
107 subsection and subsection (4) of that section are reenacted, to
108 read:

109 327.73 Noncriminal infractions.-

110 (1) Violations of the following provisions of the vessel
111 laws of this state are noncriminal infractions:

112 (r) Section 327.53(4), (5), and (7), relating to marine
113 sanitation, and section 327.60, relating to no-discharge zones,
114 for which the civil penalty is \$250.

115 (s) Section 327.395, relating to boater safety education.
116

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117 Any person cited for a violation of any provision of this
118 subsection shall be deemed to be charged with a noncriminal
119 infraction, shall be cited for such an infraction, and shall be
120 cited to appear before the county court. The civil penalty for
121 any such infraction is \$50, except as otherwise provided in this
122 section. Any person who fails to appear or otherwise properly
123 respond to a uniform boating citation shall, in addition to the
124 charge relating to the violation of the boating laws of this
125 state, be charged with the offense of failing to respond to such
126 citation and, upon conviction, be guilty of a misdemeanor of the
127 second degree, punishable as provided in s. 775.082 or s.
128 775.083. A written warning to this effect shall be provided at
129 the time such uniform boating citation is issued.

130 (4) Any person charged with a noncriminal infraction under
131 this section may:

132 (a) Pay the civil penalty, either by mail or in person,
133 within 30 days of the date of receiving the citation; or,

134 (b) If he or she has posted bond, forfeit bond by not
135 appearing at the designated time and location.

136

137 If the person cited follows either of the above procedures, he
138 or she shall be deemed to have admitted the noncriminal
139 infraction and to have waived the right to a hearing on the
140 issue of commission of the infraction. Such admission shall not
141 be used as evidence in any other proceedings. If a person who is
142 cited for a violation of s. 327.395 can show a boating safety
143 identification card issued to that person and valid at the time
144 of the citation, the clerk of the court may dismiss the case and
145 may assess a dismissal fee of up to \$10. If a person who is

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146 cited for a violation of s. 328.72(13) can show proof of having
147 a registration for that vessel which was valid at the time of
148 the citation, the clerk may dismiss the case and may assess the
149 dismissal fee.

150 Section 5. Subsection (15) of section 328.72, Florida
151 Statutes, is amended to read:

152 328.72 Classification; registration; fees and charges;
153 surcharge; disposition of fees; fines; marine turtle stickers.-

154 (15) DISTRIBUTION OF FEES.-Except as provided in this
155 subsection ~~for the first \$2, \$1 of which shall be remitted to~~
156 ~~the state for deposit into the Save the Manatee Trust Fund~~
157 ~~created within the Fish and Wildlife Conservation Commission and~~
158 ~~\$1 of which shall be remitted to the state for deposit into the~~
159 ~~Marine Resources Conservation Trust Fund to fund a grant program~~
160 ~~for public launching facilities pursuant to s. 206.606, giving~~
161 ~~priority consideration to counties with more than 35,000~~
162 ~~registered vessels,~~ moneys designated for the use of the
163 counties, as specified in subsection (1), shall be distributed
164 by the tax collector to the board of county commissioners for
165 use only as provided in this section. Such moneys to be returned
166 to the counties are for the sole purposes of providing,
167 maintaining, or operating recreational channel marking and other
168 uniform waterway markers, public boat ramps, lifts, and hoists,
169 marine railways, boat piers, docks, mooring buoys, and other
170 public launching facilities; and removing derelict vessels,
171 debris that specifically impede boat access, not including the
172 dredging of channels, and vessels and floating structures deemed
173 a hazard to public safety and health for failure to comply with
174 s. 327.53. Counties shall demonstrate through an annual detailed

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175 accounting report of vessel registration revenues that the
176 registration fees were spent as provided in this subsection.
177 This report shall be provided to the Fish and Wildlife
178 Conservation Commission no later than November 1 of each year.
179 If, before January 1 of each calendar year, the accounting
180 report meeting the prescribed criteria has still not been
181 provided to the commission, the tax collector of that county may
182 not distribute the moneys designated for the use of counties, as
183 specified in subsection (1), to the board of county
184 commissioners but shall, for the next calendar year, remit such
185 moneys to the state for deposit into the Marine Resources
186 Conservation Trust Fund. The commission shall return those
187 moneys to the county if the county fully complies with this
188 section within that calendar year. If the county does not fully
189 comply with this section within that calendar year, the moneys
190 shall remain within the Marine Resources Trust Fund and may be
191 appropriated for the purposes specified in this subsection.

192 (a) From the vessel registration fees designated for use by
193 the counties in subsection (1), \$1 shall be remitted to the
194 state for deposit into the Save the Manatee Trust Fund.

195 (b) From the vessel registration fees designated for use by
196 the counties in subsection (1), \$1 shall be remitted to the
197 state for deposit into the Marine Resources Conservation Trust
198 Fund to fund a grant program for public launching facilities
199 pursuant to s. 206.606, giving priority consideration to
200 counties with more than 35,000 registered vessels.

201 (c) From the vessel registration fees designated for use by
202 the counties in subsection (1), the following amounts shall be
203 remitted to the state for deposit into the Marine Resources

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204 Conservation Trust Fund to fund derelict vessel removal grants
205 pursuant to s. 376.15:

- 206 1. Class A-2: \$0.25 for each 12-month period registered.
207 2. Class 1: \$2.06 for each 12-month period registered.
208 3. Class 2: \$9.26 for each 12-month period registered.
209 4. Class 3: \$16.45 for each 12-month period registered.
210 5. Class 4: \$20.06 for each 12-month period registered.
211 6. Class 5: \$25.46 for each 12-month period registered.

212 Section 6. Paragraph (d) of subsection (3) of section
213 376.15, Florida Statutes, is amended to read:

214 376.15 Derelict vessels; relocation or removal from public
215 waters.—

216 (3)

217 (d) The commission may establish a program to provide
218 grants to local governments for the removal of derelict vessels
219 from the public waters of the state. The program shall be funded
220 from the Marine Resources Conservation Trust Fund or the Florida
221 Coastal Protection Trust Fund. Notwithstanding the provisions in
222 s. 216.181(11), funds available for grants may only be
223 authorized by appropriations acts of the Legislature.

224 Section 7. Subsection (6) is added to section 823.11,
225 Florida Statutes, to read:

226 823.11 Derelict vessels; relocation or removal; penalty.—

227 (6) If an owner or a responsible party of a vessel
228 determined to be derelict as defined in s. 823.11(1) has been
229 charged by an officer of the commission or any law enforcement
230 agency or officer as specified in s. 327.70 and adjudicated
231 under subsection (5) for a violation of subsection (2) or a
232 violation of s. 376.15(2), a person may not reside or dwell on

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233 such vessel until the vessel is removed from the waters of the
234 state permanently or returned to the waters of the state in a
235 condition that is no longer derelict.

236 Section 8. 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 1666

INTRODUCER: Environment and Natural Resources Committee and Senator Flores

SUBJECT: Anchoring and Mooring of Vessels Outside of Public Mooring Fields

DATE: March 27, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Rogers	EN	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1666:

- Deletes the exemption for persons born on or after January 1, 1988, to have a boater safety identification card before operating a vessel with a 10 horsepower or higher engine.
- Defines the term “long-term stored vessel” to mean a vessel which has remained anchored or moored without supervision or control for at least 30 days out of a 60-day period.
- Requires FWC to conduct a study, contingent upon appropriation, on the impacts of long-term stored vessels on local communities and the state, and to present the report to the Governor and Legislature.
- Authorizes counties designated as rural areas of opportunity to create in freshwater waterbodies within their jurisdiction a “no-discharge zone” where treated and untreated sewage discharges are prohibited.
- Requires vessel operators within a no-discharge zone to keep sewage discharges onboard for discharge at sea or onshore at a pump-out facility.
- Imposes a civil penalty and declares the vessel or floating structure a nuisance and hazard to public safety and health if an unlawful discharge is made in a no-discharge zone.
- Requires a certain portion of vessel registration fees designated for use by the counties to be deposited into the Marine Resources Conservation Trust Fund to fund grants for derelict vessel removal.
- Prohibits a person who leaves or abandons a derelict vessel from residing or dwelling on the vessel until it is permanently removed from state waters or returned to waters in a non-derelict condition.

II. 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.¹ Mooring is accomplished through the utilization of moorings permanently affixed to the bottom of the water body. 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 the waters for many years. 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

State Regulation of the Anchoring or Mooring of Vessels

The Board of Trustees of the Internal Improvement Trust Fund (BOT) is authorized to adopt rules governing all uses of sovereignty submerged lands including rules for anchoring, mooring, or otherwise attaching to the bottom, the establishment of anchorages, the discharge of sewage, pump-out requirements, and facilities associated with anchorages.⁴ Such rules must control the use of sovereignty submerged lands as a place of business or residence but are prohibited from interfering with commerce or the transitory operation of vessels through navigable water.⁵ The BOT has not adopted rules relating to the anchoring of vessels on the waters of the state.

State law prohibits a person from anchoring a vessel in several specific scenarios, including:

- In a manner that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel;⁶
- Between one-half hour after sunset and one-half hour before sunrise in certain designated anchoring limitation areas;⁷ and

¹ Section 327.02, F.S., defines the term "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*, 2 (Rev. May 2012), available at <https://www.law.ufl.edu/pdf/academics/centers-clinics/clinics/conservation/resources/anchaway.pdf> (last visited Mar. 21, 2019).

³ Fish and Wildlife Conservation Commission (FWC), *Anchoring and Mooring Pilot Program Report of Findings and Recommendations*, 6 (Dec. 31, 2016), available at <http://www.boatus.com/gov/assets/pdf/fwc-2016-anchoring-and-mooring-report.pdf> (last visited Mar. 21, 2019).

⁴ Section 253.03(7), F.S.

⁵ *Id.*; see Fla. Admin. Code ch. 18-21.

⁶ Section 327.44(2), F.S.

⁷ Section 327.4108, F.S.

- If the nearest approach of the vessel or floating structure is within a certain distance of a marina, boat ramp, boatyard, or other vessel launching or loading facility; a superyacht repair facility; or the marked boundary of a public mooring field.⁸

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.⁹ 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.¹⁰

Local governments are authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures or live-aboard vessels within their jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.¹¹ However, local governments are prohibited from enacting, continuing in effect, or enforcing any ordinance or local regulation that regulates the anchoring of vessels, other than live-aboard vessels, outside the marked boundaries of permitted mooring fields.¹²

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.¹³

It is unlawful to store, leave, or abandon a derelict vessel in Florida.¹⁴ A person found in violation of this law commits a first degree misdemeanor.¹⁵ 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.¹⁶ Each day during any portion of which the violation occurs constitutes a separate offense.¹⁷

⁸ Section 327.4109, F.S.

⁹ Section 373.118, F.S.; Fla. Admin. Code R. 62-330.420(1).

¹⁰ Fla. Admin. Code R. 62-330.420.

¹¹ Section 327.60(3), F.S., *see also* s. 327.02(14) and (22) for definitions of the terms “floating structure” and “live-aboard vessel.”

¹² Section 327.60(2)(f), F.S.

¹³ Section 823.11(1)(b), F.S.

¹⁴ Section 823.11(2), F.S.

¹⁵ 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.

¹⁶ Section 376.16(1), F.S.

¹⁷ *Id.*

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 officers, have the responsibility and authority to enforce vessel safety and vessel title certificates, liens, and registration.¹⁸

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.¹⁹ The costs incurred for relocating or removing a derelict vessel are recoverable against the vessel owner.²⁰ 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.²¹

FWC may provide grants, funded from the Florida Coastal Protection Trust Fund, to local governments for the removal of derelict vessels from waters of the state, if funds are appropriated for the grant program.²² Grants are awarded based on a set of criteria outlined in FWC rules.²³ Removal or relocation of a vessel on private property is not eligible for grant funding.²⁴

At-Risk Vessels

In 2016, the Legislature prohibited neglected vessels or those in deteriorating conditions from anchoring, mooring, or occupying the waters of the state.²⁵ 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

¹⁸ Section 327.70; *see* section 943.10(1), F.S., which 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.

¹⁹ Section 327.44(3), F.S.

²⁰ Section 327.44(5), F.S.

²¹ Section 705.103(4), F.S.

²² Section 376.15, F.S.

²³ Rule 68-1.003, F.A.C.

²⁴ 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).

²⁵ Chapter 2016-108, Laws of Fla.; s. 327.4107, F.S.

- 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.²⁶

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.²⁷

Boating Safety Identification Cards

A person born on or after January 1, 1988 who will be operating a boat in Florida waters with an engine of 10 horsepower or more, must obtain a Florida boating safety identification card.²⁸ To obtain a card, a person must complete an approved boating safety course.²⁹ There are several courses available at various price points ranging from free up to \$30.³⁰ The course must meet the 8-hour instruction requirement established by the National Association of State Boating Law Administrators and must include a component regarding diving vessels.³¹ The card is valid for life, unless it was obtained by passing a temporary certificate examination, in which case it is valid for 12 months.³²

Certain persons are exempt from the requirement to obtain a boating safety identification card. A person is exempt if he or she:

- Is licensed by the United States Coast Guard to serve as master of a vessel.
- Operates a vessel only on a private lake or pond.
- Is accompanied in the vessel by a person who is exempt from this section or who holds an identification card in compliance with this section, is 18 years of age or older, and is attendant to the operation of the vessel and responsible for the safe operation of the vessel and for any violation that occurs during the operation of the vessel.
- Is a nonresident who has in his or her possession proof that he or she has completed a boater education course or equivalency examination in another state which meets or exceeds the requirements in Florida.
- Is operating a vessel within 90 days after the purchase of that vessel and has available for inspection aboard that vessel a bill of sale.
- Is operating a vessel within 90 days after completing the boater education course and has a photographic identification card and a boater education certificate available for inspection as proof of having completed a boater education course. The boater education certificate must provide, at a minimum, the student's first and last name, the student's date of birth, and the date that he or she passed the course examination.
- Is exempted by FWC rule.³³

²⁶ Section 327.4107, F.S.

²⁷ Section 327.73(aa), F.S.

²⁸ Section 327.395(1), F.S.

²⁹ FWC, *Boater Education Identification Card*, <https://myfwc.com/boating/safety-education/id/> (last visited Mar. 27, 2019).

³⁰ FWC, *Boating Safety Courses*, <https://myfwc.com/boating/safety-education/courses/> (last visited Mar. 27, 2019).

³¹ Section 327.395(1), F.S.

³² Section 327.395(5), F.S.

³³ Section 327.395(6), F.S.

Penalties for Boating Infractions

Section 327.73, F.S., provides for non-criminal violations relating to vessel laws. An owner or operator of a vessel or floating structure who violates the law by anchoring in an anchoring limitation area or anchoring or mooring in a prohibited area is subject to a uniform boating citation and penalties.³⁴ The penalties are:

- For a first offense, up to a maximum of \$50;
- For a second offense, up to a maximum of \$100; and
- For a third offense, up to a maximum of \$250.

A person who operates a vessel without the required boating safety identification card can be charged with a noncriminal infraction and is subject to a uniform boating citation and a \$50 civil penalty.³⁵

In addition to civil penalties, the section provides that a person who fails to appear or otherwise properly respond to a uniform boating citation will be charged with a second-degree misdemeanor, which is punishable by a maximum fine of \$500 and no more than 60 days imprisonment.³⁶

No-Discharge Zones

A no-discharge zone is a designated body of water that prohibits the discharge of treated and untreated boat sewage.³⁷ Within the boundaries of a no-discharge zone, vessel operators are required to retain their sewage discharges onboard for discharge at sea (beyond three miles from shore) or onshore at a pump-out facility.

A state may initiate the process to establish a no-discharge zone if:

- The state determines that the water body requires greater environmental protection than the current federal standards allow and EPA finds that adequate pump-out facilities are available;
- The EPA, upon application by the state, determines that the protection and enhancement of the water body requires establishment of a no-discharge zone; or
- The area is within a drinking water intake zone.³⁸

Currently, Florida has three designated no-discharge zones. These are Destin Harbor, the city of Key West waters, and the state waters within the Florida Keys National Marine Sanctuary.³⁹

³⁴ Section 327.73(z) and (bb), F.S.

³⁵ Section 327.73(s), F.S.

³⁶ Sections 775.082 and 775.083, F.S.

³⁷ U.S. Environmental Protection Agency, *Vessel Sewage Discharges: No-Discharge Zones*, <https://www.epa.gov/vessels-marinas-and-ports/vessel-sewage-discharges-no-discharge-zones-ndzs> (last visited Mar. 27, 2019).

³⁸ *Id.*

³⁹ U.S. EPA, *No-Discharge Zones by State*, <https://www.epa.gov/vessels-marinas-and-ports/no-discharge-zones-ndzs-state#fl> (last visited Mar. 27, 2019).

Vessel Registration Fees

A portion of the state vessel registration fees for recreational vessels are distributed to county governments.⁴⁰ Of the portion designated for counties, \$1 is remitted to the state for deposit into the Save the Manatee Trust Fund created within the Fish and Wildlife Conservation Commission and \$1 is remitted to the state for deposit into the Marine Resources Conservation Trust Fund to fund a grant program for public launching facilities, with priority consideration given to counties with more than 35,000 registered vessels.⁴¹ The following chart shows the base registration fee and portion of the fee that is remitted to the county.

Vessel Class	Base Registration Fee	Portion of Fee
A-1	\$5.50	N/A
A-2	\$16.25	2.85
1	\$28.75	8.85
2	\$78.25	32.85
3	\$127.75	56.85
4	\$152.75	68.86
5	\$189.75	86.85

III. Effect of Proposed Changes:

The bill defines “long-term stored vessel” to mean a vessel on the waters of the state which is not under the supervision and control of a person capable of operating, maintaining, or moving it from one location to another and which has remained anchored or moored outside of a public mooring field for at least 30 days out of a 60-day period. The definition is applicable only to the study required under the bill.

The bill requires the Fish and Wildlife Conservation Commission (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. FWC must 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 study must:

- Investigate whether, 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.

⁴⁰ Section 328.72(1), F.S.

⁴¹ Section 328.72(15), F.S.

The bill authorizes a county designated as a rural area of opportunity to create a no-discharge zone for freshwater waterbodies within the county's jurisdiction. The bill prohibits treated and untreated sewage discharges from live-aboard vessels, houseboats, floating structures, and commercial vessels within the no-discharge zone. Vessel operators would have to retain their sewage on board for discharge at sea or onshore at a pump out facility. The bill provides that a violation in a no-discharge zone would be a noncriminal infraction, subject to a \$250 civil penalty and declaration that the vessel or floating structure a nuisance and hazard to public safety and health.

The bill authorizes funding from the Marine Resources Conservation Trust Fund for the removal of derelict vessels. The bill requires certain amounts to be remitted to the state from the vessel registration fees designated for use by the counties, as follows:

- Class A-2: \$0.25 for each 12-month period registered.
- Class 1: \$2.06 for each 12-month period registered.
- Class 2: \$9.26 for each 12-month period registered.
- Class 3: \$16.45 for each 12-month period registered.
- Class 4: \$20.06 for each 12-month period registered.
- Class 5: \$25.46 for each 12-month period registered.

The bill 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.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate fiscal impact on state government. The Fish and Wildlife Conservation Commission (FWC) may experience a positive fiscal impact resulting from the issuance of boating citations. However, FWC may also experience increased costs due to increased enforcement efforts, issuing boater safety identification cards to persons who no longer fall under the grandfather provision in current law, and conducting a study on long-term stored vessels.

The bill may have a positive fiscal impact on local governments that are eligible for the derelict vessel removal grant program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 327.295, 327.4109, 327.60, 327.72, 327.73, 376.15, and 823.11 of the Florida Statutes.

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

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

CS by Environment and Natural Resources Committee on March 26, 2019:

- Deletes the exemption for persons born on or after January 1, 1988, to have a boater safety identification card before operating a vessel with a 10 horsepower or higher engine.
- Defines the term “long-term stored vessel” to mean a vessel which has remained anchored or moored without supervision or control for at least 30 days out of a 60-day period.

- Requires FWC to conduct a study, contingent upon appropriation, on the impacts of long-term stored vessels on local communities and the state, and to present the report to the Governor and Legislature.
- Authorizes counties designated as rural areas of opportunity to create in freshwater waterbodies within their jurisdiction a “no-discharge zone” where treated and untreated sewage discharges are prohibited.
- Requires vessel operators within a no-discharge zone to keep sewage discharges onboard for discharge at sea or onshore at a pump-out facility.
- Imposes a civil penalty and declares the vessel or floating structure a nuisance and hazard to public safety and health if an unlawful discharge is made in a no-discharge zone.
- Requires a certain portion of vessel registration fees designated for use by the counties to be deposited into the Marine Resources Conservation Trust Fund to fund grants for derelict vessel removal.
- Prohibits a person who leaves or abandons a derelict vessel from residing or dwelling on the vessel until it is permanently removed from state waters or returned to waters in a non-derelict condition.

B. Amendments:

None.

1 A bill to be entitled
 2 An act relating to anchored vessels; amending s.
 3 327.4109, F.S.; providing a definition; directing the
 4 Fish and Wildlife Conservation Commission to conduct,
 5 contingent upon appropriation, a specified study of
 6 the impacts of long-term stored vessels and certain
 7 anchored and moored vessels on local communities and
 8 the state and to submit a report to the Governor and
 9 Legislature by a specified date; providing for
 10 expiration of the study; amending s. 823.11, F.S.;
 11 prohibiting persons from residing or dwelling on
 12 certain derelict vessels until certain conditions are
 13 met; providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Subsection (6) is added to section 327.4109,
 18 Florida Statutes, to read:

19 327.4109 Anchoring or mooring prohibited; exceptions;
 20 penalties.—

21 (6) (a) As used in this subsection, the term "long-term
 22 stored vessel" means a vessel on the waters of the state that is
 23 not under the supervision and control of a person capable of
 24 operating, maintaining, or moving it from one location to
 25 another and that has remained anchored or moored outside of a

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	11 Y, 0 N	White	Pigott
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.

The study is contingent upon legislative appropriation, so there is no fiscal impact.

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.¹⁸ Grants are awarded based on a set of criteria

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.

outlined in FWC rules.¹⁹ Removal or relocation of the vessel on private property is not eligible for grant funding.²⁰

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, and is contingent upon appropriation by the legislature.

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 requires 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:

The study is contingent upon appropriation by the legislature, so there is no fiscal impact.

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).

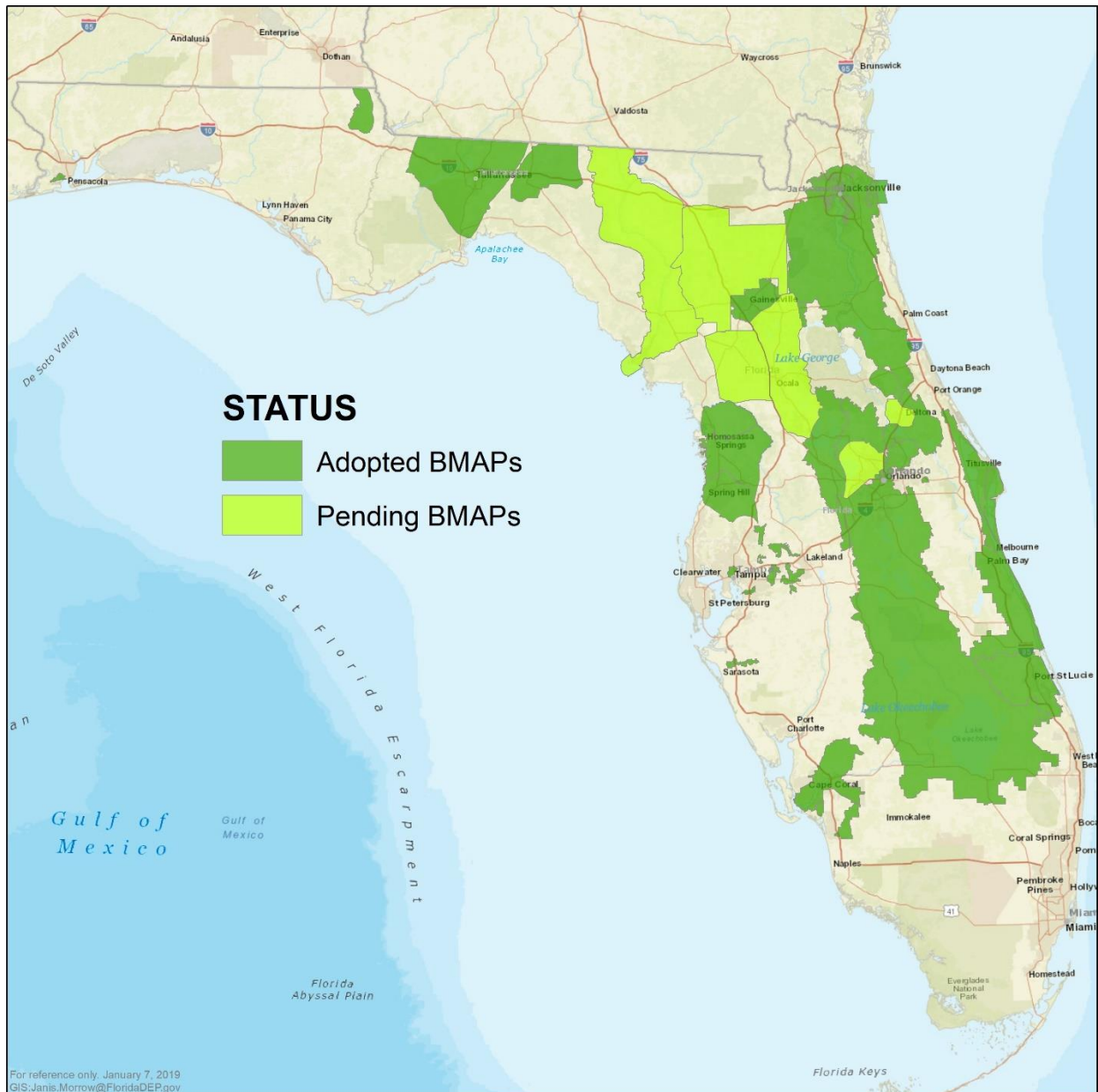
¹¹ Section 403.067(7)(a)6., F.S.

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.

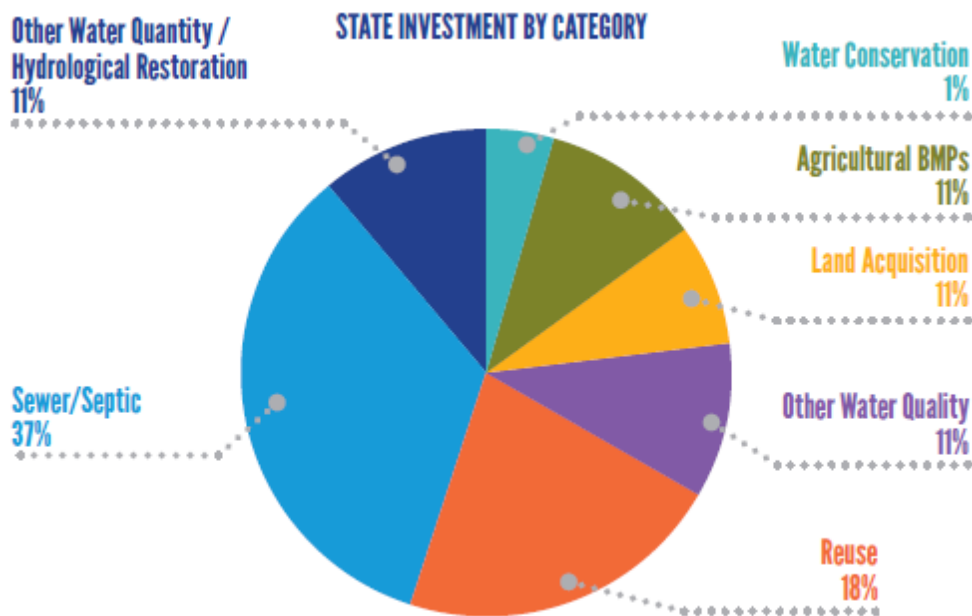
²² Richard O. Carey, Kati W. Migliaccio, *Contribution of Wastewater Treatment Plant Effluents to Nutrient Dynamics in Aquatic Systems: A Review*, Environmental Management (2009) (on file with the Environment and Natural Resources Committee).

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/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.

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: SB 1502

INTRODUCER: Senator Bradley

SUBJECT: Department of Environmental Protection

DATE: March 25, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schreiber	Rogers	EN	Favorable
2.	_____	_____	AEG	_____
3.	_____	_____	AP	_____

I. Summary:

SB 1502 creates the Division of Law Enforcement within the Department of Environmental Protection (DEP), which will employ state law enforcement officers. The bill requires DEP and the Fish and Wildlife Conservation Commission (FWC) to develop a new memorandum of agreement detailing the respective responsibilities of the two agencies with regard to at least all of 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 DEP.
- 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 civil violations of DEP's administrative rules related to all of the following program areas:
 - The Division of Recreation and Parks.
 - The Office of Coastal and Aquatic Managed Areas.
 - The Office of Greenways and Trails.
- Current and future funding, training, or other support for positions and equipment being transferred from the commission to DEP which are funded through any trust fund.

As determined by the new memorandum of agreement, the bill transfers the primary powers and duties of FWC with regard to investigating certain environmental crimes and enforcing related laws to DEP. The bill states that FWC will retain law enforcement authority over the patrol of state-owned land managed by DEP.

II. Present Situation:

Environmental Law Enforcement Organizational Structure

The Department of Environmental Protection (DEP) is Florida's lead agency for environmental management and stewardship.¹ DEP's activities are primarily divided into three areas: land and recreation, regulatory programs, and ecosystem restoration.² There are currently eight divisions established within DEP.³ Currently, DEP does not have any law enforcement officers. DEP previously had a Division of Law Enforcement.⁴ This division was responsible for statewide environmental law enforcement, providing law enforcement services to Florida's state parks and trails, and providing assistance for disasters such as hurricanes or chemicals spills.⁵ This division oversaw four bureaus: Emergency Response, Criminal Investigations, Park Police, and the Office of Training and Professional Standards.⁶

The Fish and Wildlife Conservation Commission (FWC) is authorized to exercise regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life, and in these areas FWC's staff is authorized to conduct management, research, and enforcement.⁷ FWC currently has a Division of Law Enforcement with 1,051 members, including 853 sworn personnel, operating in six regions throughout the state.⁸ FWC's Division of Law Enforcement has broad areas of responsibility including enforcing laws that protect Florida's wildlife and habitats, conducting environmental crime investigations, and protecting the public and environment from illegal environmental violations.⁹

In 2011, the Legislature created a Law Enforcement Consolidation Task Force.¹⁰ The task force was directed to evaluate any duplication of law enforcement functions throughout state government and identify any functions that are appropriate for possible consideration.¹¹ If the task force concluded that any consolidation of state law enforcement was appropriate then recommendations and a plan would be submitted.¹² In December of 2011, the task force recommended integrating the entire DEP Division of Law Enforcement into the Division of Law Enforcement within FWC.¹³ The reasons for the recommendation included overlapping duties, cost efficiencies and reductions, and enhanced recovery and response times.¹⁴

¹ Section 20.255, F.S.; DEP, *About DEP*, <https://floridadep.gov/about-dep> (last visited Mar. 22, 2019).

² *Id.*

³ Section 20.255, F.S.; see DEP, *Divisions*, <https://floridadep.gov/divisions> (last visited Mar. 22, 2019).

⁴ DEP, *DEP Law Enforcement Personnel Awarded for Outstanding Performance and Commitment to the Environment*, <https://content.govdelivery.com/accounts/FLDEP/bulletins/22db55> (last visited Mar. 22, 2019).

⁵ *Id.*

⁶ *Id.*

⁷ FLA. CONST. art. IV, s. 9.

⁸ Section 20.331, (4)(a)4., F.S.; FWC, *What We Do*, <https://myfwc.com/about/inside-fwc/le/what-we-do/> (last visited Mar. 22, 2019).

⁹ Section 20.331, (7)(e), F.S.; FWC, *What We Do*, <https://myfwc.com/about/inside-fwc/le/what-we-do/> (last visited Mar. 22, 2019).

¹⁰ Ch. 2011-66, s. 31, Laws of Fla.

¹¹ *Id.*

¹² *Id.*

¹³ Law Enforcement Consolidation Task Force, *Task Force Report Pursuant to SB 2160 Enacted by the 2011 Legislature*, 5 (Dec. 21, 2011), available at <https://www.flhsmv.gov/lectaskforce/LECTFReport.pdf> (last visited Mar. 22, 2019).

¹⁴ *Id.*

In 2012, the Legislature 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 DEP's Division of Law Enforcement, excluding the Bureau of Emergency Response, to FWC's Division of Law Enforcement through a type two transfer.¹⁵ DEP was also required to transfer to FWC a number of administrative, auditing, inspector general, attorney, and operational support positions proportional to DEP's Division of Law Enforcement being transferred.¹⁶ The legislation required DEP and FWC to develop a memorandum of agreement detailing the responsibilities of FWC to DEP regarding law enforcement, emergency response, and funding.¹⁷

DEP and FWC have a memorandum of agreement identifying the responsibilities of FWC with regard to DEP. FWC provides law enforcement services for DEP. DEP transfers funds to FWC to compensate for these services. In 2018, the following appropriations were made to FWC's Marine Resources Conservation Trust Fund or State Game Trust Fund for law enforcement:

- \$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 Fund.¹⁸

In January of 2019, Governor DeSantis issued Executive Order 2019-12.¹⁹ The order directed DEP to take all necessary actions to move the Environmental Crimes Enforcement Unit from FWC to DEP, to align resources focused on environmental protection and ensure strong enforcement of Florida's environmental laws.²⁰

Severability

When a court decides that a portion of a statute is unconstitutional, this does not necessarily condemn the entire statute.²¹ Under Florida law, when part of a statute is declared unconstitutional the remainder of the act will be permitted to stand provided: (1) the unconstitutional provisions can be separated from the remaining valid provisions; (2) the legislative purpose expressed in the valid provisions can be accomplished independently of those which are void; (3) the good and the bad features are not so inseparable in substance that it can be said that the Legislature would have passed the one without the other; and (4) an act complete in itself remains after the invalid provisions are stricken.²²

¹⁵ Ch. 2012-88, Laws of Fla.; see s. 20.06(2), F.S.; see DEP, *Office of Emergency Response*, <https://floridadep.gov/oer> (last visited Mar. 22, 2019).

¹⁶ Ch. 2012-88, Laws of Fla.

¹⁷ *Id.*

¹⁸ Ch. 2018-9, Special Appropriation 1536, Laws of Fla.

¹⁹ Office of the Governor, *Executive Order Number 19-12* (2019), available at https://www.flgov.com/wp-content/uploads/orders/2019/EO_19-12.pdf (last visited Mar. 22, 2019).

²⁰ *Id.* at 5.

²¹ *Cramp v. Bd. of Pub. Instruction of Orange Cnty.*, 137 So.2d 828, 830 (Fla. 1962).

²² *Id.*; see *Booker v. State*, 244 So. 3d 1151, 1167 (Fla. Dist. Ct. App. 2018).

A severability clause in a statute, stating that any of its provisions found to be invalid should be severed from the remaining sections, may be considered by a court applying the test for severance.²³ When a severability clause is included in a statute the courts hold that the expressed legislative intent should be carried out unless doing so would produce an unreasonable, unconstitutional, or absurd result.²⁴ If the valid and the void parts of a statute are mutually connected and dependent upon each other then severance would effect a result not contemplated by the Legislature, in which case applying the severability clause to save the valid parts of the statute is not compatible with the legislative intent.²⁵

III. Effect of Proposed Changes:

Section 1 transfers the primary powers and duties of the Fish and Wildlife Conservation Commission (FWC) with regard to the investigation of certain environmental crimes and the enforcement of related laws to the Department of Environmental Protection (DEP), as specified in the memorandum of agreement developed under the bill. The bill states that FWC will retain law enforcement authority over the patrol of state-owned land managed by DEP, and FWC will coordinate with DEP in that regard.

The bill requires FWC and DEP to develop a new memorandum of agreement detailing the respective responsibilities of FWC and DEP with regard to at least all of 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 DEP.
- 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 civil violations of DEP's administrative rules related to all of the following program areas:
 - The Division of Recreation and Parks.
 - The Office of Coastal and Aquatic Managed Areas.
 - The Office of Greenways and Trails.
- Current and future funding, training, or other support for positions and equipment being transferred from the commission to DEP which are funded through any trust fund.

Section 2 requires that all of the personnel and equipment assigned to DEP's Office of Emergency Response be reassigned to DEP's Division of Law Enforcement.

Section 3 requires the Secretary of DEP and the Executive Director of FWC to each appoint two staff members to a transition advisory working group to review the administrative rules promulgated by DEP and FWC to identify any rules that must be amended to reflect the changes made by the bill.

Section 4 requires that, notwithstanding Fla. Admin. Code ch. 60L-34 or any law to the contrary, employees transferred from FWC to fill positions transferred to DEP shall retain and transfer any

²³ *Smith v. Dep't of Ins.*, 507 So. 2d 1080, 1090 (Fla. 1987).

²⁴ *Small v. Sun Oil Co.*, 222 So. 2d 196, 199 (Fla. 1969).

²⁵ *Id.* at 199-200.

accrued annual leave, sick leave, and regular and special compensatory leave balance. The bill requires that the employees retain their current position status, including permanent status, upon transfer to DEP.

Section 5 amends s. 20.255, F.S., which establishes the organizational structure of DEP. The bill adds the Division of Law Enforcement to the list of DEP's divisions. The bill states that law enforcement officers of DEP, who meet the minimum qualification requirements for a law enforcement officer in s. 943.13, F.S., are constituted law enforcement officers of the state with full power to investigate and arrest for any violation of the laws of the state and the rules of DEP and the Board of Trustees of the Internal Improvement Trust Fund. The general laws applicable to investigations, searches, and arrests by peace officers of the state apply to such law enforcement officers.

Section 6 amends s. 258.004, F.S., which establishes the duties of DEP's Division of Recreation and Parks. The bill requires that ch. 258, F.S., State Parks and Preserves, be enforced by DEP's Division of Law Enforcement and its officers, and by FWC's Division of Law Enforcement and its officers.

Section 7 amends s. 258.008, F.S., which establishes the fines and penalties for violating rules adopted under ch. 258, F.S. The bill requires that fines paid for violations of rules adopted under ch. 258, F.S., will go into either FWC's State Game Trust Fund or DEP's State Park Trust Fund.

Section 8 amends s. 258.501, F.S., by authorizing "officers" of DEP to enforce certain DEP rules.

Section 9 amends s. 282.709, F.S., which authorizes a statewide radio communications system to serve state and local law enforcement units. The bill requires that the Secretary of DEP appoint a representative of DEP's Division of Law Enforcement to serve as a member of the Joint Task Force on State Agency Law Enforcement Communications, which advises on agency needs relating to the planning, designing, and establishment of the statewide communication system.

Section 10 amends s. 316.640, F.S., which vests authority for the enforcement of Florida's traffic laws. The bill authorizes DEP's Division of Law Enforcement to enforce all of the traffic laws of the state on all of the streets and highways thereof and elsewhere throughout the state wherever the public has a right to travel by motor vehicle.

Section 11 amends s. 376.3071, F.S., which establishes the Inland Protection Trust Fund and programs for its use. The bill provides that when DEP determines that incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the public health, safety, welfare, water resources, or the environment, DEP is required to spend available money from the Inland Protection Trust Fund to provide for enforcement of related laws by FWC and DEP. The bill authorizes, but does not require, DEP to disburse money to FWC for this purpose.

Section 12 amends s. 403.413, F.S., which is Florida's litter law. The bill changes the section's definition of "law enforcement officer" to include any officer of DEP.

Section 13 amends s. 784.07, F.S., which establishes the penalties for assault or battery of law enforcement officers. The bill expands the section's definition of law enforcement officer to include law enforcement personnel of DEP.

Section 14 amends s. 843.08, F.S., which establishes penalties for falsely impersonating or pretending to be a law enforcement officer. The bill expands the scope of the section to include officers of DEP.

Section 15 amends s. 843.085, F.S., which prohibits the unlawful use of badges or indicia of authority. The bill prohibits wearing or displaying any item containing the words "Department of Environmental Protection officer" with the intent to mislead or cause another person to believe that he or she is a member of the agency or is authorized to wear or display the item. The bill prohibits a person from owning or operating a vehicles marked or identified by the words "Department of Environmental Protection officer." The bill prohibits a person from selling, transferring, or giving away an authorized badge bearing the words "Department of Environmental Protection officer." Violation of any of these prohibitions is a misdemeanor of the first degree. The bill provides exceptions for fraternal, benevolent, or labor organizations using the words.

Section 16 amends s. 870.04, F.S., and authorizes an officer or agent of DEP to go among people that are rioting or tumultuously assembled and command those people in the name of the state to immediately and peaceably disperse.

Section 17 amends s. 932.7055, F.S., which determines the disposition of liens and property when a seizing agent has obtained a judgement granting forfeiture. The bill provides that if the seizing agency is DEP then proceeds accrued pursuant to the Florida Contraband Forfeiture Act must be deposited into one of five trust funds, as specified in the statute under which the violation occurs:

- 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.

Section 18 reenacts s. 790.166(8)(a), F.S., relating to an exclusion from the definition of weapons of mass destruction for devices or instruments lawfully used by state law enforcement.

Section 19 states that if any provision of the bill or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications. To this end, the provisions of the act are severable.

Section 20 states that the bill shall take effect on July 1, 2019.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The separation of powers doctrine prevents the Legislature from delegating its constitutional duties.²⁶ Legislative power involves the exercise of policy-related discretion over the content of law.²⁷ The Florida Supreme Court, in *Askew v. Cross Key Waterways*, provided a framework for measuring the constitutionality of legislative power delegations.²⁸ The court adopted a formal interpretation of the delegation of powers doctrine. Where the Legislature makes the fundamental policy decision and delegates to some other body the task of implementing that policy under adequate safeguards, there is no violation of the doctrine. However, when legislation is so lacking in guidelines that neither the agency nor the courts can determine whether the agency is carrying out the intent of the legislature in its conduct, then, in fact, the agency becomes the lawgiver rather than the administrator of the law.²⁹

Until such time as FWC and DEP create a new memorandum of agreement there are many outstanding questions regarding the size and role of DEP's new Division of Law Enforcement.

However, although the bill itself does not answer these questions, the proposed budget for both the House and Senate for FY 2019-2020 anticipate a transfer of 19 full-time equivalent positions with an approved salary rate of \$1,076,218 and other associated financial transfers. Furthermore, the bill is drafted in many ways as a reversal of Ch. 2012-88, L.O.F. Those provisions were similar to the provisions set out in SB 1502, and

²⁶ *Florida State Bd. Of Architecture v. Wasserman*, 377 So.2d 653 (Fla. 1979).

²⁷ *State ex rel. Taylor v. City of Tallahassee*, 177 So. 719, 720-721 (Fla. 1937).

²⁸ 372 So.2d 913 (Fla. 1978).

²⁹ *Id.* at 918-19; *see also Conner v. Joe Hatton, Inc.*, 216 So.2d 209, 211 (Fla. 1968) (“[w]hen the statute is couched in vague and uncertain terms or is so broad in scope that no one can say with certainty, from the terms of the law itself, what would be deemed an infringement of the law, it must be held unconstitutional as attempting to grant to the administrative body the power to say what the law shall be.”).

that transfer was in part effectuated by a memorandum of agreement analogous to the one that DEP and FWC are directed to carryout in SB 1502. Therefore, there may be enough context to provide adequate guidance for this to be a constitutional delegation.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill creates a new division of law enforcement within DEP and adds a significant amount of new duties and responsibilities to DEP's activities. These changes may cause DEP to incur additional costs. Therefore, this bill may have an indeterminate, negative fiscal impact on DEP.

FWC's bill analysis of SB 1502 states that revenues collected in the Inland Protection Trust Fund currently provide for the functions described in the bill.³⁰ FWC's analysis states that the costs for the functions described in the bill are covered by FWC's base budget and that those expenditures would be made by DEP.³¹ FWC's analysis states that the bill would transfer 19 full time employees and \$1,991,722 budget authority from FWC to DEP.³²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.255, 258.004, 258.008, 258.501, 282.709, 316.640, 376.3071, 403.413, 784.07, 843.08, 843.085, 870.04, and 932.7055.

This bill reenacts section 790.166 of the Florida Statutes.

³⁰ FWC, 2019 Agency Legislative Bill Analysis, *Senate Bill (SB) 1502*, 5 (2019) (on file with the Senate Committee on Environment and Natural Resources).

³¹ *Id.*

³² *Id.*

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 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

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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

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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

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 #: HB 5401 PCB ANR 19-01 Department of Environmental Protection
SPONSOR(S): Agriculture & Natural Resources Appropriations Subcommittee, Raschein
TIED BILLS: **IDEN./SIM. BILLS:** SB 1502

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Agriculture & Natural Resources Appropriations Subcommittee	11 Y, 0 N	White	Pigott
1) Appropriations Committee	23 Y, 0 N	White	Pridgeon

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
STORAGE NAME: h5401a.APC
DATE: 3/27/2019

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
3/25/2019 HOUSE Placed on Calendar, on 2nd reading
- 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: Requires periodic inspection of onsite sewage treatment & disposal systems; directs DOH to administer onsite sewage treatment & disposal system inspection program; provides program requirements, exemptions, inspection procedures, & notice & reporting requirements; authorizes DOH to develop fee schedule by rule; requires system owners to pay costs of inspections & pump-outs. Effective Date: October 1, 2019
3/29/2019 HOUSE Committee Substitute Text (C1) Filed
- 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
3/28/2019 SENATE Received; Referred to Infrastructure and Security; Judiciary; Appropriations
- 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
3/25/2019 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

<u>HB 99</u>	Shark Fins and Ray Parts 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	Jacobs
<u>SB 134</u>	Florida Black Bears 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	Stewart
<u>HB 141</u>	Water Quality Improvements 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 3/26/2019 HOUSE Now in State Affairs Committee	Fine
<u>SB 146</u>	Advanced Well Stimulation Treatment 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	Stewart
<u>SB 164</u>	Verification of Employment Eligibility 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	Bean
<u>HB 169</u>	Public Financing of Construction Projects 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	Fernández
<u>SB 216</u>	Water Quality Improvements 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	Gruters
<u>SB 234</u>	Registration and Titling of Vehicles and Vessels 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 3/28/2019 SENATE Placed on Calendar, on 2nd reading	Baxley
<u>HB 239</u>	Advanced Well Stimulation Treatment 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	Fitzenhagen
<u>HB 249</u>	Repeal of Constitution Revision Commission Repeal of Constitution Revision Commission: Proposes amendments to State Constitution to repeal establishment,	Drake

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; requires certain comprehensive plans to recognize terms of existing development orders; requires local land development regulations to provide for certain existing development orders. Effective Date: July 1, 2019
3/29/2019 HOUSE Committee Substitute Text (C1) Filed
- 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
3/28/2019 SENATE Placed on Calendar, on 2nd reading
- 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
3/25/2019 SENATE Now in Rules
- 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
3/29/2019 HOUSE On Committee agenda - Transportation & Tourism Appropriations Subcommittee, 04/02/19, 1:00 pm, 102 H
- 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: Prohibits land application of biosolids on certain sites; prohibits DEP from issuing or renewing certain permits; directs DEP to initiate rulemaking by specified date, adopt specified rules for biosolids management, & implement specified water quality monitoring program. Effective Date: July 1, 2019
3/28/2019 HOUSE Now in State Affairs Committee
- 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

<u>SB 428</u>	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 3/28/2019 SENATE Now in Judiciary	
<u>SB 430</u>	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	
<u>SB 432</u>	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	
<u>SB 436</u>	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 3/29/2019 SENATE On Committee agenda - Rules, 04/03/19, 4:00 pm, 110 S	
<u>HB 437</u>	Community Development Districts	Buchanan
	Community Development Districts: Authorizes certain lands within county or municipality which petitioner anticipates adding to a new community development district to be identified in petition to establish new district; provides detailed procedures for amending boundaries of a district to add land; authorizes community development districts to merge with another type of special district created by special act or by filing petition for establishment of new district; authorizes community development district merging with another type of district to enter into merger agreements for certain purposes. Effective Date: upon becoming a law 3/29/2019 HOUSE Placed on Calendar, on 2nd reading	
<u>SB 438</u>	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	
<u>HB 443</u>	Assessment of Property	Rodriguez (Ant)
	Assessment of Property: Requires property appraisers to consider restrictive covenants related to affordable housing when determining just value of properties; requires counties & municipalities to provide list of such agreements to property appraiser by specified date; revises requirements that allow property appraisers to exempt certain property from tangible personal property tax; revises type of limited partnerships eligible to receive ad valorem tax exemption for certain property used as nonprofit homes for aged. Effective Date: July 1, 2019 3/28/2019 HOUSE Now in Ways & Means Committee	
<u>SB 474</u>	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	
<u>HB 475</u>	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; 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 3/29/2019 HOUSE Committee Substitute Text (C3) Filed	
<u>HB 485</u>	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
3/28/2019 HOUSE Placed on Calendar, on 2nd reading
- 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
3/28/2019 SENATE Placed on Calendar, on 2nd reading
- 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** **Pilot Program for Truth-in-millage Notices** Hooper
Pilot Program for Truth-in-millage Notices; Establishing the Web-based TRIM Notice Pilot Program in specified counties; providing the purpose of the program; providing for expiration of the pilot program; requiring the Office of Program Policy Analysis and Government Accountability (OPPAGA) to submit a specified report and recommendations to the Governor and Legislature by a certain date, etc. Effective Date: 10/1/2019
3/28/2019 SENATE Now in Finance and Tax
- SB 568** **Assessment of Property** Diaz
Assessment of Property; Authorizing counties and municipalities to enter into agreements with property owners to record certain restrictive covenants running with the land; authorizing property owners and the county or municipality to amend the covenant under certain circumstances; providing requirements for counties and municipalities in recording covenants and in providing property appraisers with a list of agreements, etc. Effective Date: 7/1/2019
3/14/2019 SENATE Now in Finance and Tax

- HB 573** **Strategic Fuel Reserve** Casello
 Strategic Fuel Reserve: Creates Florida Strategic Fuel Reserve Task Force within DEM to develop strategic fuel reserve plan for emergencies or disasters; requires DEM to provide administrative & support services; specifies membership of task force; requires task force to elect chair & vice chair; requires task force to submit recommended plan to Governor & Legislature. Effective Date: July 1, 2019.
 2/6/2019 HOUSE Now in Transportation & Infrastructure Subcommittee
- SB 580** **Taxation of Aircraft Sales and Leases** Bean
 Taxation of Aircraft Sales and Leases; Decreasing the sales tax rate on aircraft sales and leases; decreasing the maximum applicable sales tax rate under the flyable aircraft partial sales tax exemption, etc. Effective Date: 7/1/2019
 3/20/2019 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)
- SB 608** **Railroad-highway Grade Crossings** Bean
 Railroad-highway Grade Crossings; Prohibiting a railroad train from blocking a public highway, street, or road at a railroad-highway grade crossing for more than a specified time; exempting certain persons from liability for violations under certain circumstances, etc. Effective Date: 7/1/2019
 3/28/2019 SENATE On Committee agenda - Infrastructure and Security, 04/02/19, 2:00 p.m., 110 S
- SB 628** **Water Resources** Albritton
 Water Resources; Revising requirements for the Office of Economic and Demographic Research's annual assessment of this state's water resources and conservation lands; requiring the office to consult with the Department of Environmental Protection; requiring the assessment to be submitted to the Legislature by a specified date, etc. Effective Date: 7/1/2019
 3/28/2019 SENATE Now in Infrastructure and Security
- HB 641** **Community Development District Bond Financing** Andrade
 Community Development District Bond Financing: Requires district boards to authorize bonds by two-thirds majority vote. Effective Date: October 1, 2019
 3/21/2019 HOUSE Placed on Calendar, on 2nd reading
- HB 645** **Disaster Recovery** Trumbull
 Disaster Recovery: Authorizes specified counties to levy discretionary sales surtax; authorizes political subdivisions to declare local emergency irrespective of number of political subdivisions it affects; revises number of days each state of emergency is effective; specifies conditions & areas in which certain counties or their authorized collectors may remove debris as result of declared local or state emergency. Effective Date: upon becoming a law
 2/21/2019 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 02/22/19, 1:30 pm, 117 K (No Votes Will Be Taken)
- SB 660** **Transportation** Brandes
 Transportation; Requiring the Department of Transportation to consist of a central office that establishes policies and procedures and districts that carry out projects as authorized or required under the policies and procedures of the central office; prohibiting the driver of any vehicle from following another vehicle more closely than is reasonable and prudent given certain circumstances; revising the number of times that certain persons may elect to attend a basic driver improvement course; providing requirements, beginning on a specified date, for license plates, cab cards, and validation stickers for vehicles registered in accordance with the International Registration Plan; directing the department to implement protocols for issuing an optional electronic credential and to procure a related technology system, etc. Effective Date: Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect October 1, 2019
 2/15/2019 SENATE Referred to Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations
- SB 676** **Certificates of Title for Vessels** Hooper
 Certificates of Title for Vessels; Designating the "Uniform Certificate of Title for Vessels Act"; revising requirements for application for, and information to be included in, a certificate of title for a vessel; requiring the Department of Highway Safety and Motor Vehicles to retain certain information relating to ownership and titling of vessels; providing duties of the department relating to creation, issuance, refusal to issue, or cancellation of a certificate of title; providing for the rights of a purchaser of a vessel who is not a secured party; providing rules for the transfer of ownership in a vessel, etc. Effective Date: 10/1/2019
 3/28/2019 SENATE Now in Appropriations Subcommittee on Transportation, Tourism, and Economic Development
- SB 690** **Single Subject Limitation for Taxation and Budget Reform Commission** Rodriguez (J)
 Single Subject Limitation for Taxation and Budget Reform Commission; Proposing an amendment to the State Constitution to require that any proposals to revise the State Constitution, or any part thereof, filed by the Taxation and Budget Reform Commission be limited to a single subject, etc.
 3/21/2019 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
3/28/2019 SENATE On Committee agenda - Infrastructure and Security, 04/02/19, 2:00 p.m., 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 for award of attorney fees & costs & damages in successful civil actions challenging local ordinances as being preempted by State Constitution or state law; provides exceptions. Effective Date: July 1, 2019
3/28/2019 HOUSE Now in Judiciary Committee

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
3/28/2019 HOUSE Now in Commerce Committee

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
3/29/2019 HOUSE On Committee agenda - Transportation & Tourism Appropriations Subcommittee, 04/02/19,
1:00 pm, 102 H
- 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
3/28/2019 SENATE Now in Appropriations Subcommittee on Transportation, Tourism, and Economic
Development
- 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
3/28/2019 HOUSE Now in State Affairs Committee
- HB 1135** **Florida Red Tide Mitigation and Technology Development Initiative** Grant (M)
Florida Red Tide Mitigation and Technology Development Initiative: Establishes Florida Red Tide Mitigation & Technology Development Initiative; provides purpose & goal of initiative; provides for funding; requires initiative to submit annual report; establishes Initiative Technology Advisory Council; provides for meetings, membership, terms of office, & compensation of council; provides for expiration of initiative; provides appropriations. Effective Date: July 1, 2019
3/29/2019 HOUSE On Committee agenda - Agriculture & Natural Resources Appropriations Subcommittee,
04/02/19, 1:00 pm, 17 H
- 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
3/28/2019 SENATE On Committee agenda - Community Affairs, 04/02/19, 2:00 p.m. 301 S

<u>SB 1148</u>	Vehicles for Rent or Lease 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 3/25/2019 SENATE Now in Finance and Tax	Perry
<u>HB 1149</u>	Workforce Retention 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	Hattersley
<u>SB 1150</u>	Wildlife Protection 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	Pizzo
<u>HB 1199</u>	Water Resources 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	Jacobs
<u>HB 1221</u>	Anchored Vessels 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 3/26/2019 HOUSE Now in State Affairs Committee	Polsky
<u>HB 1237</u>	Towing and Immobilizing of Vehicles and Vessels 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 3/29/2019 HOUSE Now in State Affairs Committee	McClain
<u>HB 1269</u>	Vehicle and Vessel Registration Data 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 3/29/2019 HOUSE On Committee agenda - Transportation & Tourism Appropriations Subcommittee, 04/02/19, 1:00 pm, 102 H	Fernandez-Barquin
<u>HB 1273</u>	Legislative Preemption 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	Goff-Marcil
<u>HB 1279</u>	Prohibited Discrimination 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	Fernández
<u>HB 1285</u>	Heat Illness Prevention 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	Smith (C)
<u>HB 1291</u>	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

3/29/2019 HOUSE On Committee agenda - Agriculture & Natural Resources Appropriations Subcommittee, 04/02/19, 1:00 pm, 17 H

SB 1352

Minimum Wage

Rodriguez (J)

Minimum Wage; Revising the formula for the adjusted state minimum wage; reducing over time the amount of tip credit an employer may claim; prohibiting an employer from claiming a tip credit beginning on a specified date, etc. Effective Date: 7/1/2019

3/4/2019 SENATE Referred to Commerce and Tourism; Innovation, Industry, and Technology; Rules

SB 1404

Fuel Taxes

Mayfield

Fuel Taxes; Requiring a specified percentage of certain state motor and diesel fuel taxes to be transferred to the Florida Forever Trust Fund; authorizing county and municipal governments to use certain local option motor and diesel fuel taxes to build, operate, and maintain stormwater systems, etc. Effective Date: 7/1/2019

2/26/2019 SENATE Withdrawn prior to introduction

SB 1474

Workforce Retention

Torres, Jr.

Workforce Retention; Citing this act as the "Florida Jobs Retention Act of 2019"; requiring certain employers that intend to relocate out of state or cease operation to notify the Department of Business and Professional Regulation within a specified period; requiring the department to compile a semiannual list of employers that relocate out of state or cease operation; providing that such employers are ineligible for state grants, loans, or tax benefits for a specified period, etc. Effective Date: 240 days after becoming a law

3/8/2019 SENATE Referred to Commerce and Tourism; Judiciary; Appropriations

SB 1482

Department of Highway Safety and Motor Vehicles

Stargel

The Department Of Highway Safety And Motor Vehicles; Authorizing the Department of Highway Safety and Motor Vehicles or its authorized agents to collect electronic mail addresses and use electronic mail for certain purposes; limiting the applications the department may accept by electronic or telephonic means; authorizing the department, instead of the Fish and Wildlife Conservation Commission, to accept certain applications by electronic or telephonic means, etc. Effective Date: 7/1/2019

3/8/2019 SENATE Referred to Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

SB 1502

Department of Environmental Protection

Bradley

Department of Environmental Protection; Transferring and reassigning functions and responsibilities of the Division of Law Enforcement relating to investigators of environmental crimes within the Fish and Wildlife Conservation Commission to the Division of Law Enforcement of the Department of Environmental Protection; providing requirements for a memorandum of agreement between the department and the commission regarding the responsibilities of the department and the commission; establishing the Division of Law Enforcement within the department, etc. Effective Date: 7/1/2019

3/26/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

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

3/28/2019 SENATE On Committee agenda - Environment and Natural Resources, 04/02/19, 2:00 pm, 37 S

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** **Vessels** Flores
 Vessels; Requiring all persons, rather than only persons born after a specified date, to have a specified boating safety identification card in their possession before operating certain vessels; directing the Fish and Wildlife Conservation Commission to conduct, contingent upon appropriation, a specified study of the impacts of long-term stored vessels and certain anchored and moored vessels on local communities and the state and to submit a report to the Governor and Legislature within a specified time; authorizing certain counties to create no-discharge zones, etc. Effective Date: 7/1/2019
 3/28/2019 SENATE On Committee agenda - Community Affairs, 04/02/19, 2:00 p.m. 301 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
 3/28/2019 SENATE On Committee agenda - Community Affairs, 04/02/19, 2:00 p.m. 301 S
- SB 1762** **State Renewable Energy Goals** Rodriguez (J)
 State Renewable Energy Goals; Directing the Office of Energy within the Department of Agriculture and Consumer Services, in consultation with other state agencies, state colleges and universities, public utilities, and other private and public entities, to develop a unified statewide plan to generate the state’s energy from renewable sources by specified dates, etc. Effective Date: 7/1/2019
 3/8/2019 SENATE Referred to Innovation, Industry, and Technology; Governmental Oversight and Accountability; Rules
- 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

3/28/2019 SENATE On Committee agenda - Infrastructure and Security, 04/02/19, 2:00 p.m., 110 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

3/28/2019 SENATE Placed on Calendar, on 2nd reading

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

3/29/2019 SENATE Placed on Calendar, on 2nd reading

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

3/28/2019 HOUSE Now in State Affairs Committee

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

3/26/2019 SENATE Now in Environment and Natural Resources

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