

WEEK 6 REPORT

// 2019 LEGISLATIVE SESSION

+ MARINE INDUSTRIES ASSOCIATION OF FLORIDA
APRIL 8 - 12, 2019



// WEEK 6 REPORT

CONTENTS

SB 436 // HB 529

Vessel Registration Fees

The sixth week is completed and we are beginning to see the end in sight. May 3rd is the last day of the regularly scheduled Legislative Session.

SB 676 // HB 475

Certificates of Titles for Vessels

We are anticipating budget conference to begin the week of April 22nd. Please review budget issues listed in this report for a refresher of what is ahead for budget conference. Again, Florida has to have a balanced budget and the budget bill must rest on the desk for seventy-two hours before final passage.

SB 1530 // HB 1319

Vessels

Finally, many bills are waiting to be heard in House State Affairs Committee or Senate Appropriations Committee. Neither has released their agenda for Thursday meetings. We will keep you posted as those agendas are released. As of the writing of this report, these are the last scheduled meetings for House State Affairs or Senate Appropriations. However, as we have seen in years past, more committee meetings can be added.

SB 1792 // HB 1237

Towing and Immobilizing of Vehicles and Vessels

State Affairs will release their agenda April 16th. The meeting is scheduled from 8:00 am-12:00 pm.

SB 1666

Anchoring and Mooring of Vessels Outside of Public Mooring Fields

Senate Appropriations will release their agenda April 15th for an all-day meeting scheduled from 9:00 am-4:30 pm.

HB 1221

Anchored Vessels

Again, this is a busy week and tensions are high as committees are winding down and we are steadily working our way to budget conference and Senate and House floor sessions. Stay tuned, as the pace will begin to pick up as we head to the finish.

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

SB 446 // HB 325

Coastal Management

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 still on the House Calendar and available for Special Order. There is plenty of time for this bill to pass this year.

SB 1758 // HB 1395

Water Quality Improvements

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 passed the Senate Rules Committee 17-0. The bill was on the Special Order calendar on April 10th. The bill is now on third Reading for April 17. Upon passage, the bill will then be placed in Messages to the House

SB 1502 // HB 5401

Department of Environmental Protection

for final passage on the House floor.

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 Transportation and Tourism Appropriations Subcommittee as a committee substitute, 11-0. The bill passed the House State Affairs Committee 19-0 on March 28th. HB 475 passed on the House floor 116-0 with amendments.

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 passed the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development on April 9th as a proposed committee substitute. The bill passed, 6-0. The bill is now in Senate Appropriations waiting to be placed on the agenda.

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 as expected the amendment was passed on the bill in committee. The bill passed the House Agriculture and Natural Resources Appropriations Subcommittee on April 2 with an amendment by a vote 11-0. The bill is now a Committee Substitute. This bill is waiting to be placed on the agenda in House State Affairs.

SB 1530 also has three references. The committees are Senate Environment and Natural Resources, Senate Criminal Justice, and Senate Rules. The bill was heard in the Senate Environmental and Natural Resources Committee April 2nd and passed with a requested amendment 4-0. The bill is now a Committee Substitute. CS/SB 1530 passed the Senate Criminal Justice Committee with a 4-1 vote. Senator Brandes was the only "nay" vote. This bill still needs to be heard in the Senate Rules Committee. The bill did not make the April 17th committee agenda, but Senate Rules meets again on April 23rd.

We are anticipating these bills to be amended to HB 1221/SB 1666 sometime in the future if it remains friendly. Other local governments are rumored to be considering anchoring amendments to this and other bills.

We have received language on Sunday for these bills that is currently being reviewed. Please remain vigilant as this bill could be amended yet again.

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 passed the House State Affairs Committee as a Committee Substitute on April 10th with a vote of 20-1. The bill is now on Special Order April 17th.

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 has now passed in the Senate Infrastructure and Security Committee 8-0. The bill is still waiting to be heard in the Senate Rules Committee.

HB 1221 by Polsky and SB 1666 by Flores - Anchoring and Mooring of Vessels Outside of Public Mooring Fields These bills have consumed a lot of time and negotiations this year. As we head toward the homestretch, it appears we are in as good of a position as we can be with continued issues with derelict and stored vessels on Florida waters.

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 still anticipate several amendments to the bill in the House State Affairs Committee. The bill has not been placed on the State Affairs agenda as of the writing of this report. Again, the agenda has not been released for the State Affairs Committee. We will know Tuesday if this bill is on the agenda.

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 ament 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. As expected, amendments were filed to the bill in the Senate Community Affairs Committee and the bill passed 5-0 as a Committee Substitute. The bill passed the Senate Rules Committee agenda April 10th as a committee substitute 17-0. The bill is now on the Senate Calendar.

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 passed the Senate Community Affairs Committee on April 2, 2019 as a Committee Substitute 4-0. The bill is still waiting to be heard in the Senate Appropriations Committee.

Another comparable bill to watch that is moving in the House is House Bill 141 by Representative Fine, regarding Water Quality Improvements. This bill is another prime vehicle for anchoring amendments. We will be watching closely. This bill only has the House State Affairs Committee left.

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. SB 1502 passed the Senate Appropriations Subcommittee on Agriculture, Environment and General Government on April 9th with a vote of 10-0. The bill is now waiting to be heard on Senate Appropriations.

HB 5401 Passed the House Appropriations Committee March 27th. The bill passed on Special Order Calendar April 3rd 112-0. This bill is now part of the budget conference. The bill was placed on the Senate Appropriations agenda and passed 18-0. The bills is now on the Senate Calendar.

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

Please note: there were no changes to any boating amendments being tracked by MIAF during the amendatory process.



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// 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: 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.

Most Recent Action: Placed on Special Order Calendar, 04/10/19; Read Second Time; Placed on Third Reading, 04/17/19

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. Jayer Williamson // Referred to: Transportation & Infrastructure Subcommittee; Transportation & Tourism Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 676: PCS/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:

- 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.
- 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.
- Applies the bill to any transaction, certificate of title, or record relating to a vessel entered into or created before July 1, 2023, but provides for certain exceptions.

The bill will have an insignificant fiscal impact on the DHSMV, which will be absorbed within existing resources. The bill has an indeterminate, but possibly neutral impact to the Marine Resources Conservation Trust Fund of the Fish and Wildlife Conservation Commission.

The bill takes effect July 1, 2023.

Most Recent Action: Subcommittee Recommendation: Favorable with CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development; 6 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: Read Second Time; Amendments Adopted (828453, 319605, 646459, 239253); Placed on Third Reading, 04/11/19; Engrossed Text (E1) Filed; Read Third Time; Passed (Vote: 116 Yeas / 0 Nays)

Attached documents: CS/SB 676 (as filed) + staff analysis; CS/CS/CS/HB 475 + staff analysis + 4 amendments

// 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: CS/SB 1530 requires a vessel operator to reduce speed to a slow speed with minimum wake upon approaching within 300 feet of any emergency vehicle with its emergency lights activated or any construction vessel or barge under specified conditions. A vessel operator found in violation of this requirement is guilty of a noncriminal infraction.

The bill increases several of the civil penalties for a vessel deemed at risk of becoming derelict and increases several of the maximum civil penalties for anchoring or mooring in a prohibited area. The bill also creates civil penalties for vessels that fail to reduce speed for special hazards as specified in the bill.

There may be a positive fiscal impact on the Florida Fish and Wildlife Conservation Commission due to the new and increased civil penalties provided under the bill. See Section V. Fiscal Impact Statement.

Most Recent Action: Favorable by Criminal Justice; 4 Yeas, 1 Nay

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

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

The bill further provides that a vessel that does not have or is unable to demonstrate an effective means of propulsion and the owner is unable to provide documentation of vessel repair may be deemed at risk for becoming derelict.

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

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

Attached documents: CS/SB 1530 (as filed) + staff analysis

// TOWING AND IMMOBILIZING OF VEHICLES AND VESSELS

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

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

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 1792: CS/CS/SB 1792 addresses the towing, removal, storage, and immobilization of vehicles and vessels. Generally, the bill:

- Provides definitions.
- Authorizes a county or municipality to regulate the rates for the towing, immobilization, and storage and removal of vessels parked on private property or involved in an accident scene.
- Requiring a county that regulates the above rates to establish maximum rates, which do not apply within the jurisdiction of a municipality that establishes maximum rates.
- Prohibits counties and municipalities, respectively, from enacting certain ordinances or rules that impose fees or charges on authorized wrecker operators or towing businesses for towing, impounding, or storing a vehicle or vessel immobilization services.
- Prohibits counties or municipalities from imposing charges, costs, expenses, fines, fees, or penalties on authorized wrecker operators, registered owners, other legally authorized persons in custody or in control, or lienholders of vehicles or vessels.
- Provides the above prohibitions do not prevent county or municipal levy of a reasonable business tax or imposition of a limited reasonable administrative fee or charge.
- Provides exemptions to bill requirements for certain ordinances enacted by a charter county with a population exceeding 1.3 million on or before January 1, 2019.
- Requires a reasonable administrative fee or charge imposed by a county or municipality to be included as part of the lien on the vehicle or vessel held by the towing operator.

- Includes vessels in the current prohibition against charging a vehicle storage fee when stored for less than six hours.
- Revises various related notice provisions.
- Revises requirements relating to towing and removing vehicles or vessels to include persons who are in custody, or in control or custody, of a vehicle or of a vessel.
- Removes provisions related to liability for improper removal of a vehicle or vessel.
- Prohibits county or municipal ordinances requiring a towing business to accept checks as a form of payment.
- Prohibits county or municipal authorization of attorney fees or court costs in connection with the towing of vehicles or vessels from private property and preempts regulation of such fees or court costs to the state.

The fiscal impact on local government and on the private sector is indeterminate. See the Fiscal Impact Statement heading for details.

The bill's provisions in general may limit the ability of municipalities and counties to raise revenue, thus requiring approval of the bill by each house of the Legislature by two-thirds vote of its membership. However, whether such approval is required is indeterminate. See the Municipality/County Mandates Restrictions heading for details.

Most Recent Action: Favorable with CS by Infrastructure and Security; 8 Yeas, 0 Nays

House Bill 1237: County and municipal governments may contract with wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites within their jurisdiction. Counties and municipalities may establish a wrecker operator system to apportion towing services across multiple wrecker operators. Wrecker operators who participate in the wrecker operator system are known as authorized wrecker operators. Counties and municipalities are authorized to establish 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 an 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 must 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, a county with such a licensure program 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 or towing business to accept credit cards as a form of payment. The bill expressly preempts the regulation of attorney fees in connection with the towing of vehicles or vessels from private property to the state and voids 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 State Affairs Committee; 20 Yeas, 1 Nay; Placed on Calendar, on 2nd reading; Placed on Special Order Calendar, 04/17/19

Attached documents: CS/CS/HB 1237 + 3 amendments + 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/CS/SB 1666:

- Requires a person to have either a boater safety identification card or a temporary certificate before renting and operating a vessel with a 10 horsepower or higher engine or electronic equivalent of such engine.
- Establishes criteria for obtaining a temporary certificate which is valid for 90 days.
- Provides that boating safety identification cards and temporary certificates may be issued in a digital, electronic or paper format.
- Authorizes the Fish and Wildlife Conservation Commission (FWC) to appoint agents to administer qualifying boating safety education and temporary certificate requirements.

- 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 the 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 for specified vessels.
- 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. Funds not granted to local governments by a certain date in the fiscal year may be used by the FWC to remove derelict vessels.
- 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: Favorable with CS by Rules; 17 Yeas, 0 Nays; Placed on Calendar, on 2nd reading

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/CS/CS/SB 1666 + 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 Special Order Calendar, 04/17/19

Attached documents: CS/HB 325 + staff analysis

// 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/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 prohibition on participation in DEP’s wastewater grant program and existing civil and criminal penalties for pollution. However, the bill authorizes DEP to grant an extension of time upon a showing of good cause or to reduce penalties based on expenditures for improvements and upgrades.
- Requires local governments within a BMAP or with impaired waters to adopt the Model

Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes.

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

Most Recent Action: Favorable with CS by Community Affairs; 4 Yeas, 0 Nays;

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

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

Attached documents: None

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

House Bill 5401: HB 5401 creates the Division of Law Enforcement within the Department of Environmental Protection (DEP), which will employ state law enforcement officers.

The bill requires the 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 the 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 the 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.

o The Office of Greenways and Trails.

- Current and future funding, training, or other support for positions and equipment being transferred from the FWC to the DEP that are funded through any trust fund.

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

Senate Bill 2500, Eng., the Senate’s 2019-2020 General Appropriations Bill transfers 19 full time employees and \$1,991,722 in trust fund budget authority from the FWC to the DEP. There may be additional, indeterminate negative costs associated with this transfer to the DEP.

Most Recent Action: Favorable by Appropriations; 18 Yeas, 0 Nays; Placed on Calendar, on 2nd reading

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

// BOATING-RELATED APPROPRIATIONS

Boating Appropriations Highlights

House Proposed Budget (PCB 19-01)

Fiscal Year 2019-20

1755	SPECIAL CATEGORIES FLORIDA RESILIENT COASTLINE INITIATIVE	
	FROM GENERAL REVENUE FUND	2,600,000
1766	GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY CLEAN MARINA	
	FROM FEDERAL GRANTS TRUST FUND	1,960,000
	FROM GRANTS AND DONATIONS TRUST FUND	200,000
1824	SPECIAL CATEGORIES	
	BOATING AND WATERWAYS ACTIVITIES	
	FROM MARINE RESOURCES CONSERVATION TRUST FUND	1,626,025

1829	SPECIAL CATEGORIES		
	BOATING SAFETY EDUCATION PROGRAM		
	FROM MARINE RESOURCES CONSERVATION TRUST FUND		625,650
1830	FIXED CAPITAL OUTLAY		
	BOATING INFRASTRUCTURE		
	FROM FEDERAL GRANTS TRUST FUND	3,900,000	
1831	GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY		
	DERELICT VESSEL REMOVAL PROGRAM		
	FROM GENERAL REVENUE FUND	1,400,000	
	FROM FEDERAL GRANTS TRUST FUND		3,000,000
1832	GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY		
	FLORIDA BOATING IMPROVEMENT PROGRAM		
	FROM MARINE RESOURCES CONSERVATION TRUST FUND		592,600
	FROM STATE GAME TRUST FUND		1,250,000
1906	GRANTS AND AIDS TO LOCAL GOVERNMENTS AND		
	NONSTATE ENTITIES - FIXED CAPITAL OUTLAY		
	ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM		
	FROM FEDERAL GRANTS TRUST FUND	300,000	
	FROM MARINE RESOURCES CONSERVATION TRUST FUND		300,000

Senate Proposed Budget (SPB 2500)

Fiscal Year 19-20

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

From the funds in Specific Appropriation 1755, \$2,600,000 in recurring funds from the General Revenue Fund are provided for the Florida Resilient Coastline Initiative to assist local governments with storm resiliency, sea level rise planning, coastal resilience projects, and coral reef health.

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

1766	GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY CLEAN MARINA		
	FROM FEDERAL GRANTS TRUST FUND . . .	1,960,000	
	FROM GRANTS AND DONATIONS TRUST FUND		200,000
1824	SPECIAL CATEGORIES BOATING AND WATERWAYS ACTIVITIES		
	FROM MARINE RESOURCES CONSERVATION TRUST FUND		1,626,025
1826	SPECIAL CATEGORIES DERELICT VESSEL REMOVAL PROGRAM		
	FROM FEDERAL GRANTS TRUST FUND . . .	3,000,000	
1829	SPECIAL CATEGORIES BOATING SAFETY EDUCATION PROGRAM		
	FROM MARINE RESOURCES CONSERVATION TRUST FUND		625,650
1830	FIXED CAPITAL OUTLAY BOATING INFRASTRUCTURE		
	FROM FEDERAL GRANTS TRUST FUND . . .	3,900,000	
1831	GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY DERELICT VESSEL REMOVAL PROGRAM		
	FROM MARINE RESOURCES CONSERVATION TRUST FUND		1,400,000
1832	GRANTS AND AIDS TO LOCAL GOVERNMENTS AND		

NONSTATE ENTITIES - FIXED CAPITAL OUTLAY

FLORIDA BOATING IMPROVEMENT PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND 592,600
FROM STATE GAME TRUST FUND 1,250,000

1906 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM

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

2019-2020 Governor's Proposed Budget

1755 SPECIAL CATEGORIES

FLORIDA RESILIENT COASTLINE INITIATIVE

FROM GENERAL REVENUE FUND 6,000,000

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

1766 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND
NONSTATE ENTITIES - FIXED CAPITAL OUTLAY CLEAN MARINA

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

1824 SPECIAL CATEGORIES

BOATING AND WATERWAYS ACTIVITIES

FROM MARINE RESOURCES CONSERVATION TRUST FUND 1,626,025

1829 SPECIAL CATEGORIES

BOATING SAFETY EDUCATION PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND 625,650

1830 FIXED CAPITAL OUTLAY
BOATING INFRASTRUCTURE
FROM FEDERAL GRANTS TRUST FUND . . . 3,900,000

1831 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND
NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
DERELICT VESSEL REMOVAL PROGRAM
FROM GENERAL REVENUE FUND 1,400,000

1832 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND
NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
FLORIDA BOATING IMPROVEMENT PROGRAM
FROM MARINE RESOURCES CONSERVATION TRUST FUND 592,600
FROM STATE GAME TRUST FUND 1,250,000

1906 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND
NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM
FROM GENERAL REVENUE FUND 300,000
FROM FEDERAL GRANTS TRUST FUND . . . 300,000

APPENDIX

// USE OF VESSEL REGISTRATION FEES

SB 436 (as filed) + Staff Analysis

// CERTIFICATES OF TITLES FOR VESSELS

PCS for SB 676 + Staff Analysis

HB 475 (Engrossed) + Staff Analysis

// VESSELS

CS/SB 1530 + Staff Analysis

// TOWING AND IMMOBILIZING OF VEHICLES AND VESSELS

CS/CS/SB 1237 + Staff Analysis + Amendments

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

CS/CS/CS/SB 1666 + Staff Analysis

// COASTAL MANAGEMENT

CS/HB 325 + Staff Analysis

// WATER QUALITY IMPROVEMENTS

No attachments

// DEPARTMENT OF ENVIRONMENTAL PROTECTION

SB 1502 (as filed) + 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 Rules

BILL: SB 436

INTRODUCER: Senator Hooper

SUBJECT: Use of Vessel Registration Fees

DATE: April 2, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Peacock</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Anderson</u>	<u>Rogers</u>	<u>EN</u>	Favorable
3.	<u>Peacock</u>	<u>Phelps</u>	<u>RC</u>	Favorable

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.



566294

576-04110-19

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Transportation, Tourism, and
Economic Development)

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



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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
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.



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576-04110-19

56 328.125, F.S.; providing requirements for the delivery
57 of a statement of termination of a security interest;
58 providing duties of the department; providing
59 liability for noncompliance; creating s. 328.14, F.S.;
60 providing for the rights of a purchaser of a vessel
61 who is not a secured party; creating s. 328.145, F.S.;
62 providing for the rights of a secured party; amending
63 s. 328.15, F.S.; deleting certain provisions relating
64 to notice of a lien; providing for future 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;



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576-04110-19

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

86 providing a definition; providing requirements for a

87 transfer of ownership by operation of law; providing

88 duties of the department; providing applicability;

89 creating s. 328.25, F.S.; providing that the

90 principles and law of equity supplement the provisions

91 of the act; creating s. 328.41, F.S.; authorizing the

92 department to adopt rules to implement vessel

93 registration provisions; amending ss. 409.2575,

94 705.103, and 721.08, F.S.; conforming provisions and

95 cross-references to changes made by the act; providing

96 construction and applicability regarding transactions,

97 certificates of title, and records entered into or

98 created, actions or proceedings commenced, and

99 security interests perfected before the effective date

100 of the act; providing applicability; providing an

101 effective date.

102

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

104

105 Section 1. Section 328.001, Florida Statutes, is created 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



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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.

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



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143 of title consisting of information that is stored solely in an
144 electronic medium and is retrievable in perceivable form.

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



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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
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



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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
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



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230 title.
231 (dd) "Transfer of ownership" means a voluntary or
232 involuntary conveyance of an interest in a vessel.
233 (ee) "Vessel" means a watercraft used or capable of being
234 used as a means of transportation on water, except:
235 1. A seaplane;
236 2. An amphibious vehicle for which a certificate of title
237 is issued pursuant to chapter 319 or a similar statute of
238 another state;
239 3. 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



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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.

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.



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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
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



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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;

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;



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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 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



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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
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~~



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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~~



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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~~



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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~~



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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 (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



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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 Vehicles~~
548 shall prescribe and provide suitable forms for applications,



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

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:



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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 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:



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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
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;



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- 636 (b) A foreign-documented vessel;
637 (c) A barge;
638 (d) A vessel before delivery if the vessel is under
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



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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
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



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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
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



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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~~
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



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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.
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



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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
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.



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

812 328.055 Maintenance of and access to files.-

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



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839 local government the information in its files relating to any
840 vessel for which the department has issued a certificate of
841 title.

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



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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
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



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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
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.



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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.
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



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955 application must include the existing certificate unless the
956 certificate is lost, stolen, mutilated, destroyed, or otherwise
957 unavailable.

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~~



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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~~
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



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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
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



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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:

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.



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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).

1074 (12) For purposes of this section and this part, the
1075 Department of Revenue shall be treated as a secured party when
1076 collecting unpaid support.

1077 Section 16. Section 328.125, Florida Statutes, is created
1078 to read:

1079 328.125 Termination statement.—

1080 (1) A secured party indicated in the files of the
1081 department as having a security interest in a vessel shall
1082 deliver a termination statement to the department and, on the
1083 debtor's request, to the debtor, by the earlier of:

1084 (a) Twenty days after the secured party receives a signed
1085 demand from an owner for a termination statement and there is no
1086 obligation secured by the vessel subject to the security
1087 interest and no commitment to make an advance, incur an
1088 obligation, or otherwise give value secured by the vessel; or

1089 (b) If the vessel is consumer goods, 30 days after there is
1090 no obligation secured by the vessel and no commitment to make an
1091 advance, incur an obligation, or otherwise give value secured by
1092 the vessel.

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



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1100 party shall deliver with the statement, not later than the date
1101 required by subsection (1), an application for a duplicate
1102 certificate meeting the requirements of s. 328.11.

1103 (3) On delivery to the department of a termination
1104 statement authorized by the secured party, the security interest
1105 to which the statement relates ceases to be perfected. If the
1106 security interest to which the statement relates was indicated
1107 on the certificate of title, the department shall create a new
1108 certificate and deliver the new certificate or a record
1109 evidencing an electronic certificate. The department shall
1110 maintain in its files the date and time of delivery to the
1111 department of the statement.

1112 (4) A secured party that fails to comply with this section
1113 is liable for any loss that the secured party had reason to know
1114 might result from its failure to comply and which could not
1115 reasonably have been prevented and for the cost of an
1116 application for a certificate of title under s. 328.01 or s.
1117 328.11.

1118 Section 17. Section 328.14, Florida Statutes, is created to
1119 read:

1120 328.14 Rights of purchaser other than secured party.-

1121 (1) A buyer in ordinary course of business has the
1122 protections afforded by ss. 672.403(2) and 679.320(1) even if an
1123 existing certificate of title was not signed and delivered to
1124 the buyer or a new certificate listing the buyer as owner of
1125 record was not created.

1126 (2) Except as otherwise provided in ss. 328.145 and 328.22,
1127 the rights of a purchaser of a vessel who is not a buyer in
1128 ordinary course of business or a lien creditor are governed by



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1129 the Uniform Commercial Code.

1130 Section 18. Section 328.145, Florida Statutes, is created
1131 to read:

1132 328.145 Rights of secured party.-

1133 (1) Subject to subsection (2), the effect of perfection and
1134 nonperfection of a security interest and the priority of a
1135 perfected or unperfected security interest with respect to the
1136 rights of a purchaser or creditor, including a lien creditor, is
1137 governed by the Uniform Commercial Code.

1138 (2) If, while a security interest in a vessel is perfected
1139 by any method under this part, the department creates a
1140 certificate of title that does not indicate that the vessel is
1141 subject to the security interest or contain a statement that it
1142 may be subject to security interests not indicated on the
1143 certificate:

1144 (a) A buyer of the vessel, other than a person in the
1145 business of selling or leasing vessels of that kind, takes free
1146 of the security interest if the buyer, acting in good faith and
1147 without knowledge of the security interest, gives value and
1148 receives possession of the vessel; and

1149 (b) The security interest is subordinate to a conflicting
1150 security interest in the vessel that is perfected under s.
1151 328.12 after creation of the certificate and without the
1152 conflicting secured party's knowledge of the security interest.

1153 Section 19. Section 328.15, Florida Statutes, is amended to
1154 read:

1155 328.15 Notice of lien on vessel; recording.-

1156 ~~(1) No lien for purchase money or as security for a debt in~~
1157 ~~the form of retain title contract, conditional bill of sale,~~



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1158 ~~chattel mortgage, or otherwise on a vessel shall be enforceable~~
1159 ~~in any of the courts of this state against creditors or~~
1160 ~~subsequent purchasers for a valuable consideration and without~~
1161 ~~notice unless a sworn notice of such lien is recorded. The lien~~
1162 ~~certificate shall contain the following information:~~

- 1163 ~~(a) Name and address of the registered owner;~~
1164 ~~(b) Date of lien;~~
1165 ~~(c) Description of the vessel to include make, type, motor~~
1166 ~~and serial number; and~~
1167 ~~(d) Name and address of lienholder.~~

1168
1169 ~~The lien shall be recorded by the Department of Highway Safety~~
1170 ~~and Motor Vehicles and shall be effective as constructive notice~~
1171 ~~when filed. The date of filing of the notice of lien is the date~~
1172 ~~of its receipt by the department's central office in~~
1173 ~~Tallahassee, if first filed there, or otherwise by the office of~~
1174 ~~a county tax collector or of the tax collector's agent.~~

1175 ~~(2) (a) The Department of Highway Safety and Motor Vehicles~~
1176 ~~shall not enter any lien upon its lien records, whether it is a~~
1177 ~~first lien or a subordinate lien, unless the official~~
1178 ~~certificate of title issued for the vessel is furnished with the~~
1179 ~~notice of lien, so that the record of lien, whether original or~~
1180 ~~subordinate, may be noted upon the face thereof. After the~~
1181 ~~department records the lien, it shall send the certificate of~~
1182 ~~title to the holder of the first lien who shall hold such~~
1183 ~~certificate until the lien is satisfied in full.~~

1184 ~~(b) When a vessel is registered in the names of two or more~~
1185 ~~persons as coowners in the alternative by the use of the word~~
1186 ~~"or," whether or not the coowners are husband and wife, each~~



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1187 ~~coowner is considered to have granted to any other coowner the~~
1188 ~~absolute right to place a lien or encumbrance on the vessel, and~~
1189 ~~the signature of one coowner constitutes proper execution of the~~
1190 ~~notice of lien. When a vessel is registered in the names of two~~
1191 ~~or more persons as coowners in the conjunctive by the use of the~~
1192 ~~word "and," the signature of each coowner is required in order~~
1193 ~~to place a lien or encumbrance on the vessel.~~

1194 ~~(c) If the owner of the vessel as shown on the title~~
1195 ~~certificate or the director of the state child support~~
1196 ~~enforcement program desires to place a second or subsequent lien~~
1197 ~~or encumbrance against the vessel when the title certificate is~~
1198 ~~in the possession of the first lienholder, the owner shall send~~
1199 ~~a written request to the first lienholder by certified mail and~~
1200 ~~such first lienholder shall forward the certificate to the~~
1201 ~~department for endorsement. The department shall return the~~
1202 ~~certificate to the first lienholder, as indicated in the notice~~
1203 ~~of lien filed by the first lienholder, after endorsing the~~
1204 ~~second or subsequent lien on the certificate and on the~~
1205 ~~duplicate. If the first lienholder fails, neglects, or refuses~~
1206 ~~to forward the certificate of title to the department within 10~~
1207 ~~days after the date of the owner's or the director's request,~~
1208 ~~the department, on written request of the subsequent lienholder~~
1209 ~~or an assignee thereof, shall demand of the first lienholder the~~
1210 ~~return of such certificate for the notation of the second or~~
1211 ~~subsequent lien or encumbrance.~~

1212 ~~(1)(3)~~ Upon the payment of a ~~any such~~ lien, the debtor or
1213 the registered owner of the motorboat shall be entitled to
1214 demand and receive from the lienholder a satisfaction of the
1215 lien which shall likewise be filed with the Department of



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1216 Highway Safety and Motor Vehicles.

1217 ~~(2)-(4)~~ The Department of Highway Safety and Motor Vehicles
1218 under precautionary rules and regulations to be promulgated by
1219 it may permit the use, in substitution of the formal
1220 satisfaction of lien, of other methods of satisfaction, such as
1221 perforation, appropriate stamp, or otherwise, as it deems
1222 reasonable and adequate.

1223 ~~(3)-(5)~~(a) The Department of Highway Safety and Motor
1224 Vehicles shall adopt rules to administer this section. The
1225 department may by rule require that a notice of satisfaction of
1226 a lien be notarized. The department shall prepare the forms of
1227 the notice of lien and the satisfaction of lien to be supplied,
1228 at a charge not to exceed 50 percent more than cost, to
1229 applicants for recording the liens or satisfactions and shall
1230 keep a record of such notices of lien and satisfactions
1231 available for inspection by the public at all reasonable times.
1232 The division may furnish certified copies of such satisfactions
1233 for a fee of \$1, which are admissible in evidence in all courts
1234 of this state under the same conditions and to the same effect
1235 as certified copies of other public records.

1236 (b) The department shall establish and administer an
1237 electronic titling program that requires the recording of vessel
1238 title information for new, transferred, and corrected
1239 certificates of title. Lienholders shall electronically transmit
1240 liens and lien satisfactions to the department in a format
1241 determined by the department. Individuals and lienholders who
1242 the department determines are not normally engaged in the
1243 business or practice of financing vessels are not required to
1244 participate in the electronic titling program.



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1245 ~~(6) The Department of Highway Safety and Motor Vehicles is~~
1246 ~~entitled to a fee of \$1 for the recording of each notice of~~
1247 ~~lien. No fee shall be charged for recording the satisfaction of~~
1248 ~~a lien. All of the fees collected shall be paid into the Marine~~
1249 ~~Resources Conservation Trust Fund.~~

1250 (4)~~(7)~~(a) Should any person, firm, or corporation holding
1251 such lien, which has been recorded by the Department of Highway
1252 Safety and Motor Vehicles, upon payment of such lien and on
1253 demand, fail or refuse, within 30 days after such payment and
1254 demand, to furnish the debtor or the registered owner of such
1255 vessel a satisfaction of the lien, then, in that event, such
1256 person, firm, or corporation shall be held liable for all costs,
1257 damages, and expenses, including reasonable attorney ~~attorney's~~
1258 fees, lawfully incurred by the debtor or the registered owner of
1259 such vessel in any suit which may be brought in the courts of
1260 this state for the cancellation of such lien.

1261 (b) Following satisfaction of a lien, the lienholder shall
1262 enter a satisfaction thereof in the space provided on the face
1263 of the certificate of title. If there are no subsequent liens
1264 shown thereon, the certificate shall be delivered by the
1265 lienholder to the person satisfying the lien or encumbrance and
1266 an executed satisfaction on a form provided by the department
1267 shall be forwarded to the department by the lienholder within 10
1268 days after satisfaction of the lien.

1269 (c) If the certificate of title shows a subsequent lien not
1270 then being discharged, an executed satisfaction of the first
1271 lien shall be delivered by the lienholder to the person
1272 satisfying the lien and the certificate of title showing
1273 satisfaction of the first lien shall be forwarded by the



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1274 lienholder to the department within 10 days after satisfaction
1275 of the lien.

1276 (d) If, upon receipt of a title certificate showing
1277 satisfaction of the first lien, the department determines from
1278 its records that there are no subsequent liens or encumbrances
1279 upon the vessel, the department shall forward to the owner, as
1280 shown on the face of the title, a corrected certificate showing
1281 no liens or encumbrances. If there is a subsequent lien not
1282 being discharged, the certificate of title shall be reissued
1283 showing the second or subsequent lienholder as the first
1284 lienholder and shall be delivered to the new first lienholder.
1285 The first lienholder shall be entitled to retain the certificate
1286 of title until his or her lien is satisfied. Upon satisfaction
1287 of the lien, the lienholder shall be subject to the procedures
1288 required of a first lienholder in this subsection ~~and in~~
1289 ~~subsection (2)~~.

1290 ~~(5)(8)~~ When the original certificate of title cannot be
1291 returned to the department by the lienholder and evidence
1292 satisfactory to the department is produced that all liens or
1293 encumbrances have been satisfied, upon application by the owner
1294 for a duplicate copy of the certificate of title, upon the form
1295 prescribed by the department, accompanied by the fee prescribed
1296 in this chapter, a duplicate copy of the certificate of title
1297 without statement of liens or encumbrances shall be issued by
1298 the department and delivered to the owner.

1299 ~~(6)(9)~~ Any person who fails, within 10 days after receipt
1300 of a demand by the department by certified mail, to return a
1301 certificate of title to the department ~~as required by paragraph~~
1302 ~~(2)(c)~~ or who, upon satisfaction of a lien, fails within 10 days



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1303 after receipt of such demand to forward the appropriate document
1304 to the department as required by paragraph (4) (b) ~~(7) (b)~~ or
1305 paragraph (4) (c) ~~(7) (e)~~ commits a misdemeanor of the second
1306 degree, punishable as provided in s. 775.082 or s. 775.083.

1307 (7) (10) The department shall use the last known address as
1308 shown by its records when sending any notice required by this
1309 section.

1310 (8) (11) If the original lienholder sells and assigns his or
1311 her lien to some other person, and if the assignee desires to
1312 have his or her name substituted on the certificate of title as
1313 the holder of the lien, he or she may, after delivering the
1314 original certificate of title to the department and providing a
1315 sworn statement of the assignment, have his or her name
1316 substituted as a lienholder. Upon substitution of the assignee's
1317 name as lienholder, the department shall deliver the certificate
1318 of title to the assignee as the first lienholder.

1319 (9) Subsections (1), (2), and (4)-(8) shall expire October
1320 1, 2026.

1321 Section 20. Section 328.16, Florida Statutes, is amended to
1322 read:

1323 328.16 Issuance in duplicate; delivery; liens, security
1324 interests, and encumbrances.-

1325 (1) The department shall assign a number to each
1326 certificate of title and shall issue each certificate of title
1327 and each corrected certificate in duplicate. The database record
1328 shall serve as the duplicate title certificate.

1329 (2) An authorized person must sign the original certificate
1330 of title and each corrected certificate and, if there are no
1331 liens, security interests, or encumbrances on the vessel, as



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1332 shown in the records of the department or as shown in the
1333 application, must deliver the certificate to the applicant or to
1334 another person as directed by the applicant or person, agent, or
1335 attorney submitting the application. If there are one or more
1336 liens, security interests, or encumbrances on the vessel, the
1337 department must deliver the certificate to the first lienholder
1338 or secured party as shown by department records. The department
1339 shall deliver to the first lienholder or secured party, along
1340 with the certificate, a form to be subsequently used by the
1341 lienholder or secured party as a satisfaction. If the
1342 application for certificate of title shows the name of a first
1343 lienholder or secured party which is different from the name of
1344 the first lienholder or secured party as shown by the records of
1345 the department, the certificate shall not be issued to any
1346 person until after the department notifies all parties who
1347 appear to hold a lien or a security interest and the applicant
1348 for the certificate, in writing by certified mail. If the
1349 parties do not amicably resolve the conflict within 10 days
1350 after the date the notice was mailed, the department shall serve
1351 notice in writing by certified mail on all persons that appear
1352 to hold liens or security interests on that particular vessel,
1353 including the applicant for the certificate, to show cause
1354 within 15 days after the date the notice is mailed why it should
1355 not issue and deliver the certificate to the secured party of
1356 record or person indicated in the notice of lien filed by the
1357 lienholder whose name appears in the application as the first
1358 lienholder without showing any lien or liens as outstanding
1359 other than those appearing in the application or those filed
1360 subsequent to the filing of the application for the certificate



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1361 of title. If, within the 15-day period, any person other than
1362 the lienholder or secured party of record shown in the
1363 application or a party filing a subsequent lien or security
1364 interest, in answer to the notice to show cause, appears in
1365 person or by a representative, or responds in writing, and files
1366 a written statement under oath that his or her lien or security
1367 interest on that particular vessel is still outstanding, the
1368 department shall not issue the certificate to anyone until after
1369 the conflict has been settled by the lien or security interest
1370 claimants involved or by a court of competent jurisdiction. If
1371 the conflict is not settled amicably within 10 days after the
1372 final date for filing an answer to the notice to show cause, the
1373 complaining party shall have 10 days to obtain a ruling, or a
1374 stay order, from a court of competent jurisdiction. If a ruling
1375 or stay order is not issued and served on the department within
1376 the 10-day period, the department shall issue the certificate
1377 showing no liens or security interests, except those shown in
1378 the application or thereafter filed, to the original applicant
1379 if there are no liens or security interests shown in the
1380 application and none are thereafter filed, or to the person
1381 indicated as the secured party of record or in the notice of
1382 lien filed by the lienholder whose name appears in the
1383 application as the first lienholder if there are liens shown in
1384 the application or thereafter filed. A duplicate certificate or
1385 corrected certificate must show only such security interest or
1386 interests or lien or liens as were shown in the application and
1387 subsequently filed liens or security interests that may be
1388 outstanding.

1389 (3) ~~Except as provided in s. 328.15(11),~~ The certificate of



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1390 title shall be retained by the first lienholder or secured party
1391 of record. The first lienholder or secured party of record is
1392 entitled to retain the certificate until the first lien or
1393 security interest is satisfied.

1394 (4) Notwithstanding any requirements in this section ~~or in~~
1395 ~~s. 328.15~~ indicating that a lien or security interest on a
1396 vessel shall be noted on the face of the Florida certificate of
1397 title, if there are one or more liens, security interests, or
1398 encumbrances on a vessel, the department shall electronically
1399 transmit the lien or security interest to the first lienholder
1400 or secured party and notify the first lienholder or secured
1401 party of any additional liens or security interests. Subsequent
1402 lien or security interest satisfactions shall be electronically
1403 transmitted to the department and must include the name and
1404 address of the person or entity satisfying the lien or security
1405 interest. When electronic transmission of liens or security
1406 interests and lien satisfactions or security interests are used,
1407 the issuance of a certificate of title may be waived until the
1408 last lien or security interest is satisfied and a clear
1409 certificate of title is issued to the owner of the vessel.

1410 (5) The owner of a vessel, upon which a lien or security
1411 interest has been filed with the department or noted upon a
1412 certificate of title for a period of 5 years, may apply to the
1413 department in writing for such lien or security interest to be
1414 removed from the department files or from the certificate of
1415 title. The application must be accompanied by evidence
1416 satisfactory to the department that the applicant has notified
1417 the lienholder or secured party by certified mail, not less than
1418 20 days before ~~prior to~~ the date of the application, of his or



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1419 her intention to apply to the department for removal of the lien
1420 or security interest. Ten days after receipt of the application,
1421 the department may remove the lien or security interest from its
1422 files or from the certificate of title, as the case may be, if
1423 no statement in writing protesting removal of the lien or
1424 security interest is received by the department from the
1425 lienholder or secured party within the 10-day period. However,
1426 if the lienholder or secured party files with the department,
1427 within the 10-day period, a written statement that the lien or
1428 security interest is still outstanding, the department may not
1429 remove the lien or security interest until the lienholder or
1430 secured party presents a satisfaction of lien or satisfaction of
1431 security interest to the department.

1432 Section 21. Subsection (1) of section 328.165, Florida
1433 Statutes, is amended to read:

1434 328.165 Cancellation of certificates.—

1435 (1) If it appears that a certificate of title has been
1436 improperly issued, the department shall cancel the certificate.
1437 Upon cancellation of any certificate of title, the department
1438 shall notify the person to whom the certificate of title was
1439 issued, and any lienholders or secured parties appearing
1440 thereon, of the cancellation and shall demand the surrender of
1441 the certificate of title; however, the cancellation does not
1442 affect the validity of any lien or security interest noted
1443 thereon. The holder of the certificate of title shall
1444 immediately return it to the department. If a certificate of
1445 registration has been issued to the holder of a certificate of
1446 title so canceled, the department shall immediately cancel the
1447 certificate of registration and demand the return of the



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1448 certificate of registration, and the holder of such certificate
1449 of registration shall immediately return it to the department.

1450 Section 22. Section 328.215, Florida Statutes, is created
1451 to read:

1452 328.215 Application for transfer of ownership or
1453 termination of security interest without certificate of title.-

1454 (1) Except as otherwise provided in s. 328.23 or s. 328.24,
1455 if the department receives, unaccompanied by a signed
1456 certificate of title, an application for a new certificate that
1457 includes an indication of a transfer of ownership or a
1458 termination statement, the department may create a new
1459 certificate under this section only if:

1460 (a) All other requirements under ss. 328.01 and 328.09 are
1461 met;

1462 (b) The applicant provides an affidavit stating facts
1463 showing the applicant is entitled to a transfer of ownership or
1464 termination statement;

1465 (c) The applicant provides the department with satisfactory
1466 evidence that notification of the application has been sent to
1467 the owner of record and all persons indicated in the files of
1468 the department as having an interest, including a security
1469 interest, in the vessel; at least 45 days have passed since the
1470 notification was sent; and the department has not received an
1471 objection from any of those persons; and

1472 (d) The applicant submits any other information required by
1473 the department as evidence of the applicant's ownership or right
1474 to terminate the security interest, and the department has no
1475 credible information indicating theft, fraud, or an undisclosed
1476 or unsatisfied security interest, lien, or other claim to an



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1477 interest in the vessel.

1478 (2) The department may indicate in a certificate of title
1479 created under subsection (1) that the certificate was created
1480 without submission of a signed certificate or termination
1481 statement. Unless credible information indicating theft, fraud,
1482 or an undisclosed or unsatisfied security interest, lien, or
1483 other claim to an interest in the vessel is delivered to the
1484 department not later than 1 year after creation of the
1485 certificate, on request in a form and manner required by the
1486 department, the department shall remove the indication from the
1487 certificate.

1488 (3) Before the department creates a certificate of title
1489 under subsection (1), the department may require the applicant
1490 to post a reasonable bond or provide an equivalent source of
1491 indemnity or security. The bond, indemnity, or other security
1492 must be in a form required by the department and provide for
1493 indemnification of any owner, purchaser, or other claimant for
1494 any expense, loss, delay, or damage, including reasonable
1495 attorney fees and costs, but not including incidental or
1496 consequential damages, resulting from creation or amendment of
1497 the certificate.

1498 (4) Unless the department receives a claim for indemnity
1499 not later than 1 year after creation of a certificate of title
1500 under subsection (1), on request in a form and manner required
1501 by the department, the department shall release any bond,
1502 indemnity, or other security. The department is not liable to a
1503 person or entity for creating a certificate of title under this
1504 section when the department issues the certificate of title in
1505 good faith based on the information provided by an applicant. An



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1506 applicant that submits erroneous or fraudulent information with
1507 the intent to mislead the department into issuing a certificate
1508 of title under this section is subject to the penalties
1509 established in s. 328.045(4) in addition to any other criminal
1510 or civil penalties provided by law.

1511 Section 23. Section 328.22, Florida Statutes, is created to
1512 read:

1513 328.22 Transfer of ownership.—

1514 (1) On voluntary transfer of an ownership interest in a
1515 vessel covered by a certificate of title, the following
1516 requirements apply:

1517 (a) If the certificate is a written certificate of title
1518 and the transferor's interest is noted on the certificate, the
1519 transferor shall promptly sign the certificate and deliver it to
1520 the transferee. If the transferor does not have possession of
1521 the certificate, the person in possession of the certificate has
1522 a duty to facilitate the transferor's compliance with this
1523 paragraph. A secured party does not have a duty to facilitate
1524 the transferor's compliance with this paragraph if the proposed
1525 transfer is prohibited by the security agreement.

1526 (b) If the certificate of title is an electronic
1527 certificate of title, the transferor shall promptly sign by
1528 hand, or electronically if available, and deliver to the
1529 transferee a record evidencing the transfer of ownership to the
1530 transferee.

1531 (c) The transferee has a right enforceable by specific
1532 performance to require the transferor to comply with paragraph
1533 (a) or paragraph (b).

1534 (2) The creation of a certificate of title identifying the



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1535 transferee as owner of record satisfies subsection (1).

1536 (3) A failure to comply with subsection (1) or to apply for
1537 a new certificate of title does not render a transfer of
1538 ownership of a vessel ineffective between the parties. Except as
1539 otherwise provided in s. 328.101, s. 328.14(1), s. 328.145, or
1540 s. 328.23, a transfer of ownership without compliance with
1541 subsection (1) is not effective against another person claiming
1542 an interest in the vessel.

1543 (4) A transferor that complies with subsection (1) is not
1544 liable as owner of the vessel for an event occurring after the
1545 transfer, regardless of whether the transferee applies for a new
1546 certificate of title.

1547 Section 24. Section 328.23, Florida Statutes, is created to
1548 read:

1549 328.23 Transfer of ownership by secured party's transfer
1550 statement.—

1551 (1) For the purposes of this section, "secured party's
1552 transfer statement" means a record signed by the secured party
1553 of record stating:

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

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

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

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

1563 (e) The name of the transferee;



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- 1564 (f) Other information required by s. 328.01(2); and
1565 (g) One of the following:
1566 1. The certificate of title is an electronic certificate.
1567 2. The secured party does not have possession of the
1568 written certificate of title created in the name of the owner of
1569 record.
1570 3. The secured party is delivering the written certificate
1571 of title to the department with the secured party's transfer
1572 statement.
1573 (2) Unless the department rejects a secured party's
1574 transfer statement for a reason stated in s. 328.09(3), not
1575 later than 30 days after delivery to the department of the
1576 statement and payment of fees and taxes payable under the laws
1577 of this state, other than this part, in connection with the
1578 statement or the acquisition or use of the vessel, the
1579 department shall:
1580 (a) Accept the statement;
1581 (b) Amend the files of the department to reflect the
1582 transfer; and
1583 (c) If the name of the owner whose ownership interest is
1584 being transferred is indicated on the certificate of title:
1585 1. Cancel the certificate even if the certificate has not
1586 been delivered to the department;
1587 2. Create a new certificate indicating the transferee as
1588 owner; and
1589 3. Deliver the new certificate or a record evidencing an
1590 electronic certificate.
1591 (3) An application under subsection (1) or the creation of
1592 a certificate of title under subsection (2) is not by itself a



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1593 disposition of the vessel and does not by itself relieve the
1594 secured party of its duties under chapter 679.

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

1597 328.24 Transfer by operation of law.—

1598 (1) For the purposes of this section, "by operation of law"
1599 means pursuant to a law or judicial order affecting ownership of
1600 a vessel:

1601 (a) Because of death, divorce, or other family law
1602 proceeding, merger, consolidation, dissolution, or bankruptcy;

1603 (b) Through the exercise of the rights of a lien creditor
1604 or a person having a lien created by statute or rule of law; or

1605 (c) Through other legal process.

1606 (2) A transfer-by-law statement must contain:

1607 (a) The name and last known mailing address of the owner of
1608 record and the transferee and the other information required by
1609 s. 328.01;

1610 (b) Documentation sufficient to establish the transferee's
1611 ownership interest or right to acquire the ownership interest;

1612 (c) A statement that:

1613 1. The certificate of title is an electronic certificate of
1614 title;

1615 2. The transferee does not have possession of the written
1616 certificate of title created in the name of the owner of record;
1617 or

1618 3. The transferee is delivering the written certificate to
1619 the department with the transfer-by-law statement; and

1620 (d) Except for a transfer described in paragraph (1) (a),
1621 evidence that notification of the transfer and the intent to



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1622 file the transfer-by-law statement has been sent to all persons
1623 indicated in the files of the department as having an interest,
1624 including a security interest, in the vessel.

1625 (3) Unless the department rejects a transfer-by-law
1626 statement for a reason stated in s. 328.09(3) or because the
1627 statement does not include documentation satisfactory to the
1628 department as to the transferee's ownership interest or right to
1629 acquire the ownership interest, not later than 30 days after
1630 delivery to the department of the statement and payment of fees
1631 and taxes payable under the law of this state, other than this
1632 part, in connection with the statement or with the acquisition
1633 or use of the vessel, the department shall:

1634 (a) Accept the statement;

1635 (b) Amend the files of the department to reflect the
1636 transfer; and

1637 (c) If the name of the owner whose ownership interest is
1638 being transferred is indicated on the certificate of title:

1639 1. Cancel the certificate even if the certificate has not
1640 been delivered to the department;

1641 2. Create a new certificate indicating the transferee as
1642 owner;

1643 3. Indicate on the new certificate any security interest
1644 indicated on the canceled certificate, unless a court order
1645 provides otherwise; and

1646 4. Deliver the new certificate or a record evidencing an
1647 electronic certificate.

1648 (4) This section does not apply to a transfer of an
1649 interest in a vessel by a secured party under part VI of chapter
1650 679.



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1651 Section 26. Section 328.25, Florida Statutes, is created to
1652 read:

1653 328.25 Supplemental principles of law and equity.—Unless
1654 displaced by a provision of this part, the principles of law and
1655 equity supplement its provisions.

1656 Section 27. Section 328.41, Florida Statutes, is created to
1657 read:

1658 328.41 Rulemaking.—The department may adopt rules pursuant
1659 to ss. 120.536(1) and 120.54 to implement this part.

1660 Section 28. Section 409.2575, Florida Statutes, is amended
1661 to read:

1662 409.2575 Liens on motor vehicles and vessels.—

1663 (1) The director of the state IV-D program, or the
1664 director's designee, may cause a lien for unpaid and delinquent
1665 support to be placed upon motor vehicles, as defined in chapter
1666 320, and upon vessels, as defined in chapter 327, that are
1667 registered in the name of an obligor who is delinquent in
1668 support payments, if the title to the property is held by a
1669 lienholder, in the manner provided in chapter 319 or, if
1670 applicable in accordance with s. 328.15(9), chapter 328. Notice
1671 of lien shall not be mailed unless the delinquency in support
1672 exceeds \$600.

1673 (2) If the first lienholder fails, neglects, or refuses to
1674 forward the certificate of title to the appropriate department
1675 as requested pursuant to s. 319.24 or, if applicable in
1676 accordance with s. 328.15(9), s. 328.15, the director of the IV-
1677 D program, or the director's designee, may apply to the circuit
1678 court for an order to enforce the requirements of s. 319.24 or
1679 s. 328.15, whichever applies.



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1680 Section 29. Subsection (2) of section 705.103, Florida
1681 Statutes, is amended to read:

1682 705.103 Procedure for abandoned or lost property.—

1683 (2) Whenever a law enforcement officer ascertains that an
1684 article of lost or abandoned property is present on public
1685 property and is of such nature that it cannot be easily removed,
1686 the officer shall cause a notice to be placed upon such article
1687 in substantially the following form:

1688

1689 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
1690 PROPERTY. This property, to wit: ...(setting forth brief
1691 description)... is unlawfully upon public property known as
1692 ...(setting forth brief description of location)... and must be
1693 removed within 5 days; otherwise, it will be removed and
1694 disposed of pursuant to chapter 705, Florida Statutes. The owner
1695 will be liable for the costs of removal, storage, and
1696 publication of notice. Dated this: ...(setting forth the date of
1697 posting of notice)..., signed: ...(setting forth name, title,
1698 address, and telephone number of law enforcement officer)....

1699 Such notice shall be not less than 8 inches by 10 inches and
1700 shall be sufficiently weatherproof to withstand normal exposure
1701 to the elements. In addition to posting, the law enforcement
1702 officer shall make a reasonable effort to ascertain the name and
1703 address of the owner. If such is reasonably available to the
1704 officer, she or he shall mail a copy of such notice to the owner
1705 on or before the date of posting. If the property is a motor
1706 vehicle as defined in s. 320.01(1) or a vessel as defined in s.
1707 327.02, the law enforcement agency shall contact the Department
1708 of Highway Safety and Motor Vehicles in order to determine the



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1709 name and address of the owner and any person who has filed a
1710 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)
1711 ~~or s. 328.15(1)~~. On receipt of this information, the law
1712 enforcement agency shall mail a copy of the notice by certified
1713 mail, return receipt requested, to the owner and to the
1714 lienholder, if any, except that a law enforcement officer who
1715 has issued a citation for a violation of s. 823.11 to the owner
1716 of a derelict vessel is not required to mail a copy of the
1717 notice by certified mail, return receipt requested, to the
1718 owner. If, at the end of 5 days after posting the notice and
1719 mailing such notice, if required, the owner or any person
1720 interested in the lost or abandoned article or articles
1721 described has not removed the article or articles from public
1722 property or shown reasonable cause for failure to do so, the
1723 following shall apply:

1724 (a) For abandoned property, the law enforcement agency may
1725 retain any or all of the property for its own use or for use by
1726 the state or unit of local government, trade such property to
1727 another unit of local government or state agency, donate the
1728 property to a charitable organization, sell the property, or
1729 notify the appropriate refuse removal service.

1730 (b) For lost property, the officer shall take custody and
1731 the agency shall retain custody of the property for 90 days. The
1732 agency shall publish notice of the intended disposition of the
1733 property, as provided in this section, during the first 45 days
1734 of this time period.

1735 1. If the agency elects to retain the property for use by
1736 the unit of government, donate the property to a charitable
1737 organization, surrender such property to the finder, sell the



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1738 property, or trade the property to another unit of local
1739 government or state agency, notice of such election shall be
1740 given by an advertisement published once a week for 2
1741 consecutive weeks in a newspaper of general circulation in the
1742 county where the property was found if the value of the property
1743 is more than \$100. If the value of the property is \$100 or less,
1744 notice shall be given by posting a description of the property
1745 at the law enforcement agency where the property was turned in.
1746 The notice must be posted for not less than 2 consecutive weeks
1747 in a public place designated by the law enforcement agency. The
1748 notice must describe the property in a manner reasonably
1749 adequate to permit the rightful owner of the property to claim
1750 it.

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



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1767 property in a manner reasonably adequate to permit the rightful
1768 owner of the property to identify it.

1769 Section 30. Paragraph (c) of subsection (2) of section
1770 721.08, Florida Statutes, is amended to read:

1771 721.08 Escrow accounts; nondisturbance instruments;
1772 alternate security arrangements; transfer of legal title.-

1773 (2) One hundred percent of all funds or other property
1774 which is received from or on behalf of purchasers of the
1775 timeshare plan or timeshare interest prior to the occurrence of
1776 events required in this subsection shall be deposited pursuant
1777 to an escrow agreement approved by the division. The funds or
1778 other property may be released from escrow only as follows:

1779 (c) *Compliance with conditions.-*

1780 1. Timeshare licenses.-If the timeshare plan is one in
1781 which timeshare licenses are to be sold and no cancellation or
1782 default has occurred, the escrow agent may release the escrowed
1783 funds or other property to or on the order of the developer upon
1784 presentation of:

1785 a. An affidavit by the developer that all of the following
1786 conditions have been met:

1787 (I) Expiration of the cancellation period.

1788 (II) Completion of construction.

1789 (III) Closing.

1790 (IV) Either:

1791 (A) Execution, delivery, and recordation by each
1792 interestholder of the nondisturbance and notice to creditors
1793 instrument, as described in this section; or

1794 (B) Transfer by the developer of legal title to the subject
1795 accommodations and facilities, or all use rights therein, into a



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1796 trust satisfying the requirements of subparagraph 4. and the
1797 execution, delivery, and recordation by each other
1798 interestholder of the nondisturbance and notice to creditors
1799 instrument, as described in this section.

1800 b. A certified copy of each recorded nondisturbance and
1801 notice to creditors instrument.

1802 c. One of the following:

1803 (I) A copy of a memorandum of agreement, as defined in s.
1804 721.05, together with satisfactory evidence that the original
1805 memorandum of agreement has been irretrievably delivered for
1806 recording to the appropriate official responsible for
1807 maintaining the public records in the county in which the
1808 subject accommodations and facilities are located. The original
1809 memorandum of agreement must be recorded within 180 days after
1810 the date on which the purchaser executed her or his purchase
1811 agreement.

1812 (II) A notice delivered for recording to the appropriate
1813 official responsible for maintaining the public records in each
1814 county in which the subject accommodations and facilities are
1815 located notifying all persons of the identity of an independent
1816 escrow agent or trustee satisfying the requirements of
1817 subparagraph 4. that shall maintain separate books and records,
1818 in accordance with good accounting practices, for the timeshare
1819 plan in which timeshare licenses are to be sold. The books and
1820 records shall indicate each accommodation and facility that is
1821 subject to such a timeshare plan and each purchaser of a
1822 timeshare license in the timeshare plan.

1823 2. Timeshare estates.—If the timeshare plan is one in which
1824 timeshare estates are to be sold and no cancellation or default



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1825 has occurred, the escrow agent may release the escrowed funds or
1826 other property to or on the order of the developer upon
1827 presentation of:

1828 a. An affidavit by the developer that all of the following
1829 conditions have been met:

1830 (I) Expiration of the cancellation period.

1831 (II) Completion of construction.

1832 (III) Closing.

1833 b. If the timeshare estate is sold by agreement for deed, a
1834 certified copy of the recorded nondisturbance and notice to
1835 creditors instrument, as described in this section.

1836 c. Evidence that each accommodation and facility:

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

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

1845 (III) Has been transferred into a trust satisfying the
1846 requirements of subparagraph 4.

1847 d. Evidence that the timeshare estate:

1848 (I) Is free and clear of the claims of any interestholders,
1849 other than the claims of interestholders that, through a
1850 recorded instrument, are irrevocably made subject to the
1851 timeshare instrument and the use rights of purchasers made
1852 available through the timeshare instrument; or

1853 (II) Is the subject of a recorded nondisturbance and notice



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1854 to creditors instrument that complies with subsection (3) and s.
1855 721.17.

1856 3. Personal property timeshare interests.—If the timeshare
1857 plan is one in which personal property timeshare interests are
1858 to be sold and no cancellation or default has occurred, the
1859 escrow agent may release the escrowed funds or other property to
1860 or on the order of the developer upon presentation of:

1861 a. An affidavit by the developer that all of the following
1862 conditions have been met:

1863 (I) Expiration of the cancellation period.

1864 (II) Completion of construction.

1865 (III) Closing.

1866 b. If the personal property timeshare interest is sold by
1867 agreement for transfer, evidence that the agreement for transfer
1868 complies fully with s. 721.06 and this section.

1869 c. Evidence that one of the following has occurred:

1870 (I) Transfer by the owner of the underlying personal
1871 property of legal title to the subject accommodations and
1872 facilities or all use rights therein into a trust satisfying the
1873 requirements of subparagraph 4.; or

1874 (II) Transfer by the owner of the underlying personal
1875 property of legal title to the subject accommodations and
1876 facilities or all use rights therein into an owners' association
1877 satisfying the requirements of subparagraph 5.

1878 d. Evidence of compliance with the provisions of
1879 subparagraph 6., if required.

1880 e. If a personal property timeshare plan is created with
1881 respect to accommodations and facilities that are located on or
1882 in an oceangoing vessel, including a "documented vessel" or a



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1883 "foreign vessel," as defined and governed by 46 U.S.C. chapter
1884 301:

1885 (I) In making the transfer required in sub-subparagraph c.,
1886 the developer shall use as its transfer instrument a document
1887 that establishes and protects the continuance of the use rights
1888 in the subject accommodations and facilities in a manner that is
1889 enforceable by the trust or owners' association.

1890 (II) The transfer instrument shall comply fully with the
1891 provisions of this chapter, shall be part of the timeshare
1892 instrument, and shall contain specific provisions that:

1893 (A) Prohibit the vessel owner, the developer, any manager
1894 or operator of the vessel, the owners' association or the
1895 trustee, the managing entity, or any other person from incurring
1896 any liens against the vessel except for liens that are required
1897 for the operation and upkeep of the vessel, including liens for
1898 fuel expenditures, repairs, crews' wages, and salvage, and
1899 except as provided in sub-sub-subparagraphs 4.b.(III) and
1900 5.b.(III). All expenses, fees, and taxes properly incurred in
1901 connection with the creation, satisfaction, and discharge of any
1902 such permitted lien, or a prorated portion thereof if less than
1903 all of the accommodations on the vessel are subject to the
1904 timeshare plan, shall be common expenses of the timeshare plan.

1905 (B) Grant a lien against the vessel in favor of the owners'
1906 association or trustee to secure the full and faithful
1907 performance of the vessel owner and developer of all of their
1908 obligations to the purchasers.

1909 (C) Establish governing law in a jurisdiction that
1910 recognizes and will enforce the timeshare instrument and the
1911 laws of the jurisdiction of registry of the vessel.



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1912 (D) Require that a description of the use rights of
1913 purchasers be posted and displayed on the vessel in a manner
1914 that will give notice of such rights to any party examining the
1915 vessel. This notice must identify the owners' association or
1916 trustee and include a statement disclosing the limitation on
1917 incurring liens against the vessel described in sub-sub-sub-
1918 subparagraph (A).

1919 (E) Include the nondisturbance and notice to creditors
1920 instrument for the vessel owner and any other interestholders.

1921 (F) The owners' association created under subparagraph 5.
1922 or trustee created under subparagraph 4. shall have access to
1923 any certificates of classification in accordance with the
1924 timeshare instrument.

1925 (III) If the vessel is a foreign vessel, the vessel must be
1926 registered in a jurisdiction that permits a filing evidencing
1927 the use rights of purchasers in the subject accommodations and
1928 facilities, offers protection for such use rights against
1929 unfiled and inferior claims, and recognizes the document or
1930 instrument creating such use rights as a lien against the
1931 vessel.

1932 (IV) In addition to the disclosures required by s.
1933 721.07(5), the public offering statement and purchase contract
1934 must contain a disclosure in conspicuous type in substantially
1935 the following form:

1936
1937 *The laws of the State of Florida govern the offering of this*
1938 *timeshare plan in this state. There are inherent risks in*
1939 *purchasing a timeshare interest in this timeshare plan because*
1940 *the accommodations and facilities of the timeshare plan are*



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1941 *located on a vessel that will sail into international waters and*
1942 *into waters governed by many different jurisdictions. Therefore,*
1943 *the laws of the State of Florida cannot fully protect your*
1944 *purchase of an interest in this timeshare plan. Specifically,*
1945 *management and operational issues may need to be addressed in*
1946 *the jurisdiction in which the vessel is registered, which is*
1947 *(insert jurisdiction in which vessel is registered). Concerns of*
1948 *purchasers may be sent to (insert name of applicable regulatory*
1949 *agency and address).*

1950

1951 4. Trust.—

1952 a. If the subject accommodations or facilities, or all use
1953 rights therein, are to be transferred into a trust in order to
1954 comply with this paragraph, such transfer shall take place
1955 pursuant to this subparagraph. If the accommodations or
1956 facilities included in such transfer are subject to a lease, the
1957 unexpired term of the lease must be disclosed as the term of the
1958 timeshare plan pursuant to s. 721.07(5)(f)4.

1959 b. Prior to the transfer of the subject accommodations and
1960 facilities, or all use rights therein, to a trust, any lien or
1961 other encumbrance against such accommodations and facilities, or
1962 use rights therein, shall be made subject to a nondisturbance
1963 and notice to creditors instrument pursuant to subsection (3).
1964 No transfer pursuant to this subparagraph shall become effective
1965 until the trustee accepts such transfer and the responsibilities
1966 set forth herein. A trust established pursuant to this
1967 subparagraph shall comply with the following provisions:

1968 (I) The trustee shall be an individual or a business entity
1969 authorized and qualified to conduct trust business in this



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1970 state. Any corporation authorized to do business in this state
1971 may act as trustee in connection with a timeshare plan pursuant
1972 to this chapter. The trustee must be independent from any
1973 developer or managing entity of the timeshare plan or any
1974 interestholder of any accommodation or facility of such plan.

1975 (II) The trust shall be irrevocable so long as any
1976 purchaser has a right to occupy any portion of the timeshare
1977 property pursuant to the timeshare plan.

1978 (III) The trustee shall not convey, hypothecate, mortgage,
1979 assign, lease, or otherwise transfer or encumber in any fashion
1980 any interest in or portion of the timeshare property with
1981 respect to which any purchaser has a right of use or occupancy
1982 unless the timeshare plan is terminated pursuant to the
1983 timeshare instrument, or such conveyance, hypothecation,
1984 mortgage, assignment, lease, transfer, or encumbrance is
1985 approved by a vote of two-thirds of all voting interests of the
1986 timeshare plan. Subject to s. 721.552, a vote of the voting
1987 interests of the timeshare plan is not required for substitution
1988 or automatic deletion of accommodations or facilities.

1989 (IV) All purchasers of the timeshare plan or the owners'
1990 association of the timeshare plan shall be the express
1991 beneficiaries of the trust. The trustee shall act as a fiduciary
1992 to the beneficiaries of the trust. The personal liability of the
1993 trustee shall be governed by ss. 736.08125, 736.08163, 736.1013,
1994 and 736.1015. The agreement establishing the trust shall set
1995 forth the duties of the trustee. The trustee shall be required
1996 to furnish promptly to the division upon request a copy of the
1997 complete list of the names and addresses of the owners in the
1998 timeshare plan and a copy of any other books and records of the



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1999 timeshare plan required to be maintained pursuant to s. 721.13
2000 that are in the possession, custody, or control of the trustee.
2001 All expenses reasonably incurred by the trustee in the
2002 performance of its duties, together with any reasonable
2003 compensation of the trustee, shall be common expenses of the
2004 timeshare plan.

2005 (V) The trustee shall not resign upon less than 90 days'
2006 prior written notice to the managing entity and the division. No
2007 resignation shall become effective until a substitute trustee,
2008 approved by the division, is appointed by the managing entity
2009 and accepts the appointment.

2010 (VI) The documents establishing the trust arrangement shall
2011 constitute a part of the timeshare instrument.

2012 (VII) For trusts holding property in a timeshare plan
2013 located outside this state, the trust and trustee holding such
2014 property shall be deemed in compliance with the requirements of
2015 this subparagraph if such trust and trustee are authorized and
2016 qualified to conduct trust business under the laws of such
2017 jurisdiction and the agreement or law governing such trust
2018 arrangement provides substantially similar protections for the
2019 purchaser as are required in this subparagraph for trusts
2020 holding property in a timeshare plan in this state.

2021 (VIII) The trustee shall have appointed a registered agent
2022 in this state for service of process. In the event such a
2023 registered agent is not appointed, service of process may be
2024 served pursuant to s. 721.265.

2025 5. Owners' association.—

2026 a. If the subject accommodations or facilities, or all use
2027 rights therein, are to be transferred into an owners'



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2028 association in order to comply with this paragraph, such
2029 transfer shall take place pursuant to this subparagraph.

2030 b. Before the transfer of the subject accommodations and
2031 facilities, or all use rights therein, to an owners'
2032 association, any lien or other encumbrance against such
2033 accommodations and facilities, or use rights therein, shall be
2034 made subject to a nondisturbance and notice to creditors
2035 instrument pursuant to subsection (3). No transfer pursuant to
2036 this subparagraph shall become effective until the owners'
2037 association accepts such transfer and the responsibilities set
2038 forth herein. An owners' association established pursuant to
2039 this subparagraph shall comply with the following provisions:

2040 (I) The owners' association shall be a business entity
2041 authorized and qualified to conduct business in this state.
2042 Control of the board of directors of the owners' association
2043 must be independent from any developer or managing entity of the
2044 timeshare plan or any interestholder.

2045 (II) The bylaws of the owners' association shall provide
2046 that the corporation may not be voluntarily dissolved without
2047 the unanimous vote of all owners of personal property timeshare
2048 interests so long as any purchaser has a right to occupy any
2049 portion of the timeshare property pursuant to the timeshare
2050 plan.

2051 (III) The owners' association shall not convey,
2052 hypothecate, mortgage, assign, lease, or otherwise transfer or
2053 encumber in any fashion any interest in or portion of the
2054 timeshare property with respect to which any purchaser has a
2055 right of use or occupancy, unless the timeshare plan is
2056 terminated pursuant to the timeshare instrument, or unless such



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2057 conveyance, hypothecation, mortgage, assignment, lease,
2058 transfer, or encumbrance is approved by a vote of two-thirds of
2059 all voting interests of the association and such decision is
2060 declared by a court of competent jurisdiction to be in the best
2061 interests of the purchasers of the timeshare plan. The owners'
2062 association shall notify the division in writing within 10 days
2063 after receiving notice of the filing of any petition relating to
2064 obtaining such a court order. The division shall have standing
2065 to advise the court of the division's interpretation of the
2066 statute as it relates to the petition.

2067 (IV) All purchasers of the timeshare plan shall be members
2068 of the owners' association and shall be entitled to vote on
2069 matters requiring a vote of the owners' association as provided
2070 in this chapter or the timeshare instrument. The owners'
2071 association shall act as a fiduciary to the purchasers of the
2072 timeshare plan. The articles of incorporation establishing the
2073 owners' association shall set forth the duties of the owners'
2074 association. All expenses reasonably incurred by the owners'
2075 association in the performance of its duties, together with any
2076 reasonable compensation of the officers or directors of the
2077 owners' association, shall be common expenses of the timeshare
2078 plan.

2079 (V) The documents establishing the owners' association
2080 shall constitute a part of the timeshare instrument.

2081 (VI) For owners' associations holding property in a
2082 timeshare plan located outside this state, the owners'
2083 association holding such property shall be deemed in compliance
2084 with the requirements of this subparagraph if such owners'
2085 association is authorized and qualified to conduct owners'



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2086 association business under the laws of such jurisdiction and the
2087 agreement or law governing such arrangement provides
2088 substantially similar protections for the purchaser as are
2089 required in this subparagraph for owners' associations holding
2090 property in a timeshare plan in this state.

2091 (VII) The owners' association shall have appointed a
2092 registered agent in this state for service of process. In the
2093 event such a registered agent cannot be located, service of
2094 process may be made pursuant to s. 721.265.

2095 6. Personal property subject to certificate of title.—If
2096 any personal property that is an accommodation or facility of a
2097 timeshare plan is subject to a certificate of title in this
2098 state pursuant to chapter 319 or chapter 328, the following
2099 notation must be made on such certificate of title pursuant to
2100 s. 319.27(1) or s. 328.15 ~~s. 328.15(1)~~:

2101
2102 *The further transfer or encumbrance of the property subject to*
2103 *this certificate of title, or any lien or encumbrance thereon,*
2104 *is subject to the requirements of section 721.17, Florida*
2105 *Statutes, and the transferee or lienor agrees to be bound by all*
2106 *of the obligations set forth therein.*

2107
2108 7. If the developer has previously provided a certified
2109 copy of any document required by this paragraph, she or he may
2110 for all subsequent disbursements substitute a true and correct
2111 copy of the certified copy, provided no changes to the document
2112 have been made or are required to be made.

2113 8. In the event that use rights relating to an
2114 accommodation or facility are transferred into a trust pursuant



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2115 to subparagraph 4. or into an owners' association pursuant to
2116 subparagraph 5., all other interestholders, including the owner
2117 of the underlying fee or underlying personal property, must
2118 execute a nondisturbance and notice to creditors instrument
2119 pursuant to subsection (3).

2120 Section 31. (1) The rights, duties, and interests flowing
2121 from a transaction, certificate of title, or record relating to
2122 a vessel which was validly entered into or created before the
2123 effective date of this act and would be subject to this act if
2124 it had been entered into or created on or after the effective
2125 date of this act remain valid on and after the effective date of
2126 this act.

2127 (2) This act does not affect an action or a proceeding
2128 commenced before the effective date of this act.

2129 (3) Except as otherwise provided in subsection (4), a
2130 security interest that is enforceable immediately before the
2131 effective date of this act and would have priority over the
2132 rights of a person who becomes a lien creditor at that time is a
2133 perfected security interest under this act.

2134 (4) A security interest perfected immediately before the
2135 effective date of this act remains perfected until the earlier
2136 of:

2137 (a) The time perfection would have ceased under the law
2138 under which the security interest was perfected; or

2139 (b) Three years after the effective date of this act.

2140 (5) This act does not affect the priority of a security
2141 interest in a vessel if immediately before the effective date of
2142 this act the security interest is enforceable and perfected, and
2143 that priority is established.



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2144 Section 32. Subject to section 25, this act applies to any
2145 transaction, certificate of title, or record relating to a
2146 vessel, even if the transaction, certificate of title, or record
2147 was entered into or created before the effective date of this
2148 act.

2149 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 Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: PCS/CS/SB 676 (566294)

INTRODUCER: Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Infrastructure and Security Committee and Senator Hooper

SUBJECT: Certificates of Title for Vessels

DATE: April 11, 2019 **REVISED:** _____

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

Please see Section IX. for Additional Information:
 COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/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:

- 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 the 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 the rights of a purchaser who is a secured party.
- 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 requirements for the voluntary transfer of vessel title ownership, transfer by a secured party, and transfer by operation of law.
- Applies the bill to any transaction, certificate of title, or record relating to a vessel entered into or created before July 1, 2023, but provides for certain exceptions.

The bill will have an insignificant fiscal impact on the DHSMV, which will be absorbed within existing resources. The bill has an indeterminate, but possibly neutral impact to the Marine Resources Conservation Trust Fund of the Fish and Wildlife Conservation Commission.

The bill takes effect July 1, 2023.

II. Present Situation:

Uniform Law Commission

The Uniform Law Commission (ULC), also known as the National Conference of Commissioners on Uniform State Laws, is a body “appointed by state governments as well as the District of Columbia, Puerto Rico[,] and the U.S. Virgin Islands to research, draft[,] and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical.”¹ The ULC aims to strengthen the federal system by providing rules and procedures that are consistent from state to state.

Uniform Certificate of Title for Vessels Act

The Uniform Certificate of Title for Vessels Act was drafted by the ULC in 2011.² The principal objectives of the act 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;

¹ Uniform Law Commission, *About Us*, available at <http://www.uniformlaws.org/aboutulc/overview> (last viewed March 28, 2019).

² See National Conference of Commissioners on Uniform State Laws, *Uniform Certificate of Title for Vessels Act*, at p. 2, available at http://www.lawrev.state.nj.us/UCOTVA/UCOTVA_FinalAct_2011.pdf (last viewed March 28, 2019).

- 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 uniform act has been enacted in Virginia (2013), Connecticut (2014), Washington D.C. (2015), and Hawaii (2018).³

Vessel Titling in Florida

The bill substantially revises part I of ch. 328, F.S., related to titling for vessels. 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. **Section 1** of the bill creates s. 328.001, F.S., providing the short title for part I of ch. 328, F.S., the "Uniform Certificate of Title for Vessels Act." **Section 2** of the bill creates s. 328.0015, F.S., to establish definitions for terms used in the uniform act.

The bill defines a "vessel" to mean 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.

³ 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 29, 2019).

Application for Certificate of Title

Present Situation

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 application⁴ must be signed by the owner and include the:

- True name of the owner;
- Address of the owner;
- Hull identification number; and
- Complete description of the vessel.

The owner must provide valid identification and pay the prescribed fee.⁵

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.⁶

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).⁷

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.⁸ 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 the DHSMV.⁹

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.¹⁰

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

⁴ Department of Highway Safety and Motor Vehicles, *Application for Certificate of Title With/Without Registration*, HSMV 82040, Revised November 2015, available at <https://www.flhsmv.gov/dmv/forms/btr/82040.pdf> (last viewed March 28, 2019).

⁵ Section 328.01(1)(a), F.S.

⁶ Section 328.01(2)(a) and (b), F.S.

⁷ Section 328.01(2)(c), F.S.

⁸ Section 328.01(2)(d), F.S.

⁹ Section 328.01(2)(e), F.S.

¹⁰ Section 328.01(3)(a) and (b), F.S.

original certificate of title and the decedent's probated last will 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 the DHSMV.¹¹

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 the DHSMV.¹²

Effect of Proposed Changes

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 requires that an application for certificate of title must be signed by the applicant and contain the following information:

- The applicant's name, street address, and, if different, 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 the 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 in which year 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;
- The name and mailing address of any party with a security interest in the vessel;
- A statement that the vessel is not a documented vessel or a foreign-documented vessel;
- Any title brand¹³ known to the applicant and, if known, the jurisdiction under whose law the title brand was created;
- A statement that the vessel is hull damaged,¹⁴ if applicable;

¹¹ Section 328.01(3)(c), F.S.

¹² Section 328.01(3)(d), F.S.

¹³ The bill defines "title brand" as a designation of previous damage, use, or condition that must be indicated on a certificate of title.

¹⁴ The bill defines "hull damaged" as 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.

- If the application is made in connection with a transfer of ownership, the transferor's name, street address, and, if different, mailing address, the sales price if any, and the date of the transfer; and
- If the vessel was previously registered or titled in another jurisdiction, a statement identifying each jurisdiction known to the applicant in which the vessel was registered or titled.

Additionally, the application may include 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,¹⁵ bill of sale, or other record that to the satisfaction of the DHSMV identifies the applicant as the owner.

The bill requires the DHSMV to maintain any records submitted in connection with an application, and authorizes the DHSMV to require an application for a certificate of title to be accompanied by payment of all fees and taxes by the applicant.

The bill repeals provisions related to registration of homemade vessels. The bill also repeals provisions related to nontitled vessels, vessels titled in other jurisdictions, vessels documented by the federal government, and transfer of ownership, including from a deceased owner, that may be covered by the more extensive application requirements created by the bill.

DHSMV Records

Effect of Proposed Changes

Section 4 creates s. 328.015, F.S., to require 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, by hull identification number, regarding a security interest in a vessel for at least 10 years after the DHSMV receives a termination statement regarding the security interest.

¹⁵ The bill defines “certificate of origin” as 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.

A person¹⁶ who submits a record to the DHSMV may request an acknowledgement of the filing by the DHSMV. The acknowledgment from the DHSMV must show 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 fee:¹⁷

- 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

Effect of Proposed Changes

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.

Certificate of Title Required

Present Situation

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

- A vessel operated, used, or stored exclusively on private lakes and ponds;

¹⁶ The bill defines the term "person" more broadly than under s. 1.01, F.S., to mean 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.

¹⁷ Currently, s. 320.05(3)(b), F.S., sets forth fees for photocopied and certified copies of records (ranging from 50 cents to \$3 per record, or \$1 per page). Fees are deposited into the Highway Safety Operating Trust Fund.

- 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 the 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 or a political subdivision.¹⁸

A person may not operate, use, or store a vessel in Florida if the vessel has no certificate of title. 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.¹⁹

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 with the county tax collector an application for title transfer. The purchaser will be charged a \$10 fee for filing a transfer application after the 30-day period.²⁰ A certificate of title is prima facie evidence of the ownership of the vessel.²¹

Effect of Proposed Changes

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. An application for a certificate is not required for:

- A documented vessel;²²
- 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 repeals other current law exceptions because the definition of “vessel” created under the bill excludes certain vessels from the definition, and thus part I of ch. 328, F.S., no longer applies to them. This includes non-motor-powered vessels less than 16 feet in length; amphibious vessels

¹⁸ Section 328.03(1), F.S.

¹⁹ Section 328.03(2), F.S.

²⁰ Section 328.03(3), F.S.

²¹ Section 328.03(4), F.S.

²² The bill defines “documented vessel” as a vessel covered by a certificate of documentation issued pursuant to 46 USC 12105 by the federal government.

for which a vehicle title is issued by the DHSMV; and vessels owned and operated by the state or political subdivisions.

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

The bill repeals 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; and the provisions providing that when selling, assigning, or transferring a titled vessel, the seller must deliver a valid certificate of title to the purchaser.

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.

Content of the Certificate of Title

Effect of Proposed Changes

Section 7 creates s. 328.04, F.S., to provide 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), F.S. (see above in discussion of Section 3 of the bill);
- The name and mailing address of the secured party of record, when applicable;
- All title brands indicated in the DHSMV's files, including identification of the jurisdiction under whose law the title brand was created; and
- Previous registration or title in a foreign county, if applicable.

The written certificate of title must contain a form and certification that all owners can sign, subject to penalties of perjury, to 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

Effect of Proposed Changes

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 individual 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 "Hull Damaged" title brand designation; 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, transferee, 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 commits a noncriminal infraction under s. 327.73, F.S.,²³ 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

Effect of Proposed Changes

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, including the date and time the record was delivered to the DHSMV.
- 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 the DHSMV to be claiming an ownership interest in the vessel; and
 - All stolen property reports received by the DHSMV.
- Index the files of the DHSMV by hull identification number, vessel number, name of the owner of record, and any other method used by the DHSMV.

The DHSMV is required to release the information in its files to federal, state, or local governments. The bill specifies that information contained on the certificate of title is a public record and that all records relating to a certificate of title must be maintained by the DHSMV for public inspection.

²³ This section of current law provides penalties for violations of the state’s vessel laws. All fees and civil penalties assessed and collected pursuant to s. 327.73, F.S., are remitted by the clerk of court to the Department of Revenue to be deposited into the Marine Resources Conservation Trust Fund for boating safety education purposes.

Creation of Certificate of Title

Effect of Proposed Changes

Section 10 creates s. 328.06, F.S., setting forth 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 or provide on the face of the certificate that it has been canceled.

The DHSMV must maintain in its files the date and time of cancellation of the electronic certificate or destruction or cancellation of the written certificate.

Effect of Possession of Certificate of Title

Effect of Proposed Changes

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. 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

Present Situation

The 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 the DHSMV determines that an owner or dealer named in a certificate of title provided a false statement in applying for the certificate of title, the DHSMV may cancel the certificate.

The DHSMV may cancel any pending application or certificate of title if the DHSMV determines that any title or registration fee or sales tax pertaining to such registration has not been paid, upon reasonable notice. The DHSMV may not issue a certificate of title to any applicant for any vessel that has been deemed derelict by a law enforcement officer under s. 823.11, F.S.²⁴

Effect of Proposed Changes

Section 12 substantially amends s. 328.09, F.S., providing the DHSMV with duties relating to the creation, issuance, refusal to issue, or cancellation of a certificate of title. Unless an

²⁴ Section 328.09, F.S.

application for a certificate of title is rejected, the DHSMV must create a certificate for the vessel no later than 30 days after delivery of the application to the DHSMV. If the DHSMV creates electronic certificates of title, then 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 Florida law.

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 part I of ch. 328, F.S.; 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 the rejection of application for a certificate of title or the cancellation of a certificate of title.

Effect of Missing or Incorrect Information

Effect of Proposed Changes

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 the DHSMV determines the missing information to be inconsequential to the issuance of a certificate of title. This also applies to other records required or authorized by part I of ch. 328, F.S.

Duplicate Certificate of Title

Present Situation

The DHSMV may issue a duplicate certificate of title if it receives an application from the person entitled to hold such a certificate and if the DHSMV is satisfied that the original certificate has been lost, destroyed, or mutilated. The fee for issuing a duplicate certificate is \$6 and additional \$5 for expedited service to issue a duplicate certificate of title.²⁵ The expedited service must issue the certificate within 5 working days after receipt of a proper application or the \$5 additional fee will be refunded upon written request of the applicant.

²⁵ Section 328.11(1) and (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 the DHSMV for reissuance of the certificate of title. An additional fee may not be charged by the DHSMV for this reissuance. If the address shown on the application is different from the address on record with the department for the applicant, then the DHSMV will verify that the certificate is delivered to an authorized receiver.²⁶

Effect of Proposed Changes

Section 14 amends s. 328.11, F.S., to provide additional requirements for obtaining a duplicate certificate of title. The bill also allows the owner of record to apply for a duplicate certificate of title if the document is stolen or otherwise becomes unavailable or illegible.

The secured party, or if there is no secured party indicated in the DHSMV files then the owner of record, may apply for a duplicate certificate of title 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 and must state on its face 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 does not change the fees for a duplicate certificate of title or for expedited service.

Lastly, the bill repeals 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 Interest

Effect of Proposed Changes

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 by delivery of an application for a certificate of title to the DHSMV that identifies the secured party and otherwise complies with all application requirements.²⁷ 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 has a security interest. The bill includes the Department of Revenue as a secured party when collecting unpaid child support.

²⁶ Section 328.11(3) and (4), F.S.

²⁷ The security interest may also be perfected upon attachment under s. 679.2031, F.S.

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
- The written certificate, if the DHSMV created a written certificate of title for the vessel.

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 of the DHSMV or on the certificate.

Section 328.12, F.S., 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. If such a security interest was valid immediately before the deletion or cancellation, then the security interest remains perfected until the earlier of 4 months after cancellation of the certificate or becomes perfected under this law.

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

Termination Statement of a Security Interest

Effect of Proposed Changes

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 termination statement.

The security interest ceases to be perfected upon delivery to the DHSMV of a termination statement authorized by the secured party. If the security interest 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 termination 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 and for the cost of an application for certificate of title.

Rights of a Purchaser Other Than Secured Party

Effect of Proposed Changes

Section 17, creates s. 328.14, F.S., providing 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

Effect of Proposed Changes

Section 18 creates s. 328.145, F.S., providing rights of a secured party. The effect of a security interest on the rights of a purchaser or creditor, including a lien creditor, are governed by the Uniform Commercial Code.

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, or may be 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, acts in good faith and 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 Lien on Vessel and Recording

Present Situation

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 not 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, including make, type, motor, and serial number; and
- Name and address of lienholder.

The lien shall be recorded by the DHSMV.²⁸

The 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.²⁹

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.³⁰

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 the DHSMV for endorsement.³¹

Once the lien is paid in full, the lienholder must provide the owner with a satisfaction of lien, which will be filed with the DHSMV.³² The DHSMV may promulgate rules to substitute the formal satisfaction of liens.³³

The 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. The revenues from this fee are deposited into the Marine Resources Conservation Trust Fund.³⁴

²⁸ Section 328.15(1), F.S.

²⁹ Section 328.15(2)(a), F.S.

³⁰ Section 328.15(2)(b), F.S.

³¹ Section 328.15(2)(c), F.S.

³² Section 328.15(3), F.S.

³³ Section 328.15(4), F.S.

³⁴ Section 328.15(6), F.S.

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 of the registered owner of the 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.³⁵ A lienholder who is noncompliant with the 10-day time period commits a misdemeanor of the second degree.³⁶ If the original certificate of title cannot be returned to the 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.³⁷ If the original lienholder assigns his or her lien to another person, the new lienholder may have his or her name substituted as lienholder.³⁸

Effect of Proposed Changes

Section 19 amends s. 328.15, F.S., to repeal provisions, some of which are modified in new statutes created 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.
- 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:

- 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.
- Misdemeanor penalty for failure to return a certificate of title after demand by the DHSMV or for failure to forward satisfactions of lien after such demand.
- 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.

³⁵ Section 328.15(7), F.S.

³⁶ Section 328.15(9), F.S. A second degree misdemeanor is punishable by a term of jail up to 60 days and a fine of up to \$500. Sections 775.082 and 775.083, F.S.

³⁷ Section 328.15(8), F.S.

³⁸ Section 328.15(11), F.S.

Transfer of Ownership or Termination of Security Interest Without Certain Records

Effect of Proposed Changes

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 signed certificate of title or a termination statement.

If the DHSMV receives an application for a new certificate of title unaccompanied by a signed certificate of title or termination statement, 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 anyone with a security interest indicated in the DHSMV records;
 - At least 45 days have passed since the notification was sent; and
 - The DHSMV has not received an object from the owner or anyone with a security interest.
- The applicant submits any other information required by the DHSMV as evidence of the applicant's ownership or right to terminate the security interest.
- 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 the DHSMV to require the applicant to post a reasonable bond or provide an equivalent source of indemnity or security to receive a certificate of title under this new section. Unless the DHSMV receives a claim for indemnity within one year after creation of the certificate of title, the DHSMV must release any bond, indemnity, or other security at the request of the applicant.

The DHSMV is not liable to a person or entity for creating a certificate under this new section 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

Effect of Proposed Changes

Section 23 creates s. 328.22, F.S., providing requirements for the transfer of ownership in a vessel:

- If the transferor's interest is noted on the written 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 requirements 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

Effect of Proposed Changes

Section 24 creates s. 328.23, F.S., providing requirements for the transfer of ownership based upon a secured party's transfer statement.

A "secured party's transfer statement" is defined 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;
- 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:
 - That the certificate of title is an electronic certificate;
 - That the secured party does not have possession of the written certificate of title created in the name of the owner of record; or
 - That the secured party is delivering the written certificate of title to the DHSMV with the secured party's transfer statement.

Unless the DHSMV has cause to reject a secured party's transfer statement, within 30 days after delivery of the statement and payment of all fees and taxes the department must:

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

The secured party still must meet the duties under the Uniform Commercial Code for secured transactions.

Transfer by Operation of Law

Effect of Proposed Changes

Section 25 creates s. 328.24, F.S., providing requirements for a transfer of ownership by operation of law.

“By operation of law” is defined as 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.

A transfer-by-law statement must contain:

- The name and last known mailing address of the owner of record and the transferee;
- Other information required in the application for certificate 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 DHSMV with the transfer-by-law statement; and
- 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 (for transfer other than because of death, divorce, family law proceeding, merger, consolidation, dissolution, or bankruptcy).

Unless the DHSMV has cause to reject the transfer, within 30 days after delivery of the statement and payment of all fees and taxes the department must:

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

Transfer-by-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., to provide 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 July 1, 2023, 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 31 creates an undesignated section of law, subject to the provisions relating to transfer of ownership by law described above, applying the bill to any transaction, certificate of title, or

record relating to a vessel, even if the transaction, certificate, or record was entered into or created before July 1, 2023.

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 32 provides that the bill takes 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:

The bill requires owners of vessels that become hull-damaged and insurers that transfer ownership in hull-damaged vessels to apply to the DHSMV for a new certificate of title that includes the title brand, "Hull Damaged." The existing fee for issuance of each vessel certificate of title is \$5.25, of which \$3.75 is retained by the tax collector.³⁹ An owner transferring ownership of a vessel has the option to simply indicate on the certificate at the time of transfer that the hull is damaged and could avoid paying the fee for a new certificate of title.

³⁹ 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.

While the bill does not impose any new fee, the bill may result in an existing fee applying to a new transaction (application for a branded title). 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:

All funds collected by the DHSMV under ch. 328, F.S., are deposited into the Marine Resources Conservation Trust Fund of the Fish and Wildlife Conservation Commission.⁴⁰

The 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.⁴¹ In addition, the 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.⁴²

The bill creates two noncriminal infractions punishable by a civil penalty for failure to provide proper notice of hull damage (s. 328.045(4), F.S.) and for submitting a fraudulent or misleading application for transfer of title or termination of a security interest without certificate the title (s. 328.215(4), F.S.). The first offense is \$5,000; the second offense is \$15,000; and each subsequent offense is \$25,000. These penalties would be remitted by the clerk of court to the Department of Revenue to be deposited into the Marine Resources Conservation Trust Fund for boating safety education purposes. The number of penalties that would be assessed and collected under either provision is indeterminate.

Section 19 of the bill repeals subsection (2) of s. 328.15, F.S., effective July 1, 2023. Paragraph (c) of subsection (2) deals with attachment of child support enforcement liens on vessel titles. Repeal of s. 328.15(2)(c), F.S., could impact the state's eligibility for funding pursuant to Title IV-D of the Social Security Act because after July 1, 2023,

⁴⁰ Sections 328.20 and 379.208, F.S.

⁴¹ The DHSMV collects about \$2,300 per year for this fee. Email from DHSMV staff dated April 2, 2019 (On file in the Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee).

⁴² See email from DHSMV staff dated March 18, 2019 (On file in the Senate Infrastructure and Security Committee).

Florida would no longer have a procedure for filing liens against this type of personal property to collect child support enforcement liens. The state is required to have a procedure for filing liens against all personal property to collect unpaid child support. See Section VII. The Department of Revenue's Child Support Program's State Fiscal Year 2017-2018 appropriation for Title IV-D matching funds and federal performance incentives are \$156.7 million and \$33.5 million respectively. Further, failure to comply with Title IV-D requirements could result in a penalty being assessed to the Title IV-A TANF (Temporary Assistance to Needy Families) grant. For the first year of noncompliance, the penalty is 1-2 percent of TANF funds; for the second year, the penalty is 2-3 percent of TANF funds; and for subsequent years, the penalty is 3-5 percent of the amounts otherwise payable to the state. Florida's TANF grant is \$559.1 million for Federal Fiscal Year 2017-2018. The penalty would be applied to all or part of the grant.⁴³

The bill will require the DHSMV to implement changes to vessel titling procedures and databases. However, with a delayed effective date of July 1, 2023, the DHSMV can incorporate the required changes utilizing existing resources.⁴⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill authorizes the DHSMV to adopt rules to implement part I of ch. 328, F.S.

On lines 898 and 899 of the bill, the provision seems to imply that the DHSMV has the *option* of creating electronic certificates of title. The bill states "if the department creates electronic certificates of title..." Section 328.15, F.S., requires the DHSMV to establish and administer an electronic titling program.

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. The remaining provision requires the DHSMV to adopt rules to administer "this section," including rules about notarization of satisfaction of liens and forms; allow the DHSMV to provide copies of satisfactions of liens for \$1, which are admissible in court; and directs the DHSMV to establish and administer an electronic titling program.

4

⁴³ Email from the Department of Revenue to Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee staff, *CS/SB 676*, April 8, 2019. (On files in the Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee.)

⁴⁴ *Id.*

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, 328.101, 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.)

Recommended CS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on April 9, 2019:

The committee substitute provides that for the purpose of perfecting a security interest, the Department of Revenue shall be treated as a secured party when collecting unpaid child support.

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.
- 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.

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

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

26 vessel; specifying that a certificate of title is
27 prima facie evidence of the accuracy of the
28 information in the record that constitutes the
29 certificate; creating s. 328.04, F.S.; providing
30 requirements for the contents of a certificate of
31 title; creating s. 328.045, F.S.; providing
32 responsibilities of an owner and insurer of a hull-
33 damaged vessel when transferring an ownership interest
34 in the vessel; requiring the department to create a
35 new certificate indicating such damage; providing
36 civil penalties; creating s. 328.055, F.S.; requiring
37 the department to maintain certain information in its
38 files; 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. 328.35, F.S.; authorizing the
90 department to adopt rules to implement vessel titling
91 provisions; amending ss. 409.2575, 705.103, and
92 721.08, F.S.; conforming provisions and cross-
93 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. Nonmotor-powered watercraft less than 16 feet in
238 length;

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

243 5. A stationary floating structure that:

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

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

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

250 6. Watercraft owned by the United States, a state, or a

251 foreign government or a political subdivision of any of them;
252 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

273 (l) "Security agreement" as defined in s.
274 679.1021(1)(uuu).

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

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

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

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

280 328.01 Application for certificate of title.—

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

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

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

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

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

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

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

300 1. The official number for the vessel, if any, assigned by

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

326 known to the applicant in which the vessel was registered or
327 titled.

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

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

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

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

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

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

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

349 3. In all other cases, a certificate of origin, bill of
350 sale, or other record that to the satisfaction of the department

351 identifies the applicant as the owner.

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

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

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

375 (b) The owner of an undocumented vessel that is exempt

376 from titling may apply to the county tax collector for a
377 certificate of title by filing an application accompanied by the
378 prescribed fee.

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

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

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

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

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

400 ~~1. A notarized statement of the builder or its equivalent,~~

401 ~~whichever is acceptable to the Department of Highway Safety and~~
402 ~~Motor Vehicles, if the vessel is less than 16 feet in length; or~~

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

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

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

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

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

449 ~~(b) If the application for transfer of title is based upon~~
450 ~~a contractual default, the recorded lienholder shall establish~~

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

476 ~~as is otherwise directed in the application, showing no other~~
477 ~~liens than those shown in the application.~~

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

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

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

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

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

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

523

524 The department shall adopt suitable language that must appear
525 upon the certificate of title to effectuate the manner in which

526 | the interest in or title to the vessel is held.

527 | (8)~~(4)~~ If the owner cannot furnish the department of
528 | ~~Highway Safety and Motor Vehicles~~ with all the required
529 | ownership documentation, the department may, at its discretion,
530 | issue a title conditioned on the owner's agreement to indemnify
531 | the department and its agents and defend the title against all
532 | claims or actions arising out of such issuance.

533 | (9)~~(5)~~(a) An application for an initial title or a title
534 | transfer shall include payment of the applicable state sales tax
535 | or proof of payment of such tax.

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

546 | (10)~~(6)~~ The department of ~~Highway Safety and Motor~~
547 | ~~Vehicles~~ shall prescribe and provide suitable forms for
548 | applications, certificates of title, notices of security
549 | interests, and other notices and forms necessary to carry out
550 | the provisions of this chapter.

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

553 328.015 Duties and operation of the department.-

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

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

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

574 (4) The department shall send or otherwise make available
575 in a record the following information to any person who requests

576 it and pays the applicable fee:

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

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

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

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

587 (b) With respect to the vessel:

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

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

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

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

600 (5) In responding to a request under this section, the

601 department may provide the requested information in any medium.
602 On request, the department shall send the requested information
603 in a record that is self-authenticating.

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

606 328.02 Law governing vessel covered by certificate of
607 title.—

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

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

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

622 328.03 Certificate of title required.—

623 (1) Except as otherwise provided in subsections (2) and
624 (3), each vessel that is operated, used, or stored on the waters
625 of this state must be titled by this state pursuant to this

626 part, and the owner of a vessel for which this state is the
 627 state of principal use shall deliver to the department an
 628 application for a certificate of title for the vessel, with the
 629 applicable fee, not later than 30 days after the later of:

- 630 (a) The date of a transfer of ownership; or
- 631 (b) The date this state becomes the state of principal
 632 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
 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~~
 647 ~~length;~~
- 648 ~~(d) A federally documented vessel;~~
- 649 (i)-(e) A vessel already covered by a registration number
 650 in full force and effect which was awarded to it pursuant to a

651 federally approved numbering system of another state or by the
652 United States Coast Guard in a state without a federally
653 approved numbering system, if the vessel is not located in this
654 state for a period in excess of 90 consecutive days; or

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

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

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

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

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

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

676 | ~~title while the application is pending.~~

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

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

691 | (5) ~~(4)~~ A certificate of title is prima facie evidence of
692 | the accuracy of the information in the record that constitutes
693 | the certificate and of the ownership of the vessel. A
694 | certificate of title is good for the life of the vessel so long
695 | as the certificate is owned or held by the legal holder. If a
696 | titled vessel is destroyed or abandoned, the owner, with the
697 | consent of any recorded lienholders, shall, within 30 days after
698 | the destruction or abandonment, surrender to the department for
699 | cancellation any and all title documents. If a titled vessel is
700 | insured and the insurer has paid the owner for the total loss of

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

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

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

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

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

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

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

731 328.04 Content of certificate of title.-

732 (1) A certificate of title must contain:

733 (a) The date the certificate was created;

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

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

738 (d) The hull identification number;

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

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

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

749 (2) This part does not preclude the department from noting
 750 on a certificate of title the name and mailing address of a

751 secured party that is not a secured party of record.

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

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

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

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

775 Section 8. Section 328.045, Florida Statutes, is created

776 to read:

777 328.045 Title brands.—

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

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

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

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

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

801 application to the department, the department shall create a new
802 certificate that indicates that the vessel is branded "Hull
803 Damaged."

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

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

813 328.055 Maintenance of and access to files.—

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

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

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

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

824 (2) The department shall maintain in its files the
825 information contained in all certificates of title created under

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

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

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

838 328.06 Action required on creation of certificate of
839 title.-

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

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

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

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

868 328.065 Effect of possession of certificate of title;
869 judicial process.—Possession of a certificate of title does not
870 by itself provide a right to obtain possession of a vessel.
871 Garnishment, attachment, levy, replevin, or other judicial
872 process against the certificate is not effective to determine
873 possessory rights to the vessel. This part does not prohibit
874 enforcement under the laws of this state of a security interest
875 in, levy on, or foreclosure of a statutory or common-law lien on

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

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

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

882 328.09 Refusal to issue and authority to cancel a
883 certificate of title or registration.-

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

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

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

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

898 (b) The application does not contain documentation
899 sufficient for the department to determine whether the applicant
900 is entitled to a certificate;

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

904 (d) The application does not comply with the laws of this
905 state other than this part; or

906 (e) The application is for a vessel that has been deemed
907 derelict by a law enforcement officer under s. 823.11. In such
908 case, a law enforcement officer must inform the department in
909 writing, which may be provided by facsimile, e-mail, or other
910 electronic means, of the vessel's derelict status and supply the
911 department with the vessel title number or vessel identification
912 number. The department may issue a certificate of title once a
913 law enforcement officer has verified in writing, which may be
914 provided by facsimile, e-mail, or other electronic means, that
915 the vessel is no longer a derelict vessel.

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

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

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

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

925 (c) Receives satisfactory evidence that the vessel is a

926 documented vessel or a foreign-documented vessel.

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

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

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

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

945 328.11 Duplicate certificate of title.—

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

951 department, obtain a duplicate certificate in the name of the
 952 owner of record.

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

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

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

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

972 (6)(2) In addition to the fee imposed by subsection (5)
 973 ~~(1), the department of Highway Safety and Motor Vehicles shall~~
 974 ~~charge a fee of \$5 for expedited service in issuing a duplicate~~
 975 ~~certificate of title. Application for such expedited service may~~

976 be made by mail or in person. The department shall issue each
977 certificate of title applied for under this subsection within 5
978 working days after receipt of a proper application or shall
979 refund the additional \$5 fee upon written request by the
980 applicant.

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

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

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

996 328.12 Perfection of security interest.-

997 (1) Except as otherwise provided in this section, a
998 security interest in a vessel may be perfected only by delivery
999 to the department of an application for a certificate of title
1000 that identifies the secured party and otherwise complies with s.

1001 328.01. The security interest is perfected on the later of
1002 delivery to the department of the application and the applicable
1003 fee or attachment of the security interest under s. 679.2031.

1004 (2) If the interest of a person named as owner, lessor,
1005 consignor, or bailor in an application for a certificate of
1006 title delivered to the department is a security interest, the
1007 application sufficiently identifies the person as a secured
1008 party. Identification on the application for a certificate of a
1009 person as owner, lessor, consignor, or bailor is not by itself a
1010 factor in determining whether the person's interest is a
1011 security interest.

1012 (3) If the department has created a certificate of title
1013 for a vessel, a security interest in the vessel may be perfected
1014 by delivery to the department of an application, on a form the
1015 department may require, to have the security interest added to
1016 the certificate. The application must be signed by an owner of
1017 the vessel or by the secured party and must include:

1018 (a) The name of the owner of record;
1019 (b) The name and mailing address of the secured party;
1020 (c) The hull identification number for the vessel; and
1021 (d) If the department has created a written certificate of
1022 title for the vessel, the certificate.

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

1026 security interest under s. 679.2031.

1027 (5) On delivery of an application that complies with
1028 subsection (3) and payment of all applicable fees, the
1029 department shall create a new certificate of title pursuant to
1030 s. 328.09 and deliver the new certificate or a record evidencing
1031 an electronic certificate pursuant to s. 328.06. The department
1032 shall maintain in the files of the department the date and time
1033 of delivery of the application to the department.

1034 (6) If a secured party assigns a perfected security
1035 interest in a vessel, the receipt by the department of a
1036 statement providing the name of the assignee as secured party is
1037 not required to continue the perfected status of the security
1038 interest against creditors of and transferees from the original
1039 debtor. A purchaser of a vessel subject to a security interest
1040 who obtains a release from the secured party indicated in the
1041 files of the department or on the certificate takes free of the
1042 security interest and of the rights of a transferee unless the
1043 transfer is indicated in the files of the department or on the
1044 certificate.

1045 (7) This section does not apply to a security interest:

1046 (a) Created in a vessel by a person during any period in
1047 which the vessel is inventory held for sale or lease by the
1048 person or is leased by the person as lessor if the person is in
1049 the business of selling vessels;

1050 (b) In a barge for which no application for a certificate

1051 of title has been delivered to the department; or

1052 (c) In a vessel before delivery if the vessel is under
1053 construction, or completed, pursuant to contract and for which
1054 no application for a certificate has been delivered to the
1055 department.

1056 (8) This subsection applies if a certificate of
1057 documentation for a documented vessel is deleted or canceled. If
1058 a security interest in the vessel was valid immediately before
1059 deletion or cancellation against a third party as a result of
1060 compliance with 46 U.S.C. s. 31321, the security interest is and
1061 remains perfected until the earlier of 4 months after
1062 cancellation of the certificate or the time the security
1063 interest becomes perfected under this part.

1064 (9) A security interest in a vessel arising under s.
1065 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is
1066 perfected when it attaches but becomes unperfected when the
1067 debtor obtains possession of the vessel, unless the security
1068 interest is perfected pursuant to subsection (1) or subsection
1069 (3) before the debtor obtains possession.

1070 (10) A security interest in a vessel as proceeds of other
1071 collateral is perfected to the extent provided in s. 679.3151.

1072 (11) A security interest in a vessel perfected under the
1073 law of another jurisdiction is perfected to the extent provided
1074 in s. 679.3161(4).

1075 (12) For purposes of this section and this part, the

1076 Department of Revenue shall be treated as a secured party when
1077 collecting unpaid support.

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

1080 328.125 Termination statement.—

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

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

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

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

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

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

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

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

1121 328.14 Rights of purchaser other than secured party.—

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

1126 record was not created.

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

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

1133 328.145 Rights of secured party.-

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

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

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

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

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

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

1156 328.15 Notice of lien on vessel; recording.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1276 | of the lien.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1435 | 328.165 Cancellation of certificates.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1514 328.22 Transfer of ownership.—

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

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

1526 transfer is prohibited by the security agreement.

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

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

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

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

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

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

1550 328.23 Transfer of ownership by secured party's transfer

1551 statement.—

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

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

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

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

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

1563 (e) The name of the transferee;

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

1565 (g) One of the following:

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

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

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

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

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

1580 (a) Accept the statement;

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

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

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

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

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

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

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

1597 328.24 Transfer by operation of law.—

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

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

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

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

1633 (a) Accept the statement;

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

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

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

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

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

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

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

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

1651 to read:

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

1655 Section 27. Section 328.35, Florida Statutes, is created
1656 to read:

1657 328.35 Rulemaking.—The department may adopt rules pursuant
1658 to ss. 120.536(1) and 120.54 to implement this part.

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

1661 409.2575 Liens on motor vehicles and vessels.—

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

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

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

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

1681 705.103 Procedure for abandoned or lost property.—

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

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

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

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

1722 (a) For abandoned property, the law enforcement agency may
1723 retain any or all of the property for its own use or for use by
1724 the state or unit of local government, trade such property to
1725 another unit of local government or state agency, donate the

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

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

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

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

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

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

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

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

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

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

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

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

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

1828 (I) Expiration of the cancellation period.

1829 (II) Completion of construction.

1830 (III) Closing.

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

1834 c. Evidence that each accommodation and facility:

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

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

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

1845 d. Evidence that the timeshare estate:

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

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

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

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

1861 (I) Expiration of the cancellation period.

1862 (II) Completion of construction.

1863 (III) Closing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1947 4. Trust.—

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

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

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

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

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

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

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

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

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

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

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

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

2021 5. Owners' association.—

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

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

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

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

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

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

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

2075 (V) The documents establishing the owners' association

2076 shall constitute a part of the timeshare instrument.

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

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

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

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

2101 of the obligations set forth therein.

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

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

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

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

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

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

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

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

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

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

2138 Section 32. Subject to section 31, this act applies to any
2139 transaction, certificate of title, or record relating to a
2140 vessel, even if the transaction, certificate of title, or record
2141 was entered into or created before the effective date of this
2142 act.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/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 the Committee on Environment and Natural Resources; and
Senator Rouson

592-03795-19

20191530c1

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. 327.73, F.S.; revising civil penalties
6 relating to certain at-risk vessels and prohibited
7 anchoring or mooring; providing civil penalties
8 relating to vessels that fail to reduce speed for
9 special hazards; providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Section 327.332, Florida Statutes, is created to
14 read:

15 327.332 Special hazards requiring slow speed.-

16 (1) A vessel operator must reduce to slow speed, minimum
17 wake upon approaching within 300 feet of any emergency vessel,
18 including, but not limited to, a law enforcement vessel, United
19 States Coast Guard vessel or auxiliary vessel, fire vessel, or
20 tow vessel, with its emergency lights activated.

21 (2) A vessel operator must reduce to slow speed, minimum
22 wake upon approaching within 300 feet of any construction vessel
23 or barge when workers are present and actively engaged in
24 operations and an orange flag or yellow flashing light is
25 displayed from the tallest portion of the vessel or barge.

26 (3) A vessel operator found in violation of this section is
27 guilty of a noncriminal infraction as provided in s. 327.73.

28 Section 2. Paragraphs (aa) and (bb) of subsection (1) of
29 section 327.73, Florida Statutes, are amended, and paragraph

592-03795-19

20191530c1

30 (cc) is added to that subsection, to read:

31 327.73 Noncriminal infractions.—

32 (1) Violations of the following provisions of the vessel
33 laws of this state are noncriminal infractions:

34 (aa) Section 327.4107, relating to vessels at risk of
35 becoming derelict on waters of this state, for which the civil
36 penalty is:

37 1. For a first offense, \$50.

38 2. For a second offense occurring 30 days or more after a
39 first offense, \$250 ~~\$100~~.

40 3. For a third or subsequent offense occurring 30 days or
41 more after a previous offense, \$500 ~~\$250~~.

42 (bb) Section 327.4109, relating to anchoring or mooring in
43 a prohibited area, for which the penalty is:

44 1. For a first offense, up to a maximum of \$50.

45 2. For a second offense, up to a maximum of \$250 ~~\$100~~.

46 3. For a third or subsequent offense, up to a maximum of
47 \$500 ~~\$250~~.

48 (cc) Section 327.332, relating to vessels failing to reduce
49 speed for special hazards, for which the penalty is:

50 1. For a first offense, \$50.

51 2. For a second offense occurring within 12 months after a
52 prior conviction, \$250.

53 3. For a third offense occurring within 36 months after a
54 prior conviction, \$500.

55 4. For a fourth or subsequent offense occurring within 72
56 months after a prior conviction, \$1,000.

57
58 Any person cited for a violation of any provision of this

592-03795-19

20191530c1

59 subsection shall be deemed to be charged with a noncriminal
60 infraction, shall be cited for such an infraction, and shall be
61 cited to appear before the county court. The civil penalty for
62 any such infraction is \$50, except as otherwise provided in this
63 section. Any person who fails to appear or otherwise properly
64 respond to a uniform boating citation shall, in addition to the
65 charge relating to the violation of the boating laws of this
66 state, be charged with the offense of failing to respond to such
67 citation and, upon conviction, be guilty of a misdemeanor of the
68 second degree, punishable as provided in s. 775.082 or s.
69 775.083. A written warning to this effect shall be provided at
70 the time such uniform boating citation is issued.

71 Section 3. 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 Criminal Justice

BILL: CS/SB 1530

INTRODUCER: Environment and Natural Resources Committee and Senator Rouson

SUBJECT: Vessels

DATE: April 5, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Anderson</u>	<u>Rogers</u>	<u>EN</u>	Fav/CS
2.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1530 requires a vessel operator to reduce speed to a slow speed with minimum wake upon approaching within 300 feet of any emergency vehicle with its emergency lights activated or any construction vessel or barge under specified conditions. A vessel operator found in violation of this requirement is guilty of a noncriminal infraction.

The bill increases several of the civil penalties for a vessel deemed at risk of becoming derelict and increases several of the maximum civil penalties for anchoring or mooring in a prohibited area. The bill also creates civil penalties for vessels that fail to reduce speed for special hazards as specified in the bill.

There may be a positive fiscal impact on the Florida Fish and Wildlife Conservation Commission due to the new and increased civil penalties provided under the bill. See Section V. Fiscal Impact Statement.

The bill is effective on July 1, 2019.

II. Present Situation:

Anchoring or Mooring

Anchoring or mooring has been described as:

[A] boater's practice of seeking and using a safe harbor on the public waterway system for an undefined duration. This may be accomplished utilizing an anchor carried on the vessel,¹ or through the utilization of moorings permanently affixed to the bottom. 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 and Vessels at Risk of Becoming Derelict

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

In 2016, the Legislature prohibited neglected vessels or those in deteriorating conditions from anchoring, mooring, or occupying the waters of the state.⁴ Section 327.4107(2), F.S., provides that 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;
- 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; or
- The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives telephonic or written notice stating such from an officer, and the vessel owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having ordered necessary parts for vessel repair.⁵

¹ Section 327.02(46), F.S., defines the term "vessel" as including 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 Thomas T. Ankersen and Richard Hamann, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, TP-157 (October 2006), at p. 2, available at <https://www.law.ufl.edu/pdf/academics/centers-clinics/clinics/conservation/resources/anchaway.pdf> (last visited on April 3, 2019).

³ Section 823.11(1)(b), F.S.

⁴ Ch. 2016-108, L.O.F.; s. 327.4107, F.S.

⁵ Section 327.4107, F.S., does not apply to a vessel that is moored to a private dock or wet slip with the consent of the owner for the purpose of receiving repairs. Section 327.4107(5), F.S.

Penalties for Prohibited Acts Relating to Derelict Vessels and Anchoring and Mooring

It is a first degree misdemeanor to store, leave, or abandon a derelict vessel in Florida.⁶ Further, such violation is punishable by a civil penalty of up to \$50,000 per violation per day.⁷ Each day during any portion of which the violation occurs constitutes a separate offense.⁸

Section 327.4107(3), F.S., provides that a person who anchors or moors a vessel at risk of becoming derelict on the waters of this state or allows such a vessel to occupy such waters commits a noncriminal infraction,⁹ punishable as provided in s. 327.73, F.S.¹⁰

Section 327.73(1)(aa), F.S., provides that an owner or operator of a vessel at risk of becoming derelict on waters of the state in violation of s. 327.4107, F.S., is subject to a uniform boating citation and civil penalty. The civil penalty provided 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 offense occurring 30 days or more after a previous offense.

Section 327.4109, F.S., prohibits anchoring or mooring in certain areas or under certain conditions. Section 327.4109(1)(a), F.S., prohibits the owner or operator of a vessel from anchoring or mooring such that the nearest approach of the anchored or moored vessel is:

- Within 150 feet of any marina, boat ramp, boatyard, or other vessel launching or loading facility;
- Within 300 feet of a superyacht repair facility;¹¹ or
- Within 100 feet outward from the marked boundary of a public mooring field or a lesser distance if approved by the commission upon request of a local government within which the mooring field is located.¹²

Notwithstanding s. 327.4109(1), F.S., an owner or operator of a vessel may anchor or moor within 150 feet of any marina, boat ramp, boatyard, or other vessel launching or loading facility; within 300 feet of a superyacht repair facility; or within 100 feet outward from the marked boundary of a public mooring field if either of the following apply:

- The vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor for 5 business days or until the vessel is repaired, whichever occurs first.

⁶ Sections 376.15(2) and 823.11(2) and (5), F.S. A first degree misdemeanor is punishable by up to one year in county jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

⁷ Sections 376.15(2) and 376.16(1), F.S.

⁸ Section 376.16(1), F.S.

⁹ Section 775.082(5), F.S., provides that any person who has been convicted of a noncriminal violation may not be sentenced to a term of imprisonment nor to any other punishment more severe than a fine, forfeiture, or other civil penalty, except as provided in ch. 316, F.S., or by ordinance of any city or county.

¹⁰ The penalty under s. 327.4107, F.S., is in addition to any other penalties provided by law. Section 327.4107(4), F.S.

¹¹ A “superyacht repair facility” is a facility that services or repairs a yacht with a water line of 120 feet or more in length. Section 327.4109(1)(a)2., F.S.

¹² This prohibition does not apply to: a vessel owned or operated by a governmental entity; a construction or dredging vessel on an active job site; a commercial fishing vessel actively engaged in commercial fishing; or a vessel actively engaged in recreational fishing if the persons onboard are actively tending hook and line fishing gear or nets. Section 327.4109(1)(b), F.S.

- Imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor until weather conditions no longer pose such risk. During a hurricane or tropical storm, weather conditions are deemed to no longer pose an unreasonable risk of harm when the hurricane or tropical storm warning affecting the area has expired.

Section 327.4109(3), F.S., prohibits the owner or operator of a vessel from anchoring or mooring within the marked boundary of a public mooring field unless the owner or operator has a lawful right to do so by contractual agreement or other business arrangement.

Section 327.4109(4), F.S., prohibits the owner or operator of a vessel from anchoring, mooring, tying, or otherwise affixing or allowing the vessel to remain anchored, moored, tied, or otherwise affixed to an unpermitted, unauthorized, or otherwise unlawful object that is on or affixed to the bottom of the waters of this state. However, this subsection does not apply to a private mooring owned by the owner of privately owned submerged lands.

A violation of s. 327.4109, F.S., is a noncriminal infraction, and punishable as provided in s. 327.73(1)(bb), F.S.¹³ Section 327.73(1)(bb), F.S., provides that an owner or operator who anchors or moors in a prohibited area in violation of s. 327.4109, F.S., is subject to a uniform boating citation and civil penalty. The civil penalty provided is up to a maximum of:

- \$50 for a first offense;
- \$100 for a second offense; and
- \$250 for a third offense.¹⁴

Finally, s. 327.73(1) F.S., provides that any person who fails to appear or otherwise properly respond to a uniform boating citation must, in addition to the charge relating to the violation of the boating laws of this state, be charged with a second degree misdemeanor.¹⁵

III. Effect of Proposed Changes:

The bill creates s. 327.332, F.S., relating to special hazards requiring slow speeds by vessel operators. This new section requires vessel operators to reduce speed to a slow speed with minimum wake upon approaching certain hazardous conditions and provides that a vessel operator found in violation of this requirement is guilty of a noncriminal infraction. The hazardous conditions are:

- Approaching within 300 feet of any emergency vessel, including but not limited to, a law enforcement vessel, a United States Coast Guard vessel or auxiliary vessel, fire vessel, or tow vessel, with its emergency lights activated; and
- Approaching within 300 feet of any construction vessel or barge actively engaged in operations and displaying an orange flag or yellow flashing light from the tallest portion of the vessel or barge.

¹³ Section 327.4109(5), F.S.

¹⁴ Section 327.73(1)(bb), F.S.

¹⁵ A second degree misdemeanor is punishable by up to 60 days in county jail and a fine of up to \$500. Sections 775.082 and 775.083, F.S.

The bill also amends s. 327.73, F.S., relating to civil penalties for violations of specified vessel laws. The bill increases civil penalties for a violation of s. 327.4107, F.S., relating to vessels at risk of becoming derelict on waters of the state, from:

- \$100 to \$250 for a second offense occurring 30 days or more after a previous offense; and
- \$250 to \$500 for a third or subsequent offense occurring 30 days or more after a previous offense.

The bill increases the maximum civil penalty for a violation of s. 327.4109, F.S., relating to anchoring or mooring in a prohibited area, from:

- \$100 to \$250 for a second offense; and
- \$250 to \$500 for a third or subsequent offense.

Finally, the bill creates civil penalties for a violation of s. 327.332, F.S., the new section relating to vessels failing to reduce speed for special hazards:

- \$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.

The bill is effective 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:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be a positive fiscal impact on the Florida Fish and Wildlife Conservation Commission due to the new and increased civil penalties provided under the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 327.332 of the Florida Statutes.

This bill substantially amends section 327.73 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 April 2, 2019:**

- Removes a provision relating to slowing speeds upon seeing a vessel or person in a hazardous or vulnerable position.
- Removes certain provisions relating to derelict vessels.
- Removes a provision relating to transfer of ownership of a vessel.
- Removes the authority to impound derelict vessels after three violations.

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; providing
23 exceptions; providing application; amending s. 713.78,
24 F.S.; authorizing certain persons to place liens on
25 vehicles or vessels to recover specified fees or

26 | charges; amending s. 715.07, F.S.; removing a
 27 | requirement regarding notices and signs concerning the
 28 | towing or removal of vehicles or vessels; prohibiting
 29 | counties or municipalities from enacting certain
 30 | ordinances or rules that require towing businesses to
 31 | accept a specified form of payment; prohibiting
 32 | counties or municipalities from authorizing attorney
 33 | fees in connection with certain towing activities;
 34 | providing exceptions; providing application;
 35 | preempting to the state the regulation of attorney
 36 | fees in connection with certain towing activities;
 37 | removing a requirement regarding liability for
 38 | attorney fees; providing 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 credit card as a form of payment. However, if an authorized
187 wrecker operator does not accept a credit card as a form of
188 payment, the wrecker operator must maintain an operable
189 automatic teller machine for the use of the public at its place
190 of business. This paragraph does not apply to a county or
191 municipality that adopted an ordinance or rule before January 1,
192 2019, requiring an authorized wrecker operator to accept a
193 credit card as a form of payment.

194 Section 6. Subsection (2) of section 713.78, Florida
195 Statutes, is amended to read:

196 713.78 Liens for recovering, towing, or storing vehicles
197 and vessels.—

198 (2) Whenever a person regularly engaged in the business of
199 transporting vehicles or vessels by wrecker, tow truck, or car
200 carrier recovers, removes, or stores a vehicle or vessel upon

201 instructions from:

202 (a) The owner thereof;

203 (b) The owner or lessor, or a person authorized by the
 204 owner or lessor, of property on which such vehicle or vessel is
 205 wrongfully parked, and the removal is done in compliance with s.
 206 715.07;

207 (c) The landlord or a person authorized by the landlord,
 208 when such motor vehicle or vessel remained on the premises after
 209 the tenancy terminated and the removal is done in compliance
 210 with s. 83.806 or s. 715.104; or

211 (d) Any law enforcement agency,

212

213 she or he shall have a lien on the vehicle or vessel for a
 214 reasonable towing fee, for a reasonable administrative fee or
 215 charge imposed by a county or municipality, and for a reasonable
 216 storage fee; except that no storage fee shall be charged if the
 217 vehicle or vessel is stored for less than 6 hours.

218 Section 7. Subsections (2) and (4) of section 715.07,
 219 Florida Statutes, are amended to read:

220 715.07 Vehicles or vessels parked on private property;
 221 towing.—

222 (2) The owner or lessee of real property, or any person
 223 authorized by the owner or lessee, which person may be the
 224 designated representative of the condominium association if the
 225 real property is a condominium, may cause any vehicle or vessel

226 | parked on such property without her or his permission to be
227 | removed by a person regularly engaged in the business of towing
228 | vehicles or vessels, without liability for the costs of removal,
229 | transportation, or storage or damages caused by such removal,
230 | transportation, or storage, under any of the following
231 | circumstances:

232 | (a) The towing or removal of any vehicle or vessel from
233 | private property without the consent of the registered owner or
234 | other legally authorized person in control of that vehicle or
235 | vessel is subject to substantial ~~strict~~ compliance with the
236 | following conditions and restrictions:

237 | 1.a. Any towed or removed vehicle or vessel must be stored
238 | at a site within a 10-mile radius of the point of removal in any
239 | county of 500,000 population or more, and within a 15-mile
240 | radius of the point of removal in any county of less than
241 | 500,000 population. That site must be open for the purpose of
242 | redemption of vehicles on any day that the person or firm towing
243 | such vehicle or vessel is open for towing purposes, from 8:00
244 | a.m. to 6:00 p.m., and, when closed, shall have prominently
245 | posted a sign indicating a telephone number where the operator
246 | of the site can be reached at all times. Upon receipt of a
247 | telephoned request to open the site to redeem a vehicle or
248 | vessel, the operator shall return to the site within 1 hour or
249 | she or he will be in violation of this section.

250 | b. If no towing business providing such service is located

251 within the area of towing limitations set forth in sub-
252 subparagraph a., the following limitations apply: any towed or
253 removed vehicle or vessel must be stored at a site within a 20-
254 mile radius of the point of removal in any county of 500,000
255 population or more, and within a 30-mile radius of the point of
256 removal in any county of less than 500,000 population.

257 2. The person or firm towing or removing the vehicle or
258 vessel shall, within 30 minutes after completion of such towing
259 or removal, notify the municipal police department or, in an
260 unincorporated area, the sheriff, of such towing or removal, the
261 storage site, the time the vehicle or vessel was towed or
262 removed, and the make, model, color, and license plate number of
263 the vehicle or description and registration number of the vessel
264 and shall obtain the name of the person at that department to
265 whom such information was reported and note that name on the
266 trip record.

267 3. A person in the process of towing or removing a vehicle
268 or vessel from the premises or parking lot in which the vehicle
269 or vessel is not lawfully parked must stop when a person seeks
270 the return of the vehicle or vessel. The vehicle or vessel must
271 be returned upon the payment of a reasonable service fee of not
272 more than one-half of the posted rate for the towing or removal
273 service as provided in subparagraph 6. The vehicle or vessel may
274 be towed or removed if, after a reasonable opportunity, the
275 owner or legally authorized person in control of the vehicle or

276 vessel is unable to pay the service fee. If the vehicle or
277 vessel is redeemed, a detailed signed receipt must be given to
278 the person redeeming the vehicle or vessel.

279 4. A person may not pay or accept money or other valuable
280 consideration for the privilege of towing or removing vehicles
281 or vessels from a particular location.

282 5. Except for property appurtenant to and obviously a part
283 of a single-family residence, and except for instances when
284 notice is personally given to the owner or other legally
285 authorized person in control of the vehicle or vessel that the
286 area in which that vehicle or vessel is parked is reserved or
287 otherwise unavailable for unauthorized vehicles or vessels and
288 that the vehicle or vessel is subject to being removed at the
289 owner's or operator's expense, any property owner or lessee, or
290 person authorized by the property owner or lessee, prior to
291 towing or removing any vehicle or vessel from private property
292 without the consent of the owner or other legally authorized
293 person in control of that vehicle or vessel, must post a notice
294 meeting the following requirements:

295 a. The notice must be prominently placed at each driveway
296 access or curb cut allowing vehicular access to the property ~~7~~
297 ~~within 5 feet from the public right-of-way line.~~ If there are no
298 curbs or access barriers, the signs must be posted not less than
299 one sign for each 25 feet of lot frontage.

300 b. The notice must ~~e~~clearly indicate, in not less than 2-

301 inch high, light-reflective letters on a contrasting background,
302 that unauthorized vehicles will be towed away at the owner's
303 expense. The words "tow-away zone" must be included on the sign
304 in not less than 4-inch high letters.

305 c. The notice must also provide the name and current
306 telephone number of the person or firm towing or removing the
307 vehicles or vessels.

308 d. The sign structure containing the required notices must
309 be permanently installed with the words "tow-away zone" ~~not less~~
310 ~~than 3 feet and not more than 6 feet above ground level~~ and must
311 be continuously maintained on the property for not less than 24
312 hours prior to the towing or removal of any vehicles or vessels.

313 e. The local government may require permitting and
314 inspection of these signs prior to any towing or removal of
315 vehicles or vessels being authorized.

316 f. A business with 20 or fewer parking spaces satisfies
317 the notice requirements of this subparagraph by prominently
318 displaying a sign stating "Reserved Parking for Customers Only
319 Unauthorized Vehicles or Vessels Will be Towed Away At the
320 Owner's Expense" in not less than 4-inch high, light-reflective
321 letters on a contrasting background.

322 g. A property owner towing or removing vessels from real
323 property must post notice, consistent with the requirements in
324 sub-subparagraphs a.-f., which apply to vehicles, that
325 unauthorized vehicles or vessels will be towed away at the

326 owner's expense.

327

328 A business owner or lessee may authorize the removal of a
329 vehicle or vessel by a towing company when the vehicle or vessel
330 is parked in such a manner that restricts the normal operation
331 of business; and if a vehicle or vessel parked on a public
332 right-of-way obstructs access to a private driveway the owner,
333 lessee, or agent may have the vehicle or vessel removed by a
334 towing company upon signing an order that the vehicle or vessel
335 be removed without a posted tow-away zone sign.

336 6. Any person or firm that tows or removes vehicles or
337 vessels and proposes to require an owner, operator, or person in
338 control or custody of a vehicle or vessel to pay the costs of
339 towing and storage prior to redemption of the vehicle or vessel
340 must file and keep on record with the local law enforcement
341 agency a complete copy of the current rates to be charged for
342 such services and post at the storage site an identical rate
343 schedule and any written contracts with property owners,
344 lessees, or persons in control of property which authorize such
345 person or firm to remove vehicles or vessels as provided in this
346 section.

347 7. Any person or firm towing or removing any vehicles or
348 vessels from private property without the consent of the owner
349 or other legally authorized person in control or custody of the
350 vehicles or vessels shall, on any trucks, wreckers as defined in

351 s. 713.78(1)(c), or other vehicles used in the towing or
352 removal, have the name, address, and telephone number of the
353 company performing such service clearly printed in contrasting
354 colors on the driver and passenger sides of the vehicle. The
355 name shall be in at least 3-inch permanently affixed letters,
356 and the address and telephone number shall be in at least 1-inch
357 permanently affixed letters.

358 8. Vehicle entry for the purpose of removing the vehicle
359 or vessel shall be allowed with reasonable care on the part of
360 the person or firm towing the vehicle or vessel. Such person or
361 firm shall be liable for any damage occasioned to the vehicle or
362 vessel if such entry is not in accordance with the standard of
363 reasonable care.

364 9. When a vehicle or vessel has been towed or removed
365 pursuant to this section, it must be released to its owner or
366 person in control or custody ~~custodian~~ within one hour after
367 requested. Any vehicle or vessel owner or person in control or
368 custody ~~has agent shall have~~ the right to inspect the vehicle or
369 vessel before accepting its return, and no release or waiver of
370 any kind which would release the person or firm towing the
371 vehicle or vessel from liability for damages noted by the owner
372 or the person in control or custody ~~other legally authorized~~
373 ~~person~~ at the time of the redemption may be required from any
374 vehicle or vessel owner, or person in control or custody
375 ~~custodian, or agent~~ as a condition of release of the vehicle or

376 vessel to its owner. A detailed, ~~signed~~ receipt showing the
377 legal name of the company or person towing or removing the
378 vehicle or vessel must be given to the person paying towing or
379 storage charges at the time of payment, whether requested or
380 not.

381 (b) These requirements are minimum standards and do not
382 preclude enactment of additional regulations by any municipality
383 or county including the right to regulate rates when vehicles or
384 vessels are towed from private property, except that a county or
385 municipality may not enact an ordinance or rule that requires a
386 towing business to accept a credit card as a form of payment. If
387 a towing business does not accept a credit card as a form of
388 payment, the towing business must maintain an operable automatic
389 teller machine for use by the public at its place of business.
390 This paragraph does not apply to a county or municipality that
391 adopted an ordinance or rule before January 1, 2019, requiring a
392 towing business to accept a credit card as a form of payment.
393 Additionally, a municipality or county may not authorize
394 attorney fees in connection with the towing of vehicles or
395 vessels from private property. The regulation of attorney fees
396 in connection with the towing of vehicles or vessels from
397 private property is expressly preempted to the state and any
398 municipal or county ordinance on the subject is void.

399 (4) When a person improperly causes a vehicle or vessel to
400 be removed, such person shall be liable to the owner or lessee

401 | of the vehicle or vessel for the cost of removal,
402 | transportation, and storage; any damages resulting from the
403 | removal, transportation, or storage of the vehicle or vessel;
404 | ~~attorney's fees;~~ and court costs.

405 | Section 8. This act shall take effect July 1, 2019.

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative McClain offered the following:

Amendment

Remove lines 97-101 and insert:

(3) (a) This section does not apply to a towing or immobilization licensing, regulatory, or enforcement program of a charter county in which at least 90 percent of the population resides in incorporated municipalities, or to a charter county with at least 38 incorporated municipalities within its territorial boundaries as of January 1, 2019. This section does not affect a charter county's authorities to:

- 1. Impose and collect towing operating license fees, license renewal fees, extension fees, expedite fees, storage

560115

Approved For Filing: 4/12/2019 3:12:42 PM

Amendment No.

14 site inspection or reinspection fees, criminal background check
15 fees, and tow truck decal fees, including decal renewal fees,
16 expedite fees, and decal replacement fees.

17 2. Impose and collect immobilization operating license
18 fees, license extension fees, renewal fees, expedite fees, and
19 criminal background check fees.

20 3. Set maximum rates for the towing or immobilization of
21 vehicles or vessels on private property, including rates based
22 on different classes of towing vehicles, research fees,
23 administrative fees, storage fees, and labor fees; rates for
24 towing services performed or directed by governmental entities;
25 road service rates; winch recovery rates; voluntary expediting
26 fees for vehicle or vessel ownership verification; and to
27 establish conditions in connection with the applicability or
28 payment of maximum rates set for towing or immobilization of
29 vehicles or vessels.

30 4. Impose and collect such other taxes, fees, or charges
31 otherwise authorized by general law, special law, or county
32 ordinance, resolution, or regulation.

33 (b) A charter county may impose and collect an
34 administrative fee or charge as provided in paragraph (2) (b) but
35 may not impose such fee or charge on a towing business or an
36 authorized wrecker operator. If the charter county imposes such
37 administrative fee or charge, the charter county may authorize a
38 towing business or authorized wrecker operator to collect such

560115

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Amendment No.

39 fee or charge and to remit the fee or charge only after the
40 towing business or authorized wrecker operator has collected the
41 fee or charge.

42 (4) (a) Subsection (1) does not apply to a charter county
43 that had a towing licensing, regulatory, or enforcement program
44 in effect on January 1, 2019. However, such charter county may
45 not impose any new business tax, fee, or charge that was not in
46 effect as of January 1, 2019, on a towing business or an
47 authorized wrecker operator.

48 (b) A charter county as defined may impose and collect an
49 administrative fee or charge as provided in paragraph (2) (b);
50 however, it may not impose that fee or charge upon a towing
51 business or an authorized wrecker operator. If such charter
52 county imposes such administrative fee or charge, such fee or
53 charge must be imposed on the registered owner or other legally
54 authorized person in control of a vehicle or vessel, or the
55 lienholder of a vehicle or vessel. The fee or charge may not
56 exceed 25 percent of the maximum towing rate to cover the cost
57 of enforcement, including parking enforcement, by the charter
58 county when the vehicle or vessel is towed from public property.
59 The charter county may authorize an authorized wrecker operator
60 or towing business to impose and collect the administrative fee
61 or charge on behalf of the charter county, and the authorized
62 wrecker operator or towing business shall remit such fee or
63 charge to the charter county only after it is collected.

560115

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Amendment No.

64 | (c) For purposes of this subsection, the term "charter
65 | county" means a county as defined in s. 125.011(1).

560115

Approved For Filing: 4/12/2019 3:12:42 PM

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative McClain offered the following:

2
3 **Amendment to Amendment (977681)**

4 Remove line 5 of the amendment and insert:

5 on an authorized wrecker operator, registered owner or other
6 legally authorized person in

759219

Approved For Filing: 4/12/2019 4:40:44 PM

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative McClain offered the following:

2
3 **Amendment (with directory amendment)**

4 Remove lines 166-193 and insert:

5 on a registered owner or other legally authorized person in
6 control of a vehicle or vessel, or the lienholder of a vehicle
7 or vessel, when the vehicle or vessel is towed by an authorized
8 wrecker operator under this chapter.

9 (b) A county or municipality may adopt or maintain an
10 ordinance or rule that imposes a reasonable administrative fee
11 or charge on the registered owner or other legally authorized
12 person in control of a vehicle or vessel, or the lienholder of a
13 vehicle or vessel, that is towed by an authorized wrecker

977681

Approved For Filing: 4/12/2019 2:28:55 PM

Amendment No.

14 operator, not to exceed 25 percent of the maximum towing rate,
15 to cover the cost of enforcement, including parking enforcement,
16 by the county or municipality when the vehicle or vessel is
17 towed from public property. However, an authorized wrecker
18 operator or towing business may impose and collect the
19 administrative fee or charge on behalf of the county or
20 municipality and shall remit such fee or charge to the county or
21 municipality only after it is collected.

22 (c) A county or municipality may not enact an ordinance or
23 rule that requires an authorized wrecker operator to accept a
24 credit card as a form of payment. However, if an authorized
25 wrecker operator does not accept a credit card as a form of
26 payment, the wrecker operator must maintain an operable
27 automatic teller machine for the use of the public at its place
28 of business. This paragraph does not apply to a county or
29 municipality that adopted an ordinance or rule before January 1,
30 2019, requiring an authorized wrecker operator to accept a
31 credit card as a form of payment.

32 (5) Subsection (4) does not apply to the towing or
33 immobilization licensing, regulatory, or enforcement program of
34 a charter county described in s. 125.01047(3) or (4). Such
35 charter county may impose a charge, cost, expense, fine, fee, or
36 penalty on an authorized wrecker operator in connection with a
37 violation of the towing or immobilization program requirements
38 as set forth by ordinance, resolution, or regulation.

977681

Approved For Filing: 4/12/2019 2:28:55 PM

Amendment No.

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D I R E C T O R Y A M E N D M E N T

Remove lines 159-160 and insert:
Statutes, is renumbered as subsection (6), and new subsections
(4) and (5) are added to that section to read:

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1237 Towing and Immobilizing of Vehicles and Vessels
SPONSOR(S): State Affairs Committee, 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	20 Y, 1 N, As CS	Darden	Williamson

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 an 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 must 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, a county with such a licensure program 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 or towing business to accept credit cards as a form of payment. The bill expressly preempts the regulation of attorney fees in connection with the towing of vehicles or vessels from private property to the state and voids any municipal or county ordinance on the subject.

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

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1237e.SAC

DATE: 4/10/2019

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 from 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 s. 316.193, F.S. (relating to driving under the influence) or s. 322.34, F.S. (relating to driving with a suspended or revoked license) or 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 enforcing a lien pursuant to s. 83.806, F.S., or for the removal of property left after a lease is vacated pursuant to s. 715.104, F.S.; or
- Any law enforcement agency.¹⁹

¹¹ Ss. 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

Fees Related to Towing and Storage

Some municipalities charge administrative fees when a vehicle is towed in connection with certain misdemeanors or felonies. For example, 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 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 (on file with the Local, Federal & Veterans Affairs Subcommittee).

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

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.³¹ 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:³²

- Any towed or removed vehicle or vessel must be stored at a site within a specified distance of the point of removal.³³
- 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 as a condition of returning the vehicle. The towing company operator must issue a detailed, single receipt to the owner of the vehicle or vessel.

³⁰ Agreement for Wrecker Towing and Storage Services, City of Sarasota and J&G WFR, Inc. dba Direct Towing (on file with the Local, Federal & Veterans Affairs Subcommittee).

³¹ S. 715.07(2), F.S.

³² S. 715.07(2)(a), F.S.

³³ 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.

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:³⁴

- 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 letters 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,³⁵ 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.³⁶

A county or municipality may adopt additional standards, including regulation of the rates charged when a vehicle or vessel is towed from private property.³⁷

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 fees; and court costs.³⁸

Violations of these provisions may constitute a first-degree misdemeanor³⁹ or a third-degree felony.⁴⁰

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 must establish a maximum rate that may be charged for the towing or immobilization of a vessel.

The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators or a towing business. The bill defines the term "towing

³⁴ S. 715.07(2)(a)5, F.S.

³⁵ These requirements are contained in s. 715.07(2)(a)5.a.-f., F.S.

³⁶ S. 715.07(2)(a)5, F.S.

³⁷ S. 715.07(2)(b), F.S.

³⁸ S. 715.07(4), F.S.

³⁹ For subparagraphs (2)(a)2. and (2)(a)6. S. 715.07(5)(a), F.S.

⁴⁰ 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.

business” as a business that provides towing services for monetary gains. The prohibition would not impact the ability of the county or municipality to levy a business tax or 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 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 prohibition on county ordinances or rules that impose a fee or tax on authorized wrecker operators or on towing businesses does not apply to a county with an existing towing license program as of January 1, 2019. A county that has such a licensure program may not levy a business tax or impose and collect an administrative fee or charge. This provision does not apply to municipalities.

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 of a vehicle or vessel, on the lienholder of a vehicle or vessel, or on an authorized wrecker operator when the vehicle or vessel is 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 prohibits a municipality or county from enacting an ordinance or rule requiring an authorized wrecker operator or towing business to accept credit cards as a form of payment. This prohibition does not apply to an ordinance or rule adopted before January 1, 2019. The bill requires an authorized wrecker operator or towing business that does not accept credit cards as a form of payment to maintain an operable automatic teller machine for use by the public at its place of business. The bill prohibits a county or municipality from authorizing attorney fees in connection with the towing of vehicles or vessels from private property.

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., rather than in “strict” compliance.

The bill removes the requirement that the tow-away zone notice must be placed within five feet from the public right-of-way line. Instead, the notice must be placed prominently at each driveway access or curb cut allowing vehicular access to the property. The bill also removes the requirement that a “tow-away zone” sign must be permanently installed at between three and six 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 attorney fees. The bill also expressly preempts to the state the regulation of attorney fees in connection with the towing of vehicles or vessels from private property and voids any municipal or county ordinance on the subject.

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.

- Section 3: Amends s. 166.043, F.S., requiring municipalities to establish maximum rates for the towing and immobilization 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 adopting or maintaining ordinances or rules imposing fees and charges on the registered owner or lienholder of a vehicle removed and impounded pursuant to ch. 323, F.S.
- Section 6: Amends s. 713.78, F.S., providing that a wrecker operation has a lien for a reasonable administrative fee or charge imposed by a county or municipality.
- Section 7: Amends s. 715.07, F.S., concerning requirements for towing a vehicle from private property.
- Section 8: 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.⁴¹ 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.⁴²

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.

On April 10, 2019, the State Affairs Committee adopted four amendments and reported the bill favorably as a committee substitute. The amendments:

- Prohibited a municipality or county from requiring an authorized wrecker operator or towing business to accept credit cards as a form of payment, but required an authorized wrecker operator or towing business to maintain an operable automatic teller machine if it does not accept credit cards. The amendments provided an exception for ordinances and rules adopted before January 1, 2019.
- Removed a requirement that the detailed receipt provided by the wrecker operator be signed;
- Removed a provision that prohibited a municipality or county from authorizing court costs in connection with the towing of vehicles or vessels from private property; and

⁴¹ Art. I, s. 10, Fla. Const.

⁴² *Menendez v. Progressive Exp. Ins. Co, Inc.*, 35 So. 3d 873, 877 (Fla. 2010).

- Prohibited the collection of attorney fees by the owner or lessee of a vehicle or vessel that has been improperly removed.

This analysis is drafted to the committee substitute as approved by the State Affairs Committee.

By the Committees on Rules; Community Affairs; and Environment and Natural Resources; and Senators Flores and Pizzo

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1 A bill to be entitled
2 An act relating to vessels; amending s. 327.395, F.S.;
3 revising boating safety identification requirements
4 for certain persons; requiring any person who rents
5 and operates certain vessels to have certain
6 photographic and safety identification in his or her
7 possession before operating the vessel; authorizing
8 the commission to appoint certain persons to issue
9 temporary certificates; authorizing the commission to
10 issue boating safety identification cards tor
11 temporary certificates in digital or electronic
12 formats; authorizing the commission to appoint agents
13 to administer and charge fees for the boating safety
14 education course or temporary certificate examination;
15 amending s. 327.4109, F.S.; defining a term; directing
16 the Fish and Wildlife Conservation Commission to
17 conduct, contingent upon appropriation, a specified
18 study of the impacts of long-term stored vessels and
19 certain anchored and moored vessels on local
20 communities and the state and to submit a report to
21 the Governor and Legislature within a specified
22 timeframe; providing for expiration of the study
23 requirements; amending s. 327.60, F.S.; authorizing
24 certain counties to create no-discharge zones;
25 providing requirements for discharge in specified
26 areas outside the no-discharge zones; reenacting and
27 amending s. 327.73, F.S., relating to noncriminal
28 infractions; specifying the fines for violations
29 related to no-discharge zones; amending s. 328.72,

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30 F.S.; revising the distribution of vessel registration
 31 fees to provide grants for derelict vessel removal;
 32 amending s. 376.15, F.S.; authorizing the commission
 33 to use certain funds to remove, or to pay private
 34 contractors to remove, derelict vessels; amending s.
 35 823.11, F.S.; prohibiting persons from residing or
 36 dwelling on certain derelict vessels until certain
 37 conditions are met; providing an effective date.
 38

39 Be It Enacted by the Legislature of the State of Florida:
 40

41 Section 1. Section 327.395, Florida Statutes, is amended to
 42 read:

43 327.395 Boating safety education ~~identification~~ cards.—

44 (1) A person born on or after January 1, 1988, may not
 45 operate a vessel powered by a motor of 10 horsepower or greater,
 46 including the electric equivalent of 10 horsepower or greater,
 47 and a person of any age may not rent and operate such a vessel,
 48 unless such person has in his or her possession aboard the
 49 vessel photographic identification and a boating boater safety
 50 identification card issued by the commission, ~~or~~ a state-issued
 51 identification card or driver license indicating possession of
 52 the boating boater safety identification card, or photographic
 53 identification and a temporary certificate issued or approved by
 54 the commission, which shows that he or she has:

55 (a) Completed a commission-approved boating safety boater
 56 education course that meets the minimum requirements ~~8-hour~~
 57 ~~instruction requirement~~ established by the National Association
 58 of State Boating Law Administrators; or

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59 (b) ~~Passed a course equivalency examination approved by the~~
60 ~~commission; or~~

61 ~~(c) Passed a temporary certificate examination developed or~~
62 ~~approved by the commission.~~

63 (2) (a) A ~~Any~~ person may obtain a boating boater safety
64 identification card by successfully completing a boating safety
65 education course that meets ~~complying with~~ the requirements of
66 this section and rules adopted by the commission pursuant to
67 this section.

68 (b) A person may obtain a temporary certificate by passing
69 a temporary certificate examination that meets the requirements
70 of this section and rules adopted by the commission pursuant to
71 this section.

72 (3) Any commission-approved boating boater ~~education or~~
73 ~~boater safety education~~ course, ~~course equivalency examination~~
74 ~~developed or approved by the commission,~~ or temporary
75 certificate examination developed or approved by the commission
76 must include a component regarding diving vessels, awareness of
77 divers in the water, divers-down warning devices, and the
78 requirements of s. 327.331.

79 (4) The commission may appoint liveries, marinas, or other
80 persons as its agents to administer the course, ~~course~~
81 ~~equivalency examination,~~ or temporary certificate examination
82 and issue identification cards or temporary certificates in
83 digital, electronic, or paper format under guidelines
84 established by the commission. An agent must charge the \$2
85 examination fee, which must be forwarded to the commission with
86 proof of passage of the examination and may charge and keep a \$1
87 service fee.

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88 (5) A boating safety ~~An~~ identification card issued to a
89 person who has completed a boating safety education course ~~or a~~
90 ~~course equivalency examination~~ is valid for life. A temporary
91 certificate card issued to a person who has passed a temporary
92 certification examination is valid for 90 days after ~~12 months~~
93 ~~from~~ the date of issuance. The commission may issue either the
94 boating safety identification card or the temporary certificate
95 in a digital, electronic, or paper format.

96 (6) A person is exempt from subsection (1) if he or she:

97 (a) Is licensed by the United States Coast Guard to serve
98 as master of a vessel.

99 (b) Operates a vessel only on a private lake or pond.

100 (c) Is accompanied in the vessel by a person who is exempt
101 from this section or who holds a boating safety an
102 identification card in compliance with this section, who is 18
103 years of age or older, and who is attendant to the operation of
104 the vessel and responsible for the safe operation of the vessel
105 and for any violation that occurs during the operation of the
106 vessel.

107 (d) Is a nonresident who has in his or her possession
108 photographic identification and proof that he or she has
109 completed a boating safety boater education course or
110 equivalency examination in another state or a United States
111 territory which meets or exceeds the minimum requirements
112 established by the National Association of State Boating Law
113 Administrators of subsection (1).

114 (e) Is operating a vessel within 90 days after the purchase
115 of that vessel and has available for inspection aboard that
116 vessel a bill of sale meeting the requirements of s. 328.46(1).

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117 (f) Is operating a vessel within 90 days after completing
118 the requirements of paragraph (1)(a) ~~or paragraph (1)(b)~~ and has
119 a photographic identification card and a boating safety boater
120 education certificate available for inspection as proof of
121 having completed a boating safety boater education course. The
122 boating safety boater education certificate must provide, at a
123 minimum, the student's first and last name, the student's date
124 of birth, and the date that he or she passed the course
125 examination.

126 (g) Is exempted by rule of the commission.

127 (7) A person who operates a vessel in violation of
128 subsection (1) commits a noncriminal infraction, punishable as
129 provided in s. 327.73.

130 ~~(8) The commission shall design forms and adopt rules to~~
131 ~~administer this section. Such rules shall include provision for~~
132 ~~educational and other public and private entities to offer the~~
133 ~~course and administer examinations.~~

134 (8)(9) The commission shall institute and coordinate a
135 statewide program of boating safety instruction and
136 certification to ensure that boating safety courses and
137 examinations are available in each county of the state. The
138 commission may appoint agents to administer the boating safety
139 education course or temporary certificate examination and may
140 authorize the agents to issue temporary certificates in digital,
141 electronic, or paper format. The agents shall charge and collect
142 the \$2 fee required in subsection (9) for each temporary
143 certificate, which must be forwarded to the commission. The
144 agent may charge and keep a \$1 service fee.

145 (9)(10) The commission is authorized to establish and to

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146 collect a \$2 ~~examination~~ fee for each card and certificate
147 issued pursuant to this section ~~to cover administrative costs.~~

148 (10)-(11) The commission shall design forms and is
149 ~~authorized to~~ adopt rules pursuant to chapter 120 to implement
150 the provisions of this section.

151 (11)-(12) This section may be cited as the "Osmany 'Ozzie'
152 Castellanos Boating Safety Education Act."

153 Section 2. Subsection (6) is added to section 327.4109,
154 Florida Statutes, to read:

155 327.4109 Anchoring or mooring prohibited; exceptions;
156 penalties.-

157 (6) (a) As used in this subsection, and applied only for the
158 purposes of the study required by this subsection and not for
159 any other purposes, the term "long-term stored vessel" means a
160 vessel on the waters of the state which is not under the
161 supervision and control of a person capable of operating,
162 maintaining, or moving it from one location to another and which
163 has remained anchored or moored outside of a public mooring
164 field for at least 30 days out of a 60-day period.

165 (b) The commission shall conduct, or contract with a
166 private vendor to conduct, for not longer than 2 years, a study
167 of the impacts of long-term stored vessels on local communities
168 and this state.

169 (c) The study shall:

170 1. Investigate whether, and to what extent, long-term
171 stored vessels and vessels anchored or moored outside of public
172 mooring fields for more than 30 days contribute to the number of
173 derelict and abandoned vessels on the waters of the state.

174 2. Investigate the impacts of long-term stored vessels,

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175 vessels anchored or moored outside of public mooring fields for
176 more than 30 days, and vessels moored within public mooring
177 fields on the local and state economies; public safety; public
178 boat ramps, staging docks, and public marinas; and the
179 environment during and after significant tropical storm and
180 hurricane events.

181 3. Provide recommendations for appropriate management
182 options for long-term stored vessels and vessels anchored or
183 moored outside public mooring fields for more than 30 days to
184 mitigate any identified negative impacts to local communities
185 and this state.

186 (d) The commission shall submit a report of its findings
187 and recommendations to the Governor, the President of the
188 Senate, and the Speaker of the House of Representatives within 6
189 months after the study is completed.

190 (e) This subsection is contingent upon appropriation by the
191 Legislature.

192 (f) This subsection expires January 1, 2024.

193 Section 3. Present paragraphs (c) and (d) of subsection (4)
194 of section 327.60, Florida Statutes, are redesignated as
195 paragraphs (d) and (e), respectively, and a new paragraph (c) is
196 added to that subsection, to read:

197 327.60 Local regulations; limitations.—

198 (4)

199 (c) A county designated as a rural area of opportunity may
200 create a no-discharge zone for freshwater waterbodies within the
201 county's jurisdiction to prohibit treated and untreated sewage
202 discharges from floating structures and live-aboard vessels not
203 capable of being used as a means of transportation and from

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204 houseboats. Within no-discharge zone boundaries, operators of
205 such floating structures, live-aboard vessels, and houseboats
206 shall retain their sewage on board for discharge at a pumpout
207 facility or for discharge more than 3 miles off the coast in the
208 Atlantic Ocean or more than 9 miles off the coast in the Gulf of
209 Mexico. Violations of this paragraph are punishable as provided
210 in s. 327.53(6) and (7).

211 Section 4. Paragraph (r) of subsection (1) of section
212 327.73, Florida Statutes, is amended, and paragraph (s) of that
213 subsection and subsection (4) of that section are reenacted, to
214 read:

215 327.73 Noncriminal infractions.—

216 (1) Violations of the following provisions of the vessel
217 laws of this state are noncriminal infractions:

218 (r) Section 327.53(4), (5), and (7), relating to marine
219 sanitation, and section 327.60, relating to no-discharge zones,
220 for which the civil penalty is \$250.

221 (s) Section 327.395, relating to boater safety education.
222

223 Any person cited for a violation of any provision of this
224 subsection shall be deemed to be charged with a noncriminal
225 infraction, shall be cited for such an infraction, and shall be
226 cited to appear before the county court. The civil penalty for
227 any such infraction is \$50, except as otherwise provided in this
228 section. Any person who fails to appear or otherwise properly
229 respond to a uniform boating citation shall, in addition to the
230 charge relating to the violation of the boating laws of this
231 state, be charged with the offense of failing to respond to such
232 citation and, upon conviction, be guilty of a misdemeanor of the

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233 second degree, punishable as provided in s. 775.082 or s.
234 775.083. A written warning to this effect shall be provided at
235 the time such uniform boating citation is issued.

236 (4) Any person charged with a noncriminal infraction under
237 this section may:

238 (a) Pay the civil penalty, either by mail or in person,
239 within 30 days of the date of receiving the citation; or,

240 (b) If he or she has posted bond, forfeit bond by not
241 appearing at the designated time and location.

242

243 If the person cited follows either of the above procedures, he
244 or she shall be deemed to have admitted the noncriminal
245 infraction and to have waived the right to a hearing on the
246 issue of commission of the infraction. Such admission shall not
247 be used as evidence in any other proceedings. If a person who is
248 cited for a violation of s. 327.395 can show a boating safety
249 identification card issued to that person and valid at the time
250 of the citation, the clerk of the court may dismiss the case and
251 may assess a dismissal fee of up to \$10. If a person who is
252 cited for a violation of s. 328.72(13) can show proof of having
253 a registration for that vessel which was valid at the time of
254 the citation, the clerk may dismiss the case and may assess the
255 dismissal fee.

256 Section 5. Subsection (15) of section 328.72, Florida
257 Statutes, is amended to read:

258 328.72 Classification; registration; fees and charges;
259 surcharge; disposition of fees; fines; marine turtle stickers.-

260 (15) DISTRIBUTION OF FEES.—Except as provided in this
261 subsection ~~for the first \$2, \$1 of which shall be remitted to~~

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262 ~~the state for deposit into the Save the Manatee Trust Fund~~
263 ~~created within the Fish and Wildlife Conservation Commission and~~
264 ~~\$1 of which shall be remitted to the state for deposit into the~~
265 ~~Marine Resources Conservation Trust Fund to fund a grant program~~
266 ~~for public launching facilities pursuant to s. 206.606, giving~~
267 ~~priority consideration to counties with more than 35,000~~
268 ~~registered vessels, moneys designated for the use of the~~
269 ~~counties, as specified in subsection (1), shall be distributed~~
270 ~~by the tax collector to the board of county commissioners for~~
271 ~~use only as provided in this section. Such moneys to be returned~~
272 ~~to the counties are for the sole purposes of providing,~~
273 ~~maintaining, or operating recreational channel marking and other~~
274 ~~uniform waterway markers, public boat ramps, lifts, and hoists,~~
275 ~~marine railways, boat piers, docks, mooring buoys, and other~~
276 ~~public launching facilities; and removing derelict vessels,~~
277 ~~debris that specifically impede boat access, not including the~~
278 ~~dredging of channels, and vessels and floating structures deemed~~
279 ~~a hazard to public safety and health for failure to comply with~~
280 ~~s. 327.53. Counties shall demonstrate through an annual detailed~~
281 ~~accounting report of vessel registration revenues that the~~
282 ~~registration fees were spent as provided in this subsection.~~
283 ~~This report shall be provided to the Fish and Wildlife~~
284 ~~Conservation Commission no later than November 1 of each year.~~
285 ~~If, before January 1 of each calendar year, the accounting~~
286 ~~report meeting the prescribed criteria has still not been~~
287 ~~provided to the commission, the tax collector of that county may~~
288 ~~not distribute the moneys designated for the use of counties, as~~
289 ~~specified in subsection (1), to the board of county~~
290 ~~commissioners but shall, for the next calendar year, remit such~~

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291 moneys to the state for deposit into the Marine Resources
292 Conservation Trust Fund. The commission shall return those
293 moneys to the county if the county fully complies with this
294 section within that calendar year. If the county does not fully
295 comply with this section within that calendar year, the moneys
296 shall remain within the Marine Resources Trust Fund and may be
297 appropriated for the purposes specified in this subsection.

298 (a) From the vessel registration fees designated for use by
299 the counties in subsection (1), \$1 shall be remitted to the
300 state for deposit into the Save the Manatee Trust Fund.

301 (b) From the vessel registration fees designated for use by
302 the counties in subsection (1), \$1 shall be remitted to the
303 state for deposit into the Marine Resources Conservation Trust
304 Fund to fund a grant program for public launching facilities
305 pursuant to s. 206.606, giving priority consideration to
306 counties with more than 35,000 registered vessels.

307 (c) From the vessel registration fees designated for use by
308 the counties in subsection (1), the following amounts shall be
309 remitted to the state for deposit into the Marine Resources
310 Conservation Trust Fund to fund derelict vessel removal grants,
311 as appropriated by the legislature pursuant to s. 376.15:

- 312 1. Class A-2: \$0.25 for each 12-month period registered.
- 313 2. Class 1: \$2.06 for each 12-month period registered.
- 314 3. Class 2: \$9.26 for each 12-month period registered.
- 315 4. Class 3: \$16.45 for each 12-month period registered.
- 316 5. Class 4: \$20.06 for each 12-month period registered.
- 317 6. Class 5: \$25.46 for each 12-month period registered.

318 (d) Any undisbursed balances identified pursuant to s.
319 216.301, shall be available for reappropriation to fund the

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320 Florida Boating Improvement Program or public boating access in
321 accordance with s. 206.06.

322 Section 6. Paragraph (d) of subsection (3) of section
323 376.15, Florida Statutes, is amended to read:

324 376.15 Derelict vessels; relocation or removal from public
325 waters.—

326 (3)

327 (d) The commission may establish a program to provide
328 grants to local governments for the removal of derelict vessels
329 from the public waters of the state. The program shall be funded
330 from the Marine Resources Conservation Trust Fund or the Florida
331 Coastal Protection Trust Fund. Notwithstanding the provisions in
332 s. 216.181(11), funds available for grants may only be
333 authorized by appropriations acts of the Legislature. In a given
334 fiscal year, if all funds appropriated pursuant to this
335 paragraph are not requested by and granted to local governments
336 for the removal of derelict vessels by the end of the third
337 quarter, the Fish and Wildlife Conservation Commission may use
338 the remainder of the funds to remove, or to pay private
339 contractors to remove, derelict vessels.

340 Section 7. Subsection (6) is added to section 823.11,
341 Florida Statutes, to read:

342 823.11 Derelict vessels; relocation or removal; penalty.—

343 (6) If an owner or a responsible party of a vessel
344 determined to be derelict through an administrative or criminal
345 proceeding has been charged by an officer of the commission or
346 any law enforcement agency or officer as specified in s. 327.70
347 under subsection (5) for a violation of subsection (2) or a
348 violation of s. 376.15(2), a person may not reside or dwell on

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349 such vessel until the vessel is removed from the waters of the
350 state permanently or returned to the waters of the state in a
351 condition that is no longer derelict.

352 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 Rules

BILL: CS/CS/CS/SB 1666

INTRODUCER: Rules Committee; Community Affairs Committee; Environment and Natural Resources Committee; and Senator Flores

SUBJECT: Vessels

DATE: April 10, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Anderson</u>	<u>Rogers</u>	<u>EN</u>	<u>Fav/CS</u>
2.	<u>Toman</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	<u>Anderson</u>	<u>Phelps</u>	<u>RC</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1666:

- Requires a person to have either a boater safety identification card or a temporary certificate before renting and operating a vessel with a 10 horsepower or higher engine or electronic equivalent of such engine.
- Establishes criteria for obtaining a temporary certificate which is valid for 90 days.
- Provides that boating safety identification cards and temporary certificates may be issued in a digital, electronic, or paper format.
- Authorizes the Fish and Wildlife Conservation Commission (FWC) to appoint agents to administer qualifying boating safety education and temporary certificate requirements.
- 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 the 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 for specified vessels.
- 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. Funds not granted to local governments by a certain date in the fiscal year may be used by the FWC to remove derelict vessels.
- 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

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. 29, 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. 29, 2019).

⁴ Section 253.03(7), F.S.

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
- 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

⁵ *Id.*; see Fla. Admin. Code ch. 18-21.

⁶ Section 327.44(2), F.S.

⁷ Section 327.4108, F.S.

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.

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

Removal of Derelict Vessels

The Division of Law Enforcement of the 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

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.*

¹⁸ Section 327.70 F.S.; *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).

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
- 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.
- The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives telephonic or written notice from an officer, and the vessel owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having ordered necessary parts for vessel repair.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

²⁵ Chapter 2016-108, Laws of Fla.; s. 327.4107, F.S.

²⁶ Section 327.4107, F.S.

²⁷ Section 327.73(1)(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. 29, 2019). This card is not a boating license, it is a certification that the person named on the card has successfully completed the required boating safety course.

³⁰ FWC, *Boating Safety Courses*, <https://myfwc.com/boating/safety-education/courses/> (last visited Mar. 29, 2019).

³¹ Section 327.395(1), F.S.

³² Section 327.395(5), F.S.

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

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:

³³ Section 327.395(6), F.S.

³⁴ Section 327.73(1)(z) and (bb), F.S.

³⁵ Section 327.73(1)(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. 29, 2019).

- 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

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 ⁴²	Base Registration Fee	Portion of Fee Remitted to County
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

Rural Areas of Opportunity

A rural area of opportunity (RAO) is a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.⁴³ The Governor may designate up

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. 29, 2019).

⁴⁰ Section 328.72(1), F.S.

⁴¹ Section 328.72(15), F.S. Section 206.606, F.S., establishes guidelines for the distribution and transfer of certain funds to the Marine Resources Conservation Trust Fund and also authorizes the FWC to adopt rules to administer a Florida Boating Improvement Program and provide for local public boating-related activities.

⁴² In general, the vessel class designates various length increments of vessels which range from less than 12 feet in length (class A1) up to 110 feet or more in length (class 5).

⁴³ Section 288.0656, F.S.

to three RAOs, which establishes each region as a priority assignment for Rural and Economic Development Initiative (REDI) agencies.⁴⁴

Undisbursed Appropriations Balances

Section 216.301(1), F.S., provides as of June 30th of each year, for appropriations for operations only, each department and the judicial branch shall identify in the state's financial system any incurred obligation which has not been disbursed, showing in detail the commitment or to whom obligated and the amounts of such commitments or obligations. Any appropriation not identified as an incurred obligation effective June 30th shall revert to the fund from which it was appropriated and shall be available for reappropriation by the Legislature.

III. Effect of Proposed Changes:

The bill requires a person to have either a boater safety identification card or a temporary certificate before renting and operating a vessel with a 10 horsepower or higher engine or electronic equivalent of such engine. Criteria for obtaining the temporary, 90-day certificate are established which replace a current 12-month temporary option. The bill also authorizes the Fish and Wildlife Conservation Commission (FWC) to appoint agents to administer qualifying boating safety education and temporary certificate requirement criteria. The agents are directed to collect the required fees associated with the credentials and are allowed to charge and keep a service fee for their efforts. Both the FWC and the agents may issue these safety credentials in digital, electronic, or paper format.

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;

⁴⁴ Section 288.0656(7)(a), F.S. The Northwest Rural Area of Opportunity includes Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, Walton, and Washington Counties and portions of Walton County; the South Central Rural Area of Opportunity includes DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties and portions of Collier and Palm Beach Counties; the North Central Rural Area of Opportunity includes Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union Counties. *See* Department of Economic Opportunity, Rural Areas of Opportunity, *available at* <http://floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity> (last visited Mar. 29, 2019)

- 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; public boat ramps, staging docks, and public marinas; 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 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 within the no-discharge zone from floating structures and live-aboard vessels not capable of being used as a means of transportation and from houseboats. 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 grant 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.

Undisbursed balances from fees may be reapportioned to fund the Florida Boating Improvement Program or public boating access. Appropriated funds not utilized by local governments for derelict vessel removal by the end of the third quarter in a fiscal year may be used by FWC to remove derelict vessels.

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:

Persons of any age who *rent* and operate certain vessels will have to obtain boater safety identification cards or temporary certificates. Costs for current safety training courses range from free up to \$30.

C. Government Sector Impact:

The bill may have an indeterminate fiscal impact on state government. The 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. A portion of county vessel registration fees will be redirected for deposit into the Marine Resources Conservation Trust Fund.

VI. Technical Deficiencies:

It appears that the reference to s. 206.06, F.S., (estimate of amount of fuel taxes due and unpaid) on line 320 should perhaps instead be s. 206.606, F.S., (distribution of certain proceeds) which is cross-referenced elsewhere in the bill.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 327.395, 327.4109, 327.60, 327.73, 328.72, 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/CS/CS by Rules on April 10, 2019:

- Revises the study required under the bill to also include investigation of the impacts of long-term stored vessels on public boat ramps, staging docks, and public marinas.
- Makes technical and clarifying changes to language authorizing a county designated as a rural area of opportunity to create a no-discharge zone.

CS/CS by Community Affairs on April 2, 2019:

- Retains 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 but includes vessels with electronic equivalent engines.
- Provides that a person of any age may not rent and operate the above motorized vessels without obtaining a boating safety identification card or temporary certificate.
- Establishes criteria for obtaining a temporary certificate which is valid for 90 days.
- Provides that safety identification cards or temporary certificates may be issued in a digital, electronic or paper format.
- Authorizes the FWC to appoint agents to administer qualifying boating safety education and temporary certificate requirements and collect related required fees. Agents are permitted to charge service fees for their efforts.
- Clarifies the types of vessels prohibited from discharging treated and untreated sewage in specified freshwater waterbodies.
- Provides that appropriated funds not utilized by local governments for derelict vessel removal as of a certain date each year may be used by FWC to remove derelict vessels.

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 coastal management; amending s.
3 161.101, F.S.; revising the criteria the Department of
4 Environmental Protection must consider in determining
5 and assigning annual funding priorities for beach
6 management and erosion control projects; specifying
7 tiers for such criteria; requiring tiers to be given
8 certain weight; requiring the department to update
9 active project lists on its website; redefining the
10 term "significant change"; revising the department's
11 reporting requirements; specifying allowable uses for
12 certain surplus funds; revising the requirements for a
13 specified summary; requiring that funding for certain
14 projects remain available for a specified period;
15 amending s. 161.143, F.S.; specifying the scope of
16 certain projects; revising the list of projects
17 included as inlet management projects; requiring that
18 certain projects be considered separate and apart from
19 other specified projects; revising the ranking
20 criteria to be used by the department to establish
21 certain funding priorities for certain inlet-caused
22 beach erosion projects; revising provisions
23 authorizing the department to spend certain
24 appropriated funds for the management of inlets;
25 deleting a provision authorizing the department to

26 | spend certain appropriated funds for specified inlet
27 | studies; revising the required elements of the
28 | department's report of prioritized inlet management
29 | projects; revising the funds that the department must
30 | make available to certain inlet management projects;
31 | requiring the department to include specified
32 | activities on the inlet management project list;
33 | deleting provisions requiring the department to make
34 | available funding for specified projects; deleting a
35 | requirement that the Legislature designate a project
36 | as an Inlet of the Year; requiring the department to
37 | update and maintain a report regarding the progress of
38 | certain inlet management projects; deleting certain
39 | temporary provisions relating to specified
40 | appropriations; revising the requirements for the
41 | report; amending s. 161.161, F.S.; revising
42 | requirements for the comprehensive long-term
43 | management plan; requiring the plan to include a
44 | strategic beach management plan, a critically eroded
45 | beaches report, and a statewide long-range budget
46 | plan; providing for the development and maintenance of
47 | such plans; deleting a requirement that the department
48 | submit a certain beach management plan on a certain
49 | date each year; requiring the department to hold a
50 | public meeting before finalization of the strategic

51 beach management plan; requiring the department to
 52 submit a 3-year work plan and a related forecast for
 53 the availability of funding to the Legislature;
 54 providing effective dates.

55
 56 Be It Enacted by the Legislature of the State of Florida:

57
 58 Section 1. Effective July 1, 2020, subsection (14) of
 59 section 161.101, Florida Statutes, is amended to read:

60 161.101 State and local participation in authorized
 61 projects and studies relating to beach management and erosion
 62 control.—

63 (14) The intent of the Legislature in preserving and
 64 protecting Florida's sandy beaches pursuant to this act is to
 65 direct beach erosion control appropriations to the state's most
 66 severely eroded beaches, and to prevent further adverse impact
 67 caused by improved, modified, or altered inlets, coastal
 68 armoring, or existing upland development. In establishing annual
 69 project funding priorities, the department shall seek formal
 70 input from local coastal governments, beach and general
 71 government interest groups, and university experts. The
 72 department shall implement a scoring system for annual project
 73 funding priorities that consists of criteria equally weighted
 74 within the following specified tiers ~~criteria to be considered~~
 75 ~~by the department in determining annual funding priorities shall~~

76 include:

77 (a) Tier 1 must account for 20 percent of the total score
 78 and consist of the tourism-related return on investment and the
 79 economic impact of the project. The return on investment of the
 80 project is the ratio of the tourism-related tax revenues for the
 81 most recent year to the amount of state funding requested for
 82 the proposed project. The economic impact of the project is the
 83 ratio of the tourism-related tax revenues for the most recent
 84 year to all county tax revenues for the most recent year. The
 85 department must calculate these ratios using state sales tax and
 86 tourism development tax data of the county having jurisdiction
 87 over the project area. If multiple counties have jurisdiction
 88 over the project area, the department must assess each county
 89 individually using these ratios. The department shall calculate
 90 the mean average of these ratios to determine the final overall
 91 assessment for the multicounty project ~~the severity of erosion~~
 92 ~~conditions, the threat to existing upland development, and~~
 93 ~~recreational and/or economic benefits.~~

94 (b) Tier 2 must account for 45 percent of the total score
 95 and consist of all of the following criteria:

96 1. The availability of federal matching dollars,
 97 considering federal authorization, the federal cost-share
 98 percentage, and the status of the funding award.

99 2. The storm damage reduction benefits of the project
 100 based on the following considerations:

101 a. The current condition of the project area, including
102 any recent storm damage impact, as a percentage of volume of
103 sand lost since the most recent beach nourishment event or most
104 recent beach surveys. If the project area has not been
105 previously restored, the department must use the historical
106 background erosion rate;

107 b. The overall potential threat to existing upland
108 development, including public and private structures and
109 infrastructure, based on the percentage of vulnerable shoreline
110 that exists within the project boundaries; and

111 c. The value of upland property benefiting from the
112 protection provided by the project and its subsequent
113 maintenance. A property must be within one-quarter mile of the
114 project boundaries to be considered under the criterion
115 specified in this sub-subparagraph.

116 3. The cost-effectiveness of the project based on the
117 yearly cost per volume per mile of proposed beach fill
118 placement. The department shall also consider the following when
119 assessing cost-effectiveness pursuant to this subparagraph:

120 a. The existence of projects with proposed structural or
121 design components that could extend the beach nourishment
122 interval;

123 b. Existing beach nourishment projects that reduce upland
124 storm damage costs by incorporating new or enhanced dune
125 structures or new or existing dune restoration and revegetation

126 projects;

127 c. Proposed innovative technologies designed to reduce
128 project costs; and

129 d. Regional sediment management strategies and
130 coordination to conserve sand source resources and reduce
131 project costs.

132 (c) Tier 3 must account for 20 percent of the total score
133 and consist of all of the following criteria: ~~The extent of~~
134 ~~local government sponsor financial and administrative commitment~~
135 ~~to the project, including a long-term financial plan with a~~
136 ~~designated funding source or sources for initial construction~~
137 ~~and periodic maintenance.~~

138 1. ~~(d)~~ Previous state commitment and involvement in the
139 project, considering previously funded phases, the total amount
140 of previous state funding, and previous partial appropriations
141 for the proposed project.

142 2. The recreational benefits of the project based on:

143 a. The accessible beach area added by the project; and

144 b. The percentage of linear footage within the project
145 boundaries which is zoned:

146 (I) As recreational or open space;

147 (II) For commercial use; or

148 (III) To otherwise allow for public lodging
149 establishments.

150 ~~(c) The anticipated physical performance of the proposed~~

151 ~~project, including the frequency of periodic planned~~
152 ~~nourishment.~~

153 3.(f) The extent to which the ~~proposed~~ project mitigates
154 the adverse impact of improved, modified, or altered inlets on
155 adjacent beaches.

156 ~~(g) Innovative, cost-effective, and environmentally~~
157 ~~sensitive applications to reduce erosion.~~

158 ~~(h) Projects that provide enhanced habitat within or~~
159 ~~adjacent to designated refuges of nesting sea turtles.~~

160 ~~(i) The extent to which local or regional sponsors of~~
161 ~~beach erosion control projects agree to coordinate the planning,~~
162 ~~design, and construction of their projects to take advantage of~~
163 ~~identifiable cost savings.~~

164 4.(j) The degree to which the project addresses the
165 state's most significant beach erosion problems as a function of
166 the linear footage of the project shoreline and the cubic yards
167 of sand placed per mile per year.

168 (d) Tier 4 must account for 15 percent of the total score
169 and consist of all of the following criteria:

170 1. Increased prioritization of projects that have been on
171 the department's ranked project list for successive years and
172 that have not previously secured state funding for project
173 implementation.

174 2. Environmental habitat enhancement, recognizing state or
175 federal critical habitat areas for threatened or endangered

176 species which may be subject to extensive shoreline armoring, or
177 recognizing areas where extensive shoreline armoring threatens
178 the availability or quality of habitat for such species. Turtle-
179 friendly designs, dune and vegetation projects for areas with
180 redesigned or reduced fill templates, proposed incorporation of
181 best management practices and adaptive management strategies to
182 protect resources, and innovative technologies designed to
183 benefit critical habitat preservation may also be considered.

184 3. The overall readiness of the project to proceed in a
185 timely manner, considering the project's readiness for the
186 construction phase of development, the status of required
187 permits, the status of any needed easement acquisition, the
188 availability of local funding sources, and the establishment of
189 an erosion control line. If the department identifies specific
190 reasonable and documented concerns that the project will not
191 proceed in a timely manner, the department may choose not to
192 include the project in the annual funding priorities submitted
193 to the Legislature.

194
195 If ~~In the event that~~ more than one project qualifies equally
196 under the provisions of this subsection, the department shall
197 assign funding priority to those projects shown to be most ~~that~~
198 ~~are~~ ready to proceed.

199 Section 2. Subsection (20) of section 161.101, Florida
200 Statutes, is amended to read:

201 161.101 State and local participation in authorized
 202 projects and studies relating to beach management and erosion
 203 control.—

204 (20) The department shall maintain active project lists,
 205 updated at least quarterly, ~~listings~~ on its website by fiscal
 206 year in order to provide transparency regarding those projects
 207 receiving funding and the funding amounts, and to facilitate
 208 legislative reporting and oversight. In consideration of this
 209 intent:

210 (a) The department shall notify the Executive Office of
 211 the Governor and the Legislature regarding any significant
 212 changes in the funding levels of a given project as initially
 213 requested in the department's budget submission and subsequently
 214 included in approved annual funding allocations. The term
 215 "significant change" means a project-specific change or
 216 cumulative changes that exceed the project's original allocation
 217 by \$500,000 or that exceed ~~those changes exceeding~~ 25 percent of
 218 the a project's original allocation.

219 1. Except as provided in subparagraph 2., if there is
 220 surplus funding, the department must notify and provide
 221 supporting justification ~~notification shall be provided~~ to the
 222 Executive Office of the Governor and the Legislature to indicate
 223 whether surplus ~~additional~~ dollars are intended to be used for
 224 inlet management projects pursuant to s. 161.143 or for beach
 225 restoration and beach nourishment projects, offered for

226 reversion as part of the next appropriations process, or used
 227 for other specified priority projects on active project lists.

228 2. The department may use surplus funds for projects
 229 identified in subparagraph 1. that do not have a significant
 230 change. The department must post the uses of such funds on the
 231 project listing web page of its website. The department is not
 232 required to post any other notice or supporting justification
 233 before it uses the surplus funds for a project that does not
 234 have a significant change.

235 (b) The department shall prepare a summary of specific
 236 project activities for the current fiscal year, their funding
 237 status, and changes to annual project lists for the current and
 238 preceding fiscal year. ~~shall be prepared by~~ The department shall
 239 include the summary and included with the department's
 240 submission of its annual legislative budget request.

241 (c) Funding for specific projects on annual project lists
 242 approved by the Legislature must remain available for such
 243 projects for 18 months. A local project sponsor may at any time
 244 release, in whole or in part, appropriated project dollars by
 245 formal notification to the department. The department, which
 246 shall notify the Executive Office of the Governor and the
 247 Legislature of such release and. ~~Notification must indicate in~~
 248 the notification how the project dollars are recommended
 249 ~~intended~~ to be used after such release.

250 Section 3. Subsections (2) through (5) of section 161.143,

251 Florida Statutes, are amended to read:

252 161.143 Inlet management; planning, prioritizing, funding,
253 approving, and implementing projects.-

254 (2) The department shall establish annual funding
255 priorities for studies, activities, or other projects concerning
256 inlet management. Such inlet management projects constitute the
257 intended scope of this section and s. 161.142 and consist of
258 ~~include, but are not limited to,~~ inlet sand bypassing,
259 improvement of infrastructure to facilitate sand bypassing,
260 modifications to channel dredging, jetty redesign, jetty repair,
261 disposal of spoil material, and the development, revision,
262 adoption, or implementation of an inlet management plan.
263 Projects considered for funding pursuant to this section must be
264 considered separate and apart from projects reviewed and
265 prioritized in s. 161.101(14). The funding priorities
266 established by the department under this section must be
267 consistent with the requirements and legislative declaration in
268 ss. 161.101(14), 161.142, and 161.161(1)(b). In establishing
269 funding priorities under this subsection and before transmitting
270 the annual inlet project list to the Legislature under
271 subsection (4) ~~(5)~~, the department shall seek formal input from
272 local coastal governments, beach and general government
273 associations and other coastal interest groups, and university
274 experts concerning annual funding priorities for inlet
275 management projects. In order to maximize the benefits of

276 efforts to address the inlet-caused beach erosion problems of
277 this state, the ranking criteria used by the department to
278 establish funding priorities for studies, activities, or other
279 projects concerning inlet management must include equal
280 consideration of:

281 (a) An estimate of the annual quantity of beach-quality
282 sand reaching the updrift boundary of the improved jetty or
283 inlet channel.

284 (b) The severity of the erosion to the adjacent beaches
285 caused by the inlet ~~and the extent to which the proposed project~~
286 ~~mitigates the erosive effects of the inlet.~~

287 (c) The overall significance and anticipated success of
288 the proposed project in mitigating the erosive effects of the
289 inlet, balancing the sediment budget of the inlet and adjacent
290 beaches, and addressing the sand deficit along the inlet-
291 affected shorelines.

292 (d) The extent to which ~~existing~~ bypassing activities at
293 an inlet would benefit from modest, cost-effective improvements
294 when considering the volumetric increases from the proposed
295 project, the availability of beach-quality sand currently not
296 being bypassed to adjacent eroding beaches, and the ease with
297 which such beach-quality sand may be obtained.

298 (e) The cost-effectiveness of sand made available by a
299 proposed inlet management project or activity relative to other
300 sand source opportunities that would be used to address inlet-

301 caused beach erosion ~~The interest and commitment of local~~
302 ~~governments as demonstrated by their willingness to coordinate~~
303 ~~the planning, design, construction, and maintenance of an inlet~~
304 ~~management project and their financial plan for funding the~~
305 ~~local cost share for initial construction, ongoing sand~~
306 ~~bypassing, channel dredging, and maintenance.~~

307 (f) The existence of a proposed or recently updated ~~The~~
308 ~~previous completion or approval of a state-sponsored inlet~~
309 ~~management plan or a local-government-sponsored inlet study~~
310 addressing ~~concerning the inlet addressed by the proposed~~
311 ~~project, the ease of updating and revising any such plan or~~
312 ~~study, and the adequacy and specificity of the plan's or study's~~
313 ~~recommendations concerning the mitigation of an inlet's erosive~~
314 ~~effects on adjacent beaches.~~

315 (g) The degree to which the proposed project will enhance
316 the performance and longevity of proximate beach nourishment
317 projects, thereby reducing the frequency of such periodic
318 nourishment projects.

319 (h) The project-ranking criteria in s. 161.101(14) to the
320 extent such criteria are applicable to inlet management studies,
321 projects, and activities and are distinct from, and not
322 duplicative of, the criteria listed in paragraphs (a)-(g).

323 (3) The department may pay from legislative appropriations
324 up to 75 percent of the construction costs of an initial major
325 inlet management project component for the purpose of mitigating

326 the erosive effects of the inlet to the shoreline and balancing
327 the sediment budget. The remaining balance of such construction
328 costs must be paid from other funding sources, such as local
329 sponsors. All project costs not associated with an initial major
330 inlet management project component must be shared equally by
331 state and local sponsors in accordance with, ~~pursuant to s.~~
332 ~~161.101 and notwithstanding s. 161.101(15), pay from legislative~~
333 ~~appropriations provided for these purposes 75 percent of the~~
334 ~~total costs, or, if applicable, the nonfederal costs, of a~~
335 ~~study, activity, or other project concerning the management of~~
336 ~~an inlet. The balance must be paid by the local governments or~~
337 ~~special districts having jurisdiction over the property where~~
338 ~~the inlet is located.~~

339 ~~(4) Using the legislative appropriation to the statewide~~
340 ~~beach management support category of the department's fixed~~
341 ~~capital outlay funding request, the department may employ~~
342 ~~university-based or other contractual sources and pay 100~~
343 ~~percent of the costs of studies that are consistent with the~~
344 ~~legislative declaration in s. 161.142 and that:~~

345 ~~(a) Determine, calculate, refine, and achieve general~~
346 ~~consensus regarding net annual sediment transport volumes to be~~
347 ~~used for the purpose of planning and prioritizing inlet~~
348 ~~management projects; and~~

349 ~~(b) Appropriate, assign, and apportion responsibilities~~
350 ~~between inlet beneficiaries for the erosion caused by a~~

351 ~~particular inlet on adjacent beaches.~~

352 (4)~~(5)~~ The department shall annually provide an inlet
353 management project list, in priority order, to the Legislature
354 as part of the department's budget request. ~~The list must~~
355 ~~include studies, projects, or other activities that address the~~
356 ~~management of at least 10 separate inlets and that are ranked~~
357 ~~according to the criteria established under subsection (2).~~

358 (a) The department shall designate for ~~make available at~~
359 ~~least 10 percent of the total amount that the Legislature~~
360 ~~appropriates in each fiscal year for statewide beach management~~
361 ~~for the three highest-ranked projects on the current year's~~
362 inlet management project list, in priority order, an amount that
363 is at least equal to the greater of:

364 1. Ten percent of the total amount that the Legislature
365 appropriates in the fiscal year for statewide beach management;
366 or

367 2. The percentage of inlet management funding requests
368 from local sponsors as a proportion of the total amount of
369 statewide beach management dollars requested in a given year.

370 (b) The department shall include inlet monitoring
371 activities ranked on the inlet management project list as one
372 aggregated subcategory on the overall inlet management project
373 list ~~make available at least 50 percent of the funds~~
374 ~~appropriated for the feasibility and design category in the~~
375 ~~department's fixed capital outlay funding request for projects~~

376 ~~on the current year's inlet management project list which~~
377 ~~involve the study for, or design or development of, an inlet~~
378 ~~management project.~~

379 ~~(c) The department shall make available all statewide~~
380 ~~beach management funds that remain unencumbered or are allocated~~
381 ~~to non-project-specific activities for projects on legislatively~~
382 ~~approved inlet management project lists. Funding for local-~~
383 ~~government specific projects on annual project lists approved by~~
384 ~~the Legislature must remain available for such purposes for a~~
385 ~~period of 18 months pursuant to s. 216.301(2) (a). Based on an~~
386 ~~assessment and the department's determination that a project~~
387 ~~will not be ready to proceed during this 18-month period, such~~
388 ~~funds shall be used for inlet management projects on~~
389 ~~legislatively approved lists.~~

390 ~~(5)(d) The Legislature shall designate one of the three~~
391 ~~highest projects on the inlet management project list in any~~
392 ~~year as the Inlet of the Year. The department shall update and~~
393 ~~maintain an annual annually report on its website to the~~
394 ~~Legislature concerning the extent to which each inlet project~~
395 ~~designated by the Legislature as Inlet of the Year has succeeded~~
396 ~~in balancing the sediment budget of the inlet and adjacent~~
397 ~~beaches and in, mitigating the inlet's erosive effects on~~
398 ~~adjacent beaches. The report must estimate the quantity of~~
399 ~~sediment bypassed, transferred, and transferring or otherwise~~
400 ~~placed ~~placing~~ beach-quality sand on adjacent eroding beaches,~~

401 or in such beaches' nearshore area, for the purpose of
402 offsetting the erosive effects of inlets on the beaches of this
403 state.

404 Section 4. Effective July 1, 2020, subsections (2) through
405 (7) of section 161.161, Florida Statutes, are renumbered as
406 subsections (3) through (8), respectively, subsection (1) and
407 present subsection (2) are amended, and a new subsection (2) is
408 added to that section, to read:

409 161.161 Procedure for approval of projects.—

410 (1) The department shall develop and maintain a
411 comprehensive long-term beach management plan for the
412 restoration and maintenance of the state's critically eroded
413 beaches fronting the Atlantic Ocean, Gulf of Mexico, and Straits
414 of Florida. In developing and maintaining this ~~the beach~~
415 ~~management~~ plan, the department shall:

416 (a) Address long-term solutions to the problem of
417 critically eroded beaches in this state.

418 (b) Evaluate each improved, modified, or altered inlet and
419 determine whether the inlet is a significant cause of beach
420 erosion. With respect to each inlet determined to be a
421 significant cause of beach erosion, the plan shall include:

422 ~~1.~~ the extent to which such inlet causes beach erosion and
423 recommendations to mitigate the erosive impact of the inlet,
424 including, but not limited to, ~~recommendations regarding~~ inlet
425 sediment bypassing; improvement of infrastructure to facilitate

426 sand bypassing; modifications to channel dredging, jetty design,
427 and disposal of spoil material; establishment of feeder beaches;
428 and beach restoration and beach nourishment;~~and~~

429 ~~2. Cost estimates necessary to take inlet corrective~~
430 ~~measures and recommendations regarding cost sharing among the~~
431 ~~beneficiaries of such inlet.~~

432 (c) Evaluate ~~Design~~ criteria for beach restoration and
433 beach nourishment projects, including, but not limited to, 1.~~2.~~

434 ~~1. dune elevation and width and revegetation and~~
435 ~~stabilization requirements;~~ and

436 ~~2. beach profiles~~ profile.

437 (d) Consider ~~Evaluate~~ the establishment of regional
438 sediment management alternatives for one or more individual
439 beach and inlet sand bypassing projects ~~feeder beaches~~ as an
440 alternative to ~~direct~~ beach restoration when appropriate and
441 cost-effective, and recommend the location of such regional
442 sediment management alternatives ~~feeder beaches~~ and the source
443 of beach-compatible sand.

444 (e) Identify causes of shoreline erosion and change,
445 determine ~~calculate~~ erosion rates, and maintain an updated list
446 of critically eroded sandy beaches based on data, analyses, and
447 investigations of shoreline conditions ~~and project long-term~~
448 ~~erosion for all major beach and dune systems by surveys and~~
449 ~~profiles.~~

450 (f) ~~Identify shoreline development and degree of density~~

451 ~~and~~ Assess impacts of development and coastal protection
452 ~~shoreline protective~~ structures on shoreline change and erosion.

453 (g) Identify short-term and long-term economic costs and
454 benefits of beaches to the state and individual beach
455 communities, ~~including recreational value to user groups, tax~~
456 ~~base, revenues generated, and beach acquisition and maintenance~~
457 ~~costs~~.

458 (h) Study dune and vegetation conditions, identify
459 existing beach projects without dune features or with dunes
460 without adequate elevations, and encourage dune restoration and
461 revegetation to be incorporated as part of storm damage recovery
462 projects or future dune maintenance events.

463 (i) Identify beach areas used by marine turtles and
464 develop strategies for protection of the turtles and their nests
465 and nesting locations.

466 (j) Identify alternative management responses to preserve
467 undeveloped beach and dune systems and, to restore damaged beach
468 and dune systems. In identifying such management responses, the
469 department shall consider, at a minimum, and to prevent
470 ~~inappropriate development and redevelopment on migrating~~
471 ~~beaches, and consider~~ beach restoration and nourishment,
472 armoring, relocation ~~and abandonment~~, dune and vegetation
473 restoration, and acquisition.

474 (k) Document procedures and policies for preparing post-
475 storm damage assessments and corresponding recovery plans,

476 including repair cost estimates ~~Establish criteria, including~~
477 ~~costs and specific implementation actions, for alternative~~
478 ~~management techniques.~~

479 (1) Identify and assess ~~Select and recommend~~ appropriate
480 management measures for all of the state's critically eroded
481 ~~sandy beaches in a beach management program.~~

482 ~~(m) Establish a list of beach restoration and beach~~
483 ~~nourishment projects, arranged in order of priority, and the~~
484 ~~funding levels needed for such projects.~~

485 (2) The comprehensive long-term management plan developed
486 and maintained by the department pursuant to subsection (1) must
487 include, at a minimum, a strategic beach management plan, a
488 critically eroded beaches report, and a statewide long-range
489 budget plan. The long-range budget plan must include a 3-year
490 work plan for beach restoration, beach nourishment, and inlet
491 management projects that lists planned projects for each of the
492 3 fiscal years addressed in the work plan.

493 (a) The strategic beach management plan must identify and
494 recommend appropriate measures for all of the state's critically
495 eroded sandy beaches and may incorporate plans ~~be~~ prepared at
496 the regional level, taking into account ~~based upon~~ areas of
497 greatest need and probable federal and local funding. Upon
498 approval in accordance with this section, such regional plans,
499 along with the 3-year work plan identified in subparagraph
500 (c)1., must ~~shall be components of the statewide beach~~

501 ~~management plan and shall~~ serve as the basis for state funding
502 ~~decisions upon approval in accordance with chapter 86-138, Laws~~
503 ~~of Florida. Before finalizing the strategic beach management~~
504 ~~plan~~ In accordance with a schedule established for the
505 ~~submission of regional plans by the department, any completed~~
506 ~~plan must be submitted to the secretary of the department for~~
507 ~~approval no later than March 1 of each year. These regional~~
508 ~~plans shall include, but shall not be limited to,~~
509 ~~recommendations of appropriate funding mechanisms for~~
510 ~~implementing projects in the beach management plan, giving~~
511 ~~consideration to the use of single county and multicounty taxing~~
512 ~~districts or other revenue generation measures by state and~~
513 ~~local governments and the private sector. Prior to presenting~~
514 ~~the plan to the secretary of the department, the department~~
515 ~~shall hold a public meeting in the region areas for which the~~
516 ~~plan is prepared or hold a publicly noticed webinar. ~~The plan~~~~
517 ~~submission schedule shall be submitted to the secretary for~~
518 ~~approval. Any revisions to such schedule must be approved in~~
519 ~~like manner.~~

520 (b) The critically eroded beaches report must be developed
521 and maintained based primarily on the requirements specified in
522 paragraph (1) (e).

523 (c) The statewide long-range budget plan must include at
524 least 5 years of planned beach restoration, beach nourishment,
525 and inlet management project funding needs as identified, and

526 subsequently refined, by local government sponsors. This plan
527 must consist of two components:

528 1. A 3-year work plan that identifies beach restoration,
529 beach nourishment, and inlet management projects viable for
530 implementation during the next 3 fiscal years, as determined by
531 available cost-sharing, local sponsor support, regulatory
532 considerations, and the ability of the project to proceed as
533 scheduled. The 3-year work plan must, for each fiscal year,
534 identify proposed projects and their current development status,
535 listing them in priority order based on the applicable criteria
536 established in ss. 161.101(14) and 161.143(2). Specific funding
537 requests and criteria ranking, pursuant to ss. 161.101(14) and
538 161.143(2), may be modified as warranted in each successive
539 fiscal year, and such modifications must be documented and
540 submitted to the Legislature with each 3-year work plan. Year
541 one projects shall consist of those projects identified for
542 funding consideration in the ensuing fiscal year.

543 2. A long-range plan that identifies projects for
544 inclusion in the fourth and fifth ensuing fiscal years. These
545 projects may be presented by region and do not need to be
546 presented in priority order; however, the department should
547 identify issues that may prevent successful completion of such
548 projects and recommend solutions that would allow the projects
549 to progress into the 3-year work plan.

550 (3)-(2) Annually, The secretary shall present the 3-year

551 work plan to the Legislature annually. The work plan must be
552 accompanied by a 3-year financial forecast for the availability
553 of funding for the projects ~~recommendations for funding beach~~
554 ~~erosion control projects prioritized according to the criteria~~
555 ~~established in s. 161.101(14).~~

556 Section 5. Except as otherwise expressly provided in this
557 act, this act shall take effect July 1, 2019.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 325 Coastal Management
SPONSOR(S): State Affairs Committee, LaMarca and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 446

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	10 Y, 0 N	Melkun	Shugar
2) Agriculture & Natural Resources Appropriations Subcommittee	8 Y, 0 N	White	Pigott
3) State Affairs Committee	22 Y, 0 N, As CS	Melkun	Williamson

SUMMARY ANALYSIS

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

As it relates to beach management projects, the bill revises and provides more detail on the criteria DEP must consider when ranking beach management projects for funding consideration and requires DEP to implement a scoring system for annual project funding priorities that consists of criteria divided into four tiers. The bill assigns each tier a certain percentage of overall point value and requires that the criteria be equally weighted within each tier. The bill changes how DEP may utilize surplus funds and the procedures that must be followed.

For inlet management projects, the bill:

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

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

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Beach Management

Present Situation

Beach Management Funding Assistance Program

There are 825 miles of sandy shores lining Florida's coasts, fronting the Atlantic Ocean, Gulf of Mexico, and Straits of Florida. These beaches serve several important functions in maintaining the health of Florida's economy and environment. The coastal sandy beach system is home to hundreds of species of plants and animals that are dependent upon the beaches, dunes, and nearshore waters.¹ Beaches also serve as Florida's primary tourist attraction, generating millions of dollars for Florida's economy. The Office of Economic and Demographic Research (EDR) identified beaches as the most important feature of Florida and have the strongest effect in terms of attracting tourists.² Nourished beaches contribute to the expanding federal, state, and local tax bases; increase sales, income, and employment opportunities from resident and visitor spending; and enhance property values by protecting the developed shorefront from storm surges thereby preventing loss of upland property.³ For every dollar spent by the state on beach restoration, \$5.40 of additional tax revenue was generated during the 2010-2011 through 2012-2013 fiscal years.⁴

Beaches are subject to both natural and manmade erosion. Sand naturally moves along the shore due to wind driven currents and tides, and storms can cause dramatic and immediate changes to the coastline. The majority of manmade erosion is caused by the creation and maintenance of inlets where the sand has historically been removed from the coastal system and the natural drift of sand along the shore is blocked by jetties, trapped in channels, or moved into ebb and flood shoals. The development and placement of infrastructure near the shore also contributes to coastal erosion by preventing the storage of sand in dunes and hardening the shore for protection of upland property.⁵

Due to storm events, construction and maintenance of inlets, imprudent coastal development, and other factors, 420.9 miles of Florida's beaches are critically eroded.⁶ Recognizing the importance of the state's beaches and the problems presented by erosion, the Legislature declared a necessity to protect and restore the state's beaches through a comprehensive beach management planning program.⁷ Under the planning program, the Department of Environmental Protection (DEP) evaluates beach

¹ Department of Environmental Protection (DEP), *Beaches and Coastal Systems*, available at <https://floridadep.gov/water/beaches> (last visited Feb. 5, 2019).

² EDR, *Economic Evaluation of Florida's Investment in Beaches*, p. 9 (Jan. 2015), available at <http://edr.state.fl.us/Content/returnoninvestment/BeachReport.pdf> (last visited Feb. 5, 2019).

³ DEP, *Strategic Beach Management Plan*, p. 1 (May 2018), available at https://floridadep.gov/sites/default/files/SBMP-Introduction_0.pdf (last visited Feb. 5, 2019).

⁴ EDR, *Economic Evaluation of Florida's Investment in Beaches*, p. 12 (Jan. 2015), available at <http://edr.state.fl.us/Content/returnoninvestment/BeachReport.pdf> (last visited Feb. 5, 2019).

⁵ DEP, *Strategic Beach Management Plan*, p. 1 (May 2018), available at https://floridadep.gov/sites/default/files/SBMP-Introduction_0.pdf (last visited Feb. 5, 2019).

⁶ DEP, *Critically Eroded Beaches in Florida Report*, p. 5 (June 2018), available at <https://floridadep.gov/sites/default/files/CriticallyErodedBeaches.pdf> (last visited Feb. 5, 2019); A "critically eroded shoreline" is a segment of shoreline where natural processes or human activities have caused, or contributed to, erosion and recession of the beach and dune system to such a degree that upland development, recreational interests, wildlife habitat or important cultural resources are threatened or lost. Critically eroded shoreline may also include adjacent segments or gaps between identified critical erosion areas which, although they may be stable or slightly erosional now, their inclusion is necessary for continuity of management of the coastal system or for the design integrity of adjacent beach management projects; r. 62B-36.002(5), F.A.C.

⁷ Sections 161.088 and 161.091, F.S.

erosion problems throughout the state seeking viable solutions.⁸ The Beach Management Funding Assistance Program (program) serves as the primary vehicle to implement the beach management planning recommendations and works with local, state, and federal governmental entities to achieve the protection, preservation, and restoration of the coastal resources of the state.⁹ The program provides cost-share to county and municipal governments, community development districts, or special taxing districts (collectively “local sponsors”) for shore protection and preservation activities to implement beach management and inlet management projects.¹⁰ DEP annually evaluates and ranks beach management and inlet management project funding requests submitted by local sponsors and submits a recommendation to the Legislature for funding consideration.¹¹

OPPAGA Report on Beach Management Funding

In December 2014, the Office of Program Policy Analysis and Government Accountability (OPPAGA) released a report evaluating DEP’s process for selecting and prioritizing local beach management and inlet management projects. The review considered the existing statutory criteria and related administrative rules and the funding request application process, information requirements, and timeline. Further, OPPAGA reviewed how DEP uses each ranking criteria for establishing the annual priority order for beach management and restoration projects.¹²

The report made several findings, including:

- Certain criteria accounts for the majority of the points awarded;
- Certain criteria only apply to a limited number of projects;
- The criteria do not adequately account for the economic impact of beach projects;
- The criteria do not adequately account for a project’s cost effectiveness or performance;
- The criteria do not account for the impacts of recent storms or current conditions of the shoreline;
- Stakeholders found the application requirements for funding to be too complicated and time consuming; and
- Stakeholders perceived a bias for projects that received federal funding.¹³

Beach Management Projects

“Beach Management” is protecting, maintaining, preserving, or enhancing Florida’s beaches. Beach management activities include beach restoration¹⁴ and nourishment¹⁵ activities, dune protection and restoration, restoration of natural shoreline processes, removal of derelict structures and obstacles to natural shoreline process, and construction of erosion control structures (projects).¹⁶ To receive funding, projects must be consistent with the adopted Strategic Beach Management Plan.¹⁷ Funding for these projects comes from federal, state, and local government sources. DEP may provide financial assistance to local sponsors in an amount up to 75 percent of the project costs for projects located on critically eroded beaches fronting the Gulf of Mexico, Atlantic Ocean, or Straits of Florida.¹⁸ However,

⁸ Section 161.101(2), F.S.

⁹ DEP, *Beaches Funding Program*, available at <https://floridadep.gov/water/beaches-funding-program> (last visited Feb. 5, 2019).

¹⁰ Rules 62B-36.001 and 62B-36.002(9), F.A.C.

¹¹ Sections 161.101 and 161.143, F.S.

¹² OPPAGA, *The Beach Management Funding Assistance Program Was Recently Improved, but Some Stakeholder Concerns Persist*, available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=14-12> (last visited Feb. 5, 2019).

¹³ *Id.*

¹⁴ “Beach restoration” is the placement of sand on an eroded beach for the purposes of restoring it as a recreational beach and providing storm protection for upland properties; s. 161.021(4), F.S.

¹⁵ “Beach nourishment” is the maintenance of a restored beach by the replacement of sand; s. 161.021(3), F.S.

¹⁶ Rule 62B-36.002(3), F.A.C.

¹⁷ Rule 62B-36.005(3), F.A.C.

¹⁸ Sections 161.101(1) and 161.101(7), F.S.

until the unmet demand for repairing beaches and dunes is met, DEP may only provide cost-share up to 50 percent of the non-federal share.¹⁹

Projects must provide adequate public access, protect natural resources, and provide protection for endangered and threatened species.²⁰ Further, DEP may not fund projects that provide only recreational benefits. All funded activities must have an identifiable beach erosion control or beach preservation benefit directed toward maintaining or enhancing sand in the system.²¹ Currently, local, state and federal entities manage approximately 227 miles of critically eroded beaches in Florida.²²

Annually, local sponsors submit cost-share funding requests to DEP.²³ DEP must then evaluate and rank these requests based on the information submitted by the local sponsor.²⁴ DEP prioritizes the projects based on the following criteria:

- Severity of erosion conditions, the threat to existing upland development, and recreational or economic benefits;
- Availability of federal matching dollars;
- Extent of the local government sponsor financial and administrative commitment to the project;
- Previous state commitment and involvement in the project;
- Anticipated physical performance of the proposed project, including the frequency of periodic planned nourishment;
- Extent to which the proposed project mitigates the adverse impact of improved, modified, or altered inlets on adjacent beaches;
- Innovative, cost-effective, and environmentally sensitive applications to reduce erosion;
- Projects that provide enhanced habitat within or adjacent to designated refuges of nesting sea turtles;
- Extent to which local or regional sponsors of beach erosion control projects agree to coordinate the planning, design, and construction of their projects to take advantage of identifiable cost savings; and
- Degree to which the project addresses the state's most significant beach erosion problems.²⁵

In the event that more than one project ranks equally, DEP must assign funding priority to those projects that are ready to proceed.²⁶ DEP adopted a point system for scoring projects based on the criteria in the statute. Each criterion can have more than one component. The following table illustrates how points are assigned.

¹⁹ Section 161.101(15), F.S.; rr. 62B-36.003(9) and 62B-36.007(1), F.A.C.; DEP may pay up to 100 percent of the costs of a project when the state is the upland riparian owner; s. 161.101(10), F.S.

²⁰ Section 161.101(12), F.S.

²¹ Section 161.101(13), F.S.

²² DEP, *Beaches Funding Program*, available at <https://floridadep.gov/water/beaches-funding-program> (last visited Feb. 5, 2019).

²³ Rule 62B-36.005(1), F.A.C.

²⁴ Rules 62B-36.005(3) and 62B-36.005(4), F.A.C.

²⁵ Section 161.101(14), F.S.

²⁶ *Id.*

Beach Management Ranking Points²⁷		
Statutory Criteria	Number of Component Criteria	Available Points
Significance	6	20
Local Sponsor Financial and Administrative Commitment	6	10
Previous State Commitment	4	10
Availability of Federal Funds	3	10
Recreational and Economic Benefit	1	10
Severity of Erosion	1	10
Mitigation of Inlet Effects	1	10
Threat to Upland Structures	1	10
Project Performance	2	10
Innovative Technologies	2	5
Regionalization	1	5
Enhance Refuges of Nesting Sea Turtles	1	5

Once DEP creates a ranking list, the local sponsors have 21 days to review the list and provide clarification to support additional points.²⁸ Then, DEP considers the requests, finalizes a ranking, and submits a recommendation to the Legislature for funding consideration.²⁹ As part of the annual legislative budget request, DEP must prepare a summary of specific project activities for the current fiscal year, funding status, and changes to annual project lists.³⁰

DEP must maintain active project listings on the website by fiscal year in order to provide transparency regarding projects receiving funding and to facilitate legislative reporting and oversight. DEP must notify the Governor and the Legislature if the funding levels of a given project significantly change from what the local sponsor initially requested in DEP's budget submission and subsequently included in approved annual funding allocations. The term "significant change" means changes exceeding 25 percent of a project's original allocation.³¹ If there is surplus funding, DEP must notify the Governor and the Legislature to indicate whether the intention is to use the additional dollars for inlet management projects, reversion as part of the next appropriations process, or for other specified priority projects on active project lists.³²

A local sponsor may at any time release, in whole or in part, appropriated project dollars by formal notification to DEP. DEP must then notify the Governor and the Legislature and indicate how the project dollars will be used.³³

Effect of the Proposed Changes

The bill amends s. 161.101(14), F.S., to revise and clarify the criteria DEP must consider when ranking beach management projects for funding consideration. The bill requires DEP to implement a scoring system for annual project funding priorities that consists of criteria divided into a four-tier scoring system, assigns each tier a certain percentage of overall point value, and requires that the criteria be equally weighted within each tier.

²⁷ Rule 62B-36.006(1), F.A.C.; *see also*, ss. 161.101(1) – (6), F.S.

²⁸ Rule 62B-36.005(4), F.A.C.

²⁹ Section 161.161(2), F.S.

³⁰ Section 161.101(20)(b), F.S.

³¹ Section 161.101(20)(a), F.S.

³² *Id.*

³³ Section 161.101(20)(c), F.S.

Tier one addresses tourism-related return on investment and the economic impact of beach management projects and must account for 20 percent of the total score. DEP must weigh the following criteria equally in tier one:

- Return on investment by applying the ratio of the tourism-related tax revenues for the most recent year to the amount of state funding requested for the proposed project; and
- Economic impact of the project by applying the ratio of the tourism-related tax revenues for the most recent year to all county tax revenues for the most recent year.³⁴

DEP must calculate the ratios in tier one by using state sales tax and tourism development tax data of the county with jurisdiction over the project area. If the proposed beach management project covers two jurisdictions, DEP must assess each county individually then calculate the average.

Tier two accounts for 45 percent of the total score, and requires DEP to weigh the following criteria equally:

- Availability of federal matching dollars considering federal authorization, the federal cost-share percentage, and the status of the funding award;³⁵
- The storm damage reduction benefit of the beach management project based on following considerations:
 - The current condition of the project area, including any recent storm damage impact, as a percentage of volume of sand lost since the most recent beach nourishment event or most recent beach surveys. DEP must use the historical background erosion rate if the project has not been previously restored;³⁶
 - The overall potential threat to existing upland development, including public and private infrastructure, based on a percentage of vulnerable structures within the project boundaries;³⁷ and
 - The value of upland property benefiting from the protection provided by the project and subsequent maintenance. DEP must only consider property within one quarter of a mile from the project boundaries when creating this score;
- The cost-effectiveness of the proposed beach management project based on yearly cost per volume per mile of proposed beach fill placement.³⁸ When assessing cost effectiveness, DEP must also consider:
 - Existence of projects with proposed structural or design components that extend the beach nourishment interval;³⁹
 - Existence of beach nourishment projects that reduce upland damage cost by incorporating new or enhanced dune structures or new or existing dune restoration and revegetation projects;⁴⁰
 - Proposed innovative technologies designed to reduce project costs;⁴¹ and
 - Regional sediment management strategies and coordination to conserve sand source resources and reduce project costs.⁴²

³⁴ This is similar to existing criteria in s. 161.101(14)(a), F.S., and r. 62B-36.006(1)(c), F.A.C.

³⁵ This is similar to existing criteria in s. 161.101(14)(b), F.S., and r. 62B-36.006(1)(d), F.A.C.

³⁶ This is similar to existing criteria in s. 161.101(14)(a), F.S., and r. 62B-36.006(1)(a), F.A.C.; These criteria will measure the volume of sand lost from the last beach nourishment or most recent beach survey and not the last beach restoration, define beach restoration as the placement of sand on an eroded beach, define beach nourishment as the maintenance of a restored beach, and will prevent DEP from using data on the sand lost from the initial placement of sand on an eroding beach unless a recent beach survey has been performed.

³⁷ This is similar to existing criteria in s. 161.101(14)(a), F.S., and r. 62B-36.006(1)(b), F.A.C.

³⁸ This is similar to existing criteria in s. 161.101(14)(g), F.S., and r. 62B-36.006(1)(g), F.A.C.

³⁹ This is similar to existing criteria in s. 161.101(14)(e), F.S., and r. 62B-36.006(1)(g), F.A.C.

⁴⁰ This is similar to existing criteria in s. 161.101(14)(e), F.S., and r. 62B-36.006(1)(g), F.A.C. This revised criterion will only consider beach nourishment projects incorporating new or enhanced dune structures or new or existing dune restoration and revegetation projects and will not consider beach restoration projects that incorporate such dune structures; thus, only applying to projects that have already accomplished one maintenance event.

⁴¹ This is similar to existing criteria in s. 161.101(14)(g), F.S., and r. 62B-36.006(1)(i), F.A.C.

⁴² This is similar to existing criteria in s. 161.101(14)(i), F.S., and r. 62B-36.006(1)(k), F.A.C.

Tier three accounts for 20 percent of the total score and requires DEP to weigh the following criteria equally:

- Previous state commitment, considering previously funded phases, the total amount of previous state funding, and previous partial appropriations for the proposed project;⁴³
- Recreational benefit of the beach management project based on:
 - Accessibility of the beach area added to the project, which is a new criteria; and
 - Percentage of linear footage within the project boundaries that is zoned as recreational or open space, for commercial use, and to otherwise allow public lodging establishments;⁴⁴
- Extent that the beach management project mitigates adverse impacts of improved, modified, or altered inlets on adjacent beach;⁴⁵ and
- Degree that the beach management project addresses most significant beach erosion problems based on the ratio of the linear footage of the project shoreline to the cubic yards of sand placed per mile per year.⁴⁶

Tier four accounts for 15 percent of the total score and requires DEP to weigh the following criteria equally:

- Increased prioritization for projects continually ranked on a DEP project list for successive years that have not previously secured state funding for project implementation;
- Environmental habitat enhancement, recognizing state or federal critical habitat areas for threatened or endangered species that may be subject to extensive shoreline armoring or recognizing areas where extensive shoreline armoring threatens the availability or quality of habitat for such species. The bill allows DEP to consider turtle-friendly designs, dune and vegetation projects for areas with redesigned or reduced fill templates, proposed incorporation of best management practices and adaptive management strategies to protect resources, and innovative technologies designed to benefit critical habitat preservation;⁴⁷ and
- The overall readiness of the beach management project to proceed.⁴⁸ The bill requires DEP to consider the readiness of beach management projects, including readiness for the construction phase of development, the status of required permits, the status of any needed easement acquisition, the availability of local funding sources, and the establishment of an erosion control line.⁴⁹

If DEP identifies specific reasonable and documented concerns that the project will not proceed in a timely manner, DEP may choose not to include the project in the annual funding priorities submitted to the Legislature.⁵⁰

The bill removes s. 161.101(14)(c), F.S., to eliminate the requirement that DEP assign points for the financial and administrative commitment to the project by the local sponsor, including a long-term financial plan with a designated funding source or sources for initial construction and periodic maintenance. Currently, local sponsors may receive up to 10 points for this criterion.⁵¹

⁴³ This is similar to existing criteria in s. 161.101(14)(d), F.S., and r. 62B-36.006(1)(f), F.A.C.

⁴⁴ This is similar to existing criteria in s. 161.101(14)(a), F.S., and r. 62B-36.006(1)(c), F.A.C.

⁴⁵ This is similar to existing criteria in s. 161.101(14)(f), F.S., and r. 62B-36.006(1)(h), F.A.C.

⁴⁶ This is similar to existing criteria in s. 161.101(14)(j), F.S., and r. 62B-36.006(1)(l)6., F.A.C.

⁴⁷ These criteria are similar to existing criteria in s. 161.101(14)(h), F.S., and r. 62B-36.006(1)(j), F.A.C.; however, it will likely apply to more beach management projects.

⁴⁸ This is similar to the existing tie breaking criteria in s. 161.101(14), F.S., and r. 62B-36.006(1)(m), F.A.C.

⁴⁹ An “erosion control line” is the line determined in accordance with the procedures in ch. 161, F.S., that represents the landward extent of the claims of the state in its capacity as sovereign titleholder of the submerged bottoms and shores of the Atlantic Ocean, the Gulf of Mexico, and the bays, lagoons and other tidal reaches thereof on the date of the recording of the survey; s. 161.151(3), F.S.

⁵⁰ This is similar to the procedures in s. 161.143(5)(c), F.S.; however, this new procedure prevents projects from receiving funds in the first place, rather than requiring the local sponsor to return the funds if a project is not ready to proceed.

⁵¹ Rule 62B-36.006(1)(e), F.A.C.

The bill amends s. 161.101(14), F.S., to change the tiebreaking criteria if two beach management projects receive the same score by requiring DEP to assign the highest priority to the beach management projects shown most ready to proceed, rather than the projects that are ready to proceed.

The bill amends s. 161.101(20), F.S., to require DEP to quarterly update the active beach management project list on its website.

The bill amends s. 161.101(20)(a), F.S., to change the definition of “significant change” to include a project-specific change or cumulative changes that exceed the project’s original allocation by \$500,000. When a funding level for a project significantly changes from the amount the local sponsor requested and was approved in the funding allocation, DEP must notify the Governor and the Legislature how the surplus funds will be used.

The bill creates s. 161.101(20)(a)1., F.S., to change how DEP utilizes surplus funds. If there is available surplus funding from a significant change, DEP must provide supporting justification to the Governor and the Legislature to indicate how the surplus dollars will be used. The bill allows surplus dollars to be used on beach restoration and beach nourishment projects. Currently, DEP may only use surplus funds for inlet management projects approved by the Legislature, offered for reversion as part of the next appropriations process, or used for other specified priority projects on active project lists.

The bill creates s. 161.101(20)(a)2., F.S., to authorize DEP to use surplus funds from projects that do not have a significant change for inlet management projects, beach restoration and beach nourishment projects, reversion as part of the next appropriations process, or other specified priority projects on active project lists. The bill requires DEP to post the use of surplus funds from a project that did not significantly change on the website. However, the bill does not require DEP to provide notice and supporting justification to the Governor and Legislature before using the surplus funds, as was previously required.

The bill amends s. 161.101(20)(c), F.S., to require funding for specific projects on annual project lists approved by the Legislature to remain available for such projects for 18 months. This provision was moved from s. 161.143(5)(c), F.S.

The changes to s. 161.101(14), F.S., related to the beach ranking criteria have an effective date of July 1, 2020. The changes to s. 161.101(20), F.S., related to surplus funds have an effective date of July 1, 2019.

Inlet Management Projects

Present Situation

Inlets interrupt or alter the natural littoral drift of sand resources. This often results in sand resources depositing in nearshore areas, in the inlet channel, or in the inland waterway adjacent to the inlet, instead of providing natural nourishment to the adjacent eroding beaches. The Legislature declared it is in the public interest to replicate the natural drift of sand interrupted or altered by inlets. Such projects should balance the sediment budget of the inlet and adjacent beaches and extend the life of proximate beach restoration projects so that periodic nourishment is needed by the local sponsor less frequently.⁵²

“Inlet Management” is comprised of actions taken to minimize, eliminate, or mitigate the effects of the inlet on the adjacent shorelines, including feasibility, engineering, design, environmental studies, construction, and post-construction monitoring to support such activities.⁵³ Inlet management projects

⁵² Section 161.142, F.S.

⁵³ Rule 62B-36.002(8), F.A.C.

include, but are not limited to, inlet sand bypassing,⁵⁴ modifications to channel dredging, jetty redesign, jetty repair, disposal of spoil material, and the development, revision, adoption, or implementation of an inlet management plan.⁵⁵

Funding for these projects comes from federal, state, and local government sources. DEP may use legislative appropriations to pay for 75 percent of the non-federal cost-share of inlet management projects, and local sponsors must pay the balance of such costs.⁵⁶ Further, DEP may employ university-based or other contractual sources and pay 100 percent of the costs of studies that are consistent with the state's inlet policies and determine, calculate, refine, and achieve general consensus regarding net annual sediment transport volumes to be used for the purpose of planning and prioritizing inlet management projects; and appropriate, assign, and apportion responsibilities between inlet beneficiaries for the erosion caused by a particular inlet on adjacent beaches.

Local sponsors submit annual funding requests for inlet management projects to DEP⁵⁷ for evaluation and ranking based on the information received before DEP submits a funding recommendation to the Legislature.⁵⁸ DEP prioritizes the projects based on the following criteria:

- Estimate of the annual quantity of beach-quality sand reaching the updrift boundary of the improved jetty or inlet channel;
- Severity of the erosion to the adjacent beaches caused by the inlet and the extent that the proposed project mitigates the erosive effects of the inlet;
- Overall significance and anticipated success of the proposed project in balancing the sediment budget of the inlet and adjacent beaches and addressing the sand deficit along the inlet-affected shorelines;
- Extent to which existing bypassing activities at an inlet would benefit from modest, cost-effective improvements when considering the volumetric increases from the proposed project, the availability of beach-quality sand currently not bypassed to adjacent eroding beaches, and the ease with which such beach-quality sand may be obtained;
- Interest and commitment of local governments as demonstrated by their willingness to coordinate the planning, design, construction, and maintenance of an inlet management project and their financial plan for funding the local cost-share for initial construction, ongoing sand bypassing, channel dredging, and maintenance;
- Previous completion or approval of a state-sponsored inlet management plan or local-government-sponsored inlet study concerning the inlet addressed by the proposed project, the ease of updating and revising any such plan or study, and the adequacy and specificity of the recommendations of the plan or study concerning the mitigation of an inlet's erosive effects on adjacent beaches;
- Degree to which the proposed project will enhance the performance and longevity of proximate beach nourishment projects, thereby reducing the frequency of such periodic nourishment projects; and
- Beach management project-ranking criteria, described above, to the extent such criteria are applicable to inlet management studies, projects, and activities.⁵⁹

DEP adopted by rule a point system for scoring projects based on criteria in statute. Each criterion can have more than one component. The table below illustrates how points are assigned.

⁵⁴ "Sand bypassing" is the artificial transport of littoral drift across tidal entrances to help prevent accretion, on the updrift side, control downdrift erosion, and maintain navigation channels; Coastal Wiki, *Sand by-pass system*, available at http://www.coastalwiki.org/wiki/Sand_by-pass_system (last visited Feb. 5, 2019).

⁵⁵ Section 161.143(2), F.S.

⁵⁶ Section 161.143(3), F.S.

⁵⁷ Rule 62B-36.005(1), F.A.C.

⁵⁸ Rules 62B-36.005(3) and 62B-36.005(4), F.A.C.

⁵⁹ Section 161.143(2), F.S.

Inlet Management Ranking Points⁶⁰		
Statutory Criteria	Number of Component Criteria	Available Points
Balancing the Sand Budget	1	20
Inlet Management Plan	3	15
Estimated annual quantity of beach-quality sand reaching the updrift boundary of the improved jetty or inlet channel	1	10
Cost Effective Alternatives	1	10
Local Sponsor Financial and Administrative Commitment	6	10
Previous State Commitment	4	10
Availability of Federal Funds	3	10
Enhanced Project Performance	1	5

Once DEP creates a ranking list, the local sponsors have 21 days to review the rankings and provide clarification to support additional points.⁶¹ Then, DEP considers the requests, finalizes the ranking, and submits a recommendation to the Legislature for consideration of funding in priority order. The funding recommendation list must include studies, projects, or other activities that address the management of at least 10 separate inlets.⁶²

DEP must make available at least 10 percent of the total amount of the statewide beach management appropriation each fiscal year for the three highest-ranked projects on the current year's inlet management project list.⁶³ DEP must also make available 50 percent of the funds appropriated for the feasibility and design category in DEP's fixed capital outlay funding request for projects which involve the study for, or design or development of, an inlet management project that appear on the current year inlet management project list.⁶⁴

DEP must make available all statewide beach management funds that are unencumbered or allocated to non-project-specific activities for projects on legislatively approved inlet management project lists. Funding for local-government-specific projects on annual project lists approved by the Legislature must remain available for such purposes for a period of 18 months. If a project will not be ready to proceed during this 18-month period, based on an assessment and a determination by DEP, then the department must use the funds for inlet management projects on the legislatively approved lists.⁶⁵

When approving the beach management project funding list, the Legislature must designate one of the three highest projects on the inlet management project list provided by DEP each year as the Inlet of the Year. DEP must annually report to the Legislature the extent to which each Inlet of the Year project has succeeded in balancing the sediment budget of the inlet and adjacent beaches, mitigating the inlet's erosive effects on adjacent beaches, and transferring or otherwise placing beach-quality sand on adjacent eroding beaches.⁶⁶

Effect of the Proposed Changes

The bill changes the procedure and criteria for funding inlet management projects. The bill amends 161.143(2), F.S., to require that inlet management projects funded by DEP constitute the intended scope of the state's public policy relating to improved navigation inlets found in s. 161.142, F.S., and the planning, prioritizing, funding, approving, and implementation of inlet management projects found in

⁶⁰ Rule 62B-36.006(2), F.A.C.

⁶¹ Rule 62B-36.005(4), F.A.C.

⁶² Section 161.143(5), F.S.

⁶³ Section 161.143(5)(a), F.S.

⁶⁴ Section 161.143(5)(b), F.S.

⁶⁵ Section 161.143(5)(c), F.S.

⁶⁶ Section 161.143(5)(d), F.S.

s. 161.143, F.S. The bill also expands the inlet management projects DEP may fund by including improvement of infrastructure to facilitate sand bypassing. DEP must consider inlet management projects separate and apart from beach management projects when creating the annual funding priorities.

The bill amends s. 161.143(2), F.S., to revise and update the criteria DEP must consider when ranking inlet management projects for funding consideration and require DEP to weigh each criterion equally. Specifically, the bill:

- Moves the requirement that DEP consider the extent that the proposed project mitigates the erosion effects of the inlet from the severity of erosion criteria in s. 161.143(2)(b), F.S., to the significance of the project in s. 161.143(2)(c), F.S.;
- Removes “existing” from consideration of the extent that bypassing activities at the inlet would benefit from modest, cost-effective improvements when considering the volumetric increases from the proposed project, the availability of beach-quality sand currently not bypassed to adjacent eroding beaches, and the ease to obtain such beach-quality sand. This change will allow local sponsors who currently do not perform sand bypassing at their inlet, but wish to start, to receive points;
- Adds cost-effectiveness of sand made available by a proposed inlet management project or activity relative to other sand source opportunities that would be used to address inlet-caused beach erosion to the criteria DEP must consider;
- Eliminates the requirement that DEP assign points for the local sponsor’s interest and commitment as demonstrated by their willingness to coordinate the planning, design, construction, and maintenance of an inlet management project and their financial plan for funding the local cost-share for initial construction, ongoing sand bypassing, channel dredging, and maintenance;
- Adds the existence of proposed or recently updated inlet management plan or local government sponsored inlet study addressing the mitigation of an inlet’s erosive effects on adjacent beaches to the criteria DEP must consider;
- Eliminates the requirement that DEP assign points for the previous completion or approval of a state-sponsored inlet management plan or study, the ease of updating and revising the inlet management plan or study, and the adequacy and specificity of the recommendations in the plan or study concerning the mitigation of an inlet’s erosive effects on adjacent beaches; and
- Clarifies that DEP may use the same criteria used for ranking beach management projects for inlet management projects if the criteria are distinct from and not duplicative of inlet management project ranking criteria.

The bill amends s. 161.143(3), F.S., to authorize DEP to pay from legislative appropriations up to 75 percent of the construction costs of an initial major inlet management project component for the purpose of mitigating the erosive effects of the inlet to the shoreline and balancing the sediment budget. The local sponsor must pay the remaining balance of the costs for the initial major inlet management project components. DEP and the local sponsor must share equally all other costs associated with an inlet management project.

The bill removes s. 161.143(4), F.S., to eliminate the authority to use an appropriation from the fixed capital outlay funding request to pay 100 percent of the costs for studies that are consistent with the state’s inlet management policy.

The bill amends s. 161.143(4), F.S., to remove the requirement that DEP include in the funding priorities studies, projects, or other activities that address the management of at least 10 separate inlets. The bill also removes the requirement that DEP make available at least 10 percent of the funding appropriated by the Legislature for beach management for the three highest ranked inlet management projects on the current year project list. Instead, the bill requires DEP to designate for inlet management projects on the current year project list, in priority order, an amount that is at least equal to the greater of 10 percent of the funding appropriated by the Legislature for the fiscal year for statewide beach management or the percentage of inlet management funding requests from local

sponsors as a proportion of the total amount of statewide beach management dollars requested in a given year.

The bill amends s. 161.143(5), F.S., to require DEP to rank inlet monitoring activities for inlet management projects as one overall subcategory request for funding separate from the beach management project funding requests. The bill removes the requirement for DEP to make 50 percent of funds appropriated available from the feasibility and design category for DEP's fixed capital outlay for projects on current year inlet management projects list for, or design or development of, an inlet management project.

The bill removes s. 161.143(5)(c), F.S., to eliminate the requirement that DEP make all statewide beach management funds remaining unencumbered or allocated to non-project-specific activities for projects on legislatively approved inlet management project lists. The bill also moves the requirement that funds for local sponsors' specific projects on annual projects lists approved by the Legislature to remain available for 18 months from s. 161.143(5)(c), F.S., to s. 161.101(20)(c), F.S. The bill eliminates DEP's ability to use funds on inlet management projects from other projects that received appropriations that were determined not ready to proceed. The bill replaces this power by granting DEP the ability to not include projects on the priority list that DEP determines are not ready to proceed by amending s. 161.101(14), F.S.

The bill removes s. 161.143(5)(d), F.S., to eliminate the requirement for the Legislature to designate one of the three highest ranked inlet management projects on the priority list as the Inlet of the Year. DEP will no longer be required to provide reports to the Legislature on the Inlets of the Year. The bill amends s. 161.143(5), F.S., to require DEP to update and maintain an annual report on the website on each inlet project and how the project has succeeded in balancing the sediment budget and mitigated erosive effects of the inlet. The report must provide an estimate of the quantity of sediment bypassed, transferred, or otherwise placed on adjacent eroding beaches, or in such nearshore areas of beaches, for offsetting the erosive effects of inlets on the beaches of this state. This change allows DEP to report on sand bypassed, transferred, or otherwise placed in the nearshore, not just on the adjacent beach.

These changes will require DEP to amend chapter 62B-36, F.A.C.

The changes to s. 161.143, F.S., related to inlet management projects have an effective date of July 1, 2020.

Strategic Beach Management Plan

Present Situation

The Strategic Beach Management Plan (SBMP) provides an inventory of Florida's strategic beach management areas fronting on the Atlantic Ocean, Gulf of Mexico, Straits of Florida and an inventory of Florida's 66 coastal barrier tidal inlets.⁶⁷ Beach management and inlet management projects proposed by local sponsors must be consistent with the SBMP to receive funding.⁶⁸ The SBMP must:

- Address long-term solutions to the problem of critically eroded beaches in this state;
- Evaluate each improved, modified, or altered inlet and determine whether the inlet is a significant cause of beach erosion;
- Design criteria for beach restoration and beach nourishment projects;
- Evaluate the establishment of feeder beaches as an alternative to direct beach restoration and recommend the location of such feeder beaches and the source of beach-compatible sand;
- Identify causes of shoreline erosion and change, calculate erosion rates, and project long-term erosion for all major beach and dune systems by surveys and profiles;

⁶⁷ DEP, *Strategic Beach Management Plan* (May 2018), available at https://floridadep.gov/sites/default/files/SBMP-Introduction_0.pdf (last visited Feb. 5, 2019).

⁶⁸ *Id.*; r. 62B-36.005(3), F.A.C.

- Identify shoreline development and degree of density and assess impacts of development and shoreline protective structures on shoreline change and erosion;
- Identify short-term and long-term economic costs and benefits of beaches;
- Study dune and vegetation conditions;
- Identify beach areas used by marine turtles and develop strategies for protection of the turtles and their nests and nesting locations;
- Identify alternative management responses;
- Establish criteria for alternative management techniques;
- Select and recommend appropriate management measures for all of the state's sandy beaches in a beach management program; and
- Establish a list of beach restoration and beach nourishment projects, arranged in order of priority, and the funding levels needed for such projects.⁶⁹

DEP may prepare the SBMP at the regional level based upon areas of greatest need and probable federal funding. The regional plans must be components of the SBMP and must serve as the basis for state funding decisions once approved by the secretary of DEP and the Board of Trustees of the Internal Improvement Trust Fund. DEP staff must submit any completed regional plan to the secretary of DEP for approval no later than March 1 of each year. These regional plans must include, but are not limited to, recommendations of appropriate funding mechanisms for implementing projects in the SBMP. DEP must hold public meetings in the areas affected by the proposed regional plans prior to presenting the plan to the secretary of DEP for approval.

Effect of the Proposed Changes

The bill amends s. 161.161(1), F.S., to update how DEP must develop a comprehensive beach management planning program and maintain the Comprehensive Long-Term Beach Management Plan. Specifically, the bill:

- Requires DEP to include improvement of infrastructure to facilitate sand bypassing in the recommendations on how to mitigate each inlet's erosive impacts;
- Eliminates the requirement for DEP to include cost estimates necessary to take inlet corrective measures and recommendations for cost-share among the beneficiaries of such inlets;
- Requires DEP to evaluate, rather than design, criteria for beach restoration and beach nourishment;
- Adds that DEP must consider the establishment of regional sediment management alternatives for one or more individual beach and inlet sand bypassing projects as an alternative to beach restoration and requires DEP to recommend locations of such regional sediment management alternatives;
- Eliminates the requirement for DEP to consider the establishment of feeder beaches;
- Requires DEP to maintain an updated list of critically eroded sandy beaches based on data, analyses, and investigations of shoreline conditions;⁷⁰
- Removes the requirement for DEP to project long-term erosion for all major beach and dune systems by surveys and profiles and identify shoreline development and degree of density;
- Adds that DEP must assess the impact of coastal protection structures on shoreline change and erosion;
- Requires DEP to identify short-term and long-term economic costs and benefits of beaches to the state and individual beach communities;
- Eliminates the requirement to include recreational value to user groups, tax base, revenues generated, and beach acquisition and maintenance costs in the evaluation by DEP;

⁶⁹ Section 161.161(1), F.S.

⁷⁰ DEP. *Critical Erosion Report*, available at <https://floridadep.gov/water/engineering-hydrology-geology/documents/critically-eroded-beaches-florida> (last visited Feb. 14, 2019).

- Requires DEP to identify existing beach projects without dune features or with dunes without adequate elevations, and encourage dune restoration and revegetation to be incorporated as part of storm damage recovery projects or future dune maintenance events;
- Removes the requirement for DEP to identify alternative management responses to prevent inappropriate development and redevelopment on migrating beaches;
- Eliminates the requirement for DEP to consider abandonment of development as an alternative management response, but continues to require DEP to consider relocation of development;
- Requires DEP to include document procedures and policies for preparing post-storm damage assessments and corresponding recovery plans, including repair cost estimates in the Comprehensive Long-Term Beach Management Plan;
- Removes the requirement for DEP to include costs and specific implementation actions for alternative management techniques;
- Eliminates the requirement for DEP to select and assess appropriate management measures for all of the state's sandy beaches in the beach management program and requires DEP to identify and assess appropriate management measures for all of the critically eroded beaches; and
- Removes the requirement for DEP to establish a list of beach restoration and beach nourishment projects in priority order for funding because the requirement already exists in s. 161.101(14), F.S.

The bill creates s. 161.161(2), F.S., to require DEP's Comprehensive Long-Term Beach Management Plan to include, at a minimum, a SBMP, critically eroded beaches report, and statewide long-range budget plan.

The SBMP must identify and recommend appropriate measures for all of the state's critically eroded sandy beaches and may incorporate plans prepared at the regional level taking into account areas of greatest need and probable federal and local funding. The bill adds local funding to the evaluation by DEP. The bill removes what must be included in the regional plans. This criterion is similar to what DEP considers in the statewide plan. The bill removes the requirement for DEP to present the plan to the secretary of DEP by March 1 of each year. DEP must still hold public meetings before finalizing such regional plans. The bill also authorizes DEP to host publically noticed webinars in lieu of holding public meetings. The state may use the SBMP, along with the three-year work plan, as a basis for funding decisions once DEP finalizes the SBMP.

DEP must base the critically eroded beaches report on data, analyses, and investigations of shoreline conditions.

The statewide long-range budget plan must include at least five years of planned beach restoration, beach nourishment, and inlet management projects funding needs as identified, and subsequently refined, by local sponsors. The statewide long-range budget plan must include:

- A three-year work plan that identifies beach restoration, beach nourishment, and inlet management projects viable for implementation during the next ensuing fiscal years, as determined by available cost-share, local sponsor support, regulatory considerations, and the ability of the project to proceed as scheduled. For each fiscal year, DEP must identify proposed projects and their development status, listing them in priority order based on the applicable criteria for beach and inlet management projects for inclusion in the three-year work plan. DEP may modify specific funding requests and criteria ranking as warranted in each successive fiscal year. DEP must document and submit such modifications to the Legislature with each three-year work plan. Year one projects must consist of those projects identified for funding consideration in the ensuing fiscal year; and
- A long-range plan that identifies projects for inclusion in the fourth and fifth ensuing fiscal years. DEP may present these projects by region. DEP does not need to present these projects in priority order. However, DEP must identify issues that may prevent successful completion of such projects and recommend solutions that would allow the projects to progress into the three-year work plan.

Lastly, the bill adds s. 161.161(3), F.S., to require the secretary of DEP to annually present the three-year work plan to the Legislature that includes a three-year financial forecast for the availability of funding for projects.

The changes to s. 161.161, F.S., related to the Comprehensive Long-Term Beach Management Plan have an effective date of July 1, 2020.

B. SECTION DIRECTORY:

Section 1. Amends s. 161.101, F.S., relating to state and local participation in authorized projects and studies for beach management and erosion control.

Section 2. Amends s. 161.143, F.S., relating to inlet management, planning, prioritization, funding, approval, and implementation of projects.

Section 3. Amends s. 161.161, F.S., relating to the procedure for approval of projects.

Section 4. Provides an effective date of July 1, 2019, except as otherwise provided in the act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill will have an insignificant negative fiscal impact on DEP because the department will need to revise rules to comply with the statutory changes in the bill. Further, DEP must comply with additional reporting requirements and the creation of a five-year work plan. The rulemaking and workload requirements of the bill can be handled within existing resources since those sections of the bill are not effective until July 1, 2020.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Current law authorizes DEP to adopt rules to implement s. 161.101, F.S. As such, no additional rulemaking authority is necessary.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 14, 2019, the State Affairs Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed unnecessary language directing DEP to adopt rules.

This analysis is drafted to the committee substitute as approved by the State Affairs Committee.

By Senator 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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: SB 1502

INTRODUCER: Senator Bradley

SUBJECT: Department of Environmental Protection

DATE: April 8, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schreiber</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1502 creates the Division of Law Enforcement within the Department of Environmental Protection (DEP), which will employ state law enforcement officers.

The bill requires the 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 the 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 the 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 FWC to the 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 the FWC with regard to investigating certain environmental crimes and enforcing related laws to the DEP. The bill states that the FWC will retain law enforcement authority over the patrol of state-owned land managed by the DEP.

Senate Bill 2500, Eng., the Senate's 2019-2020 General Appropriations Bill transfers 19 full time employees and \$1,991,722 in trust fund budget authority from the FWC to the DEP. There may be additional, indeterminate negative costs associated with this transfer to the DEP.

The bill takes effect July 1, 2019.

II. Present Situation:

Environmental Law Enforcement Organizational Structure

The DEP is Florida's lead agency for environmental management and stewardship.¹ The 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 the DEP.³ Currently, the DEP does not have any law enforcement officers. The 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 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 the FWC's staff is authorized to conduct management, research, and enforcement.⁷ The FWC currently has a Division of Law Enforcement with 1,051 members, including 853 sworn personnel, operating in six regions throughout the state.⁸ The 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

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.*

Enforcement within the FWC.¹³ The reasons for the recommendation included overlapping duties, cost efficiencies and reductions, and enhanced recovery and response times.¹⁴

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 the DEP's Division of Law Enforcement, excluding the Bureau of Emergency Response, to the FWC's Division of Law Enforcement through a type two transfer.¹⁵ The DEP was also required to transfer to the FWC a number of administrative, auditing, inspector general, attorney, and operational support positions proportional to the DEP's Division of Law Enforcement being transferred.¹⁶ The legislation required the DEP and the FWC to develop a memorandum of agreement detailing the responsibilities of the FWC to the DEP regarding law enforcement, emergency response, and funding.¹⁷

The DEP and the FWC have a memorandum of agreement identifying the responsibilities of the FWC with regard to the DEP. The FWC provides law enforcement services for the DEP. The DEP transfers funds to the FWC to compensate for these services.

In 2018, the following appropriations were made to the 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 the DEP to take all necessary actions to move the Environmental Crimes Enforcement Unit from the FWC to the 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 mean all provisions of that statute are unconstitutional.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

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.*

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).

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 valid after the invalid provisions are stricken.²²

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 severability.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 FWC with regard to the investigation of certain environmental crimes and the enforcement of related laws to the DEP, as specified in the memorandum of agreement developed under the bill. The bill states that the FWC will retain law enforcement authority over the patrol of state-owned lands managed by the DEP, and the FWC will coordinate with the DEP in that regard.

The bill requires the FWC and the DEP to develop a new memorandum of agreement detailing the respective responsibilities of the FWC and the 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 the 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 the 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 FWC to the DEP which are funded through any trust fund.

Section 2 requires that all of the personnel and equipment assigned to the DEP's Office of Emergency Response be reassigned to the DEP's Division of Law Enforcement.

Section 3 requires the Secretary of the DEP and the Executive Director of the FWC to each appoint two staff members to a transition advisory working group to review the administrative

²² *Id.*; see *Booker v. State*, 244 So. 3d 1151, 1167 (Fla. Dist. Ct. App. 2018).

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.

rules promulgated by the DEP and the FWC to identify any rules that must be amended to reflect the changes made by the bill.

Section 4 requires that, notwithstanding ch. 60L-34 F.A.C., or any law to the contrary, employees transferred from the FWC to fill positions transferred to the DEP shall retain and transfer any 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 the DEP.

Section 5 amends s. 20.255, F.S., which establishes the organizational structure of the DEP. The bill adds the Division of Law Enforcement to the list of the DEP's divisions. The bill states that law enforcement officers of the 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 the 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 the DEP's Division of Recreation and Parks. The bill requires that ch. 258, F.S., State Parks and Preserves, be enforced by the DEP's Division of Law Enforcement and its officers, and by the 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 the FWC's State Game Trust Fund or the DEP's State Park Trust Fund, "as applicable."

Section 8 amends s. 258.501, F.S., by authorizing "officers" of the 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 the DEP appoint a representative of the 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 the 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 the 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, the DEP is required to spend

available money from the Inland Protection Trust Fund to provide for enforcement of related laws by the FWC and the DEP. The bill authorizes, but does not require, the DEP to disburse money to the 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 the 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 the 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 the 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 vehicle 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 the 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 the 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 the FWC and the DEP create a new memorandum of agreement there are many outstanding questions regarding the size and role of the DEP's new Division of Law Enforcement.

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.”).

While the bill itself does not answer these questions, both the Senate's and House of Representative's proposed budgets for Fiscal Year 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 to reverse the transfer of the DEP's law enforcement functions by Ch. 2012-88, L.O.F. Those provisions were similar to the provisions set out in this bill, and that transfer was in part effectuated by a memorandum of agreement analogous to the one that the DEP and the FWC are directed to carryout in this bill. Therefore, there may be enough context to provide adequate legislative 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 the DEP and adds significant new duties and responsibilities to the DEP.

The FWC's bill analysis states that revenues collected in the Inland Protection Trust Fund currently provide for the functions described in the bill.³⁰ The FWC's analysis states that the costs for the functions described in the bill are covered by the FWC's base budget and that those expenditures would be made by the DEP.³¹

Senate Bill 2500, Eng., the Senate's 2019-2020 General Appropriations Bill, transfers 19 full time employees and \$1,991,722 in trust fund budget authority from the FWC to the DEP.³²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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 *Senate Bill 2500, Eng., the Senate's 2019-2020 General Appropriations Bill, Specific Appropriations 1782 through 1787 and House Bill 5001, Eng., the House's 2019-2020 General Appropriations Bill, Specific Appropriations 1782 through 1787.*

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.

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

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

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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

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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.

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 Appropriations

BILL: HB 5401

INTRODUCER: Agriculture and Natural Resources Appropriations Subcommittee and Representative Raschein

SUBJECT: Department of Environmental Protection

DATE: April 10, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Reagan</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

I. Summary:

HB 5401 creates the Division of Law Enforcement within the Department of Environmental Protection (DEP), which will employ state law enforcement officers.

The bill requires the 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 the 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 the 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 FWC to the DEP that are funded through any trust fund.

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

Senate Bill 2500, Eng., the Senate's 2019-2020 General Appropriations Bill transfers 19 full time employees and \$1,991,722 in trust fund budget authority from the FWC to the DEP. There may be additional, indeterminate negative costs associated with this transfer to the DEP.

The bill takes effect July 1, 2019.

II. Present Situation:

Environmental Law Enforcement Organizational Structure

The DEP is Florida's lead agency for environmental management and stewardship.¹ The 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 the DEP.³ Currently, the DEP does not have any law enforcement officers. The 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 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 the FWC's staff is authorized to conduct management, research, and enforcement.⁷ The FWC currently has a Division of Law Enforcement with 1,051 members, including 853 sworn personnel, operating in six regions throughout the state.⁸ The 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

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.*

Enforcement within the FWC.¹³ The reasons for the recommendation included overlapping duties, cost efficiencies and reductions, and enhanced recovery and response times.¹⁴

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 the DEP's Division of Law Enforcement, excluding the Bureau of Emergency Response, to the FWC's Division of Law Enforcement through a type two transfer.¹⁵ The DEP was also required to transfer to the FWC a number of administrative, auditing, inspector general, attorney, and operational support positions proportional to the DEP's Division of Law Enforcement being transferred.¹⁶ The legislation required the DEP and the FWC to develop a memorandum of agreement detailing the responsibilities of the FWC to the DEP regarding law enforcement, emergency response, and funding.¹⁷

The DEP and the FWC have a memorandum of agreement identifying the responsibilities of the FWC with regard to the DEP. The FWC provides law enforcement services for the DEP. The DEP transfers funds to the FWC to compensate for these services.

In 2018, the following appropriations were made to the 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 the DEP to take all necessary actions to move the Environmental Crimes Enforcement Unit from the FWC to the DEP, to align resources focused on environmental protection and ensure strong enforcement of Florida's environmental laws.²⁰

III. Effect of Proposed Changes:

Section 1 transfers the primary powers and duties of the FWC with regard to the investigation of certain environmental crimes and the enforcement of related laws to the DEP, as specified in the memorandum of agreement developed under the bill. The bill states that the FWC will retain law enforcement authority over the patrol of state-owned lands managed by the DEP, and the FWC will coordinate with the DEP in that regard.

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.*

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.

The bill requires the FWC and the DEP to develop a new memorandum of agreement detailing the respective responsibilities of the FWC and the 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 the 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 the 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 FWC to the DEP, which are funded through any trust fund.

Section 2 requires that all of the personnel and equipment assigned to the DEP's Office of Emergency Response be reassigned to the DEP's Division of Law Enforcement.

Section 3 requires the Secretary of the DEP and the Executive Director of the FWC to each appoint two staff members to a transition advisory working group to review the administrative rules promulgated by the DEP and the FWC to identify any rules that must be amended to reflect the changes made by the bill.

Section 4 requires that, notwithstanding ch. 60L-34 F.A.C., or any law to the contrary, employees transferred from the FWC to fill positions transferred to the DEP shall retain and transfer any 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 the DEP.

Section 5 amends s. 20.255, F.S., which establishes the organizational structure of the DEP. The bill adds the Division of Law Enforcement to the list of the DEP's divisions. The bill states that law enforcement officers of the 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 the 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 the DEP's Division of Recreation and Parks. The bill requires that ch. 258, F.S., State Parks and Preserves, be enforced by the DEP's Division of Law Enforcement and its officers, and by the 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 the FWC's State Game Trust Fund or the DEP's State Park Trust Fund, "as applicable".

Section 8 amends s. 258.501, F.S., by authorizing "officers" of the 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 the DEP appoint a representative of the 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 the 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 the 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, the DEP is required to spend available money from the Inland Protection Trust Fund to provide for enforcement of related laws by the FWC and the DEP. The bill authorizes, but does not require, the DEP to disburse money to the 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 the 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 the 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 the 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 vehicle 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 the 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 the 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 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.²¹ Legislative power involves the exercise of policy-related discretion over the content of law.²² The Florida Supreme Court, in *Askew v. Cross Key Waterways*, provided a framework for measuring the constitutionality of legislative

²¹ *Florida State Bd. Of Architecture v. Wasserman*, 377 So.2d 653 (Fla. 1979).

²² *State ex rel. Taylor v. City of Tallahassee*, 177 So. 719, 720-721 (Fla. 1937).

power delegations.²³ 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.²⁴

Until such time as the FWC and the DEP create a new memorandum of agreement there are many outstanding questions regarding the size and role of the DEP's new Division of Law Enforcement.

Although while the bill itself does not answer these questions, both the Senate's and House's proposed budgets for Fiscal Year 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 to reverse the transfer of the DEP's law enforcement functions by Ch. 2012-88, L.O.F. Those provisions were similar to the provisions set out in this bill, and that transfer was in part effectuated by a memorandum of agreement analogous to the one that the DEP and the FWC are directed to carryout in this bill. Therefore, there may be enough context to provide adequate legislative 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 the DEP and adds significant new duties and responsibilities to the DEP.

The FWC's bill analysis states that revenues collected in the Inland Protection Trust Fund currently provide for the functions described in the bill.²⁵ The FWC's analysis states that

²³ 372 So.2d 913 (Fla. 1978).

²⁴ *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.”).

²⁵ FWC, 2019 Agency Legislative Bill Analysis, *Senate Bill (SB) 1502*, 5 (2019) (on file with the Senate Committee on Environment and Natural Resources).

the costs for the functions described in the bill are covered by the FWC's base budget and that those expenditures would be made by the DEP.²⁶

Senate Bill 2500, Eng., the Senate's 2019-2020 General Appropriations Bill, transfers 19 full time employees and \$1,991,722 in trust fund budget authority from the FWC to the DEP.²⁷

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.

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.

²⁶ *Id.*

²⁷ *Senate Bill 2500, Eng., the Senate's 2019-2020 General Appropriations Bill, Specific Appropriations 1782 through 1787 and House Bill 5001, Eng., the House's 2019-2020 General Appropriations Bill, Specific Appropriations 1782 through 1787.*

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
4/11/2019 HOUSE Placed on Special Order Calendar, 04/17/19
- 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.
4/12/2019 HOUSE On Committee agenda - Judiciary Committee, 04/16/19, 1:30 pm, 404 H
- 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
4/9/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government
- 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
4/1/2019 HOUSE Now in Health Care Appropriations Subcommittee
- HB 87** **Registration and Titling of Vehicles and Vessels** Ponder
Registration and Titling of Vehicles and Vessels: Revises registration periods for certain vehicles; requires DHSMV to prorate registration renewals for customers; authorizes DHSMV or its agent to verify necessary information through electronic file of death records maintained by DOH for surviving spouse of motor vehicle owner when requesting registration certificate & license plate transfer or for new owner or surviving coowner of vessel when applying for transfer of title. Effective Date: July 1, 2019
4/3/2019 HOUSE Enrolled Text (ER) Filed
- 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	Jacobs
	Shark Fins and Ray Parts: Prohibits certain possession of shark fins & ray parts; provides exceptions; directs FWCC to adopt specified rules; provides & revises penalties. Effective Date: July 1, 2019 1/3/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee	
<u>SB 134</u>	Florida Black Bears	Stewart
	Florida Black Bears; Creating the "Florida Black Bear Protection Act"; prohibiting the Fish and Wildlife Conservation Commission from allowing the recreational hunting of Florida black bears mothering cubs that weigh less than 100 pounds under a Florida black bear hunting permit; specifying a penalty for the unlawful harvesting of saw palmetto berries on state lands; prohibiting prescribed burns in certain designated habitats during specified times, etc. Effective Date: 7/1/2019 1/10/2019 SENATE Referred to Environment and Natural Resources; Agriculture; Criminal Justice; Rules	
<u>HB 141</u>	Water Quality Improvements	Fine
	Water Quality Improvements: Authorizes DEP to provide grants for certain projects identified in Indian River Lagoon Comprehensive Conservation & Management Plan; directs DEP to submit annual report regarding projects to Governor & Legislature; requires local governments to submit annual reports regarding projects to DEP & water management districts; requires wastewater facilities permitted under National Pollutant Discharge Elimination System program that unlawfully discharge certain amount of raw or partially treated sewage to provide written notification; provides penalties; provides for such facilities to make certain upgrades & repairs. Effective Date: July 1, 2019 3/26/2019 HOUSE Now in State Affairs Committee	
<u>SB 146</u>	Advanced Well Stimulation Treatment	Stewart
	Advanced Well Stimulation Treatment; Defining the term "advanced well stimulation treatment"; prohibiting the performance of advanced well stimulation treatments; clarifying that permits for drilling or operating a well do not authorize the performance of advanced well stimulation treatments, etc. Effective Date: Upon becoming a law 1/10/2019 SENATE Referred to Environment and Natural Resources; Innovation, Industry, and Technology; Appropriations	
<u>SB 164</u>	Verification of Employment Eligibility	Bean
	Verification of Employment Eligibility; Requiring employers to register with and use the E-Verify system beginning on a specified date to verify the employment eligibility of new employees; requiring the Department of Economic Opportunity to order certain agencies to suspend an employer's license under certain circumstances; prohibiting the department from independently making a final determination regarding whether an employee is an unauthorized alien; requiring public employers, contractors, and subcontractors to register with and use the E-Verify system, etc. Effective Date: 7/1/2019 1/10/2019 SENATE Referred to Judiciary; Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations	
<u>HB 169</u>	Public Financing of Construction Projects	Fernández
	Public Financing of Construction Projects: Prohibits state-financed constructors from commencing construction of certain structures in coastal areas without first conducting sea level impact projection study & having such study published & approved by DEP; requires department to develop by rule standards for such studies; provides for enforcement; requires department to publish such studies on its website; requires department to enforce certain requirements & to adopt rules. Effective Date: July 1, 2019 1/16/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee	
<u>SB 216</u>	Water Quality Improvements	Gruters
	Water Quality Improvements; Requiring each wastewater facility that unlawfully discharges specified volumes of sewage into a waterway or aquifer to notify certain customers by first class mail within a specified timeframe; providing penalties for wastewater treatment facilities that unlawfully discharge a specified volume of sewage into designated areas, etc. Effective Date: 7/1/2019 3/14/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government	
<u>SB 234</u>	Registration and Titling of Vehicles and Vessels	Baxley
	Registration and Titling of Vehicles and Vessels; Revising registration periods for certain vehicles; requiring the Department of Highway Safety and Motor Vehicles to prorate registration renewals for customers in order to implement changes made by the act; authorizing the department or its agent to verify necessary information through the electronic file of death records maintained by the Department of Health for a surviving spouse of a motor vehicle owner when requesting a registration certificate and license plate transfer, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2019 4/3/2019 SENATE Read Second Time; Substituted for HB 0087; Laid on Table, Refer to HB 0087	
<u>HB 239</u>	Advanced Well Stimulation Treatment	Fitzenhagen
	Advanced Well Stimulation Treatment: Prohibits performance of advanced well stimulation treatments; provides that permits for drilling or operating wells do not authorize performance of advanced well treatments; provides applicability. Effective Date: upon becoming a law 1/23/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee	
<u>HB 249</u>	Repeal of Constitution Revision Commission	Drake
	Repeal of Constitution Revision Commission: Proposes amendments to State Constitution to repeal establishment,	

membership selection & composition, & duties of Constitution Revision Commission.
3/22/2019 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 local government may use; requires local government to adopt property rights element by specified date; provides local government's property rights element may not conflict with statutorily provided statement rights; requires comprehensive plans to recognize terms of existing development orders; requires local land development regulations to provide for existing development orders. Effective Date: July 1, 2019
4/11/2019 HOUSE Placed on Special Order Calendar, 04/17/19
- 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
4/11/2019 HOUSE Placed on Special Order Calendar, 04/17/19
- 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: 7/1/2019
4/12/2019 SENATE On Committee agenda - Rules, 04/17/19, 2:00 pm, 110 S
- HB 347** **Towing-storage Operating Liens** Rodriguez (AM)
Towing-storage Operating 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
4/12/2019 HOUSE Placed on Calendar, on 2nd reading
- 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.
4/10/2019 SENATE Placed on Calendar, on 2nd reading
- 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
4/11/2019 HOUSE Placed on Special Order Calendar, 04/17/19
- 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
4/10/2019 SENATE Now in Rules
- 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
- SB 428** **Growth Management** Perry

Growth Management; Requiring a local government's comprehensive plan to include a property rights element; providing a statement of rights that a local government may use; requiring each local government to adopt a property rights element by a specified date, etc. Effective Date: 7/1/2019
3/28/2019 SENATE Now in Judiciary

SB 430

Prohibited Discrimination

Rouson

Prohibited Discrimination; Citing this act as the "Florida Competitive Workforce Act"; adding sexual orientation and gender identity as impermissible grounds for discrimination in public lodging establishments and public food service establishments; providing an exception for constitutionally protected free exercise of religion; revising the purposes of the Florida Civil Rights Act of 1992 to conform to changes made by the act; defining the terms "gender identity" and "sexual orientation", etc. Effective Date: 7/1/2019
2/1/2019 SENATE Referred to Governmental Oversight and Accountability; Judiciary; Rules

SB 432

Employment Conditions

Gruters

Employment Conditions; Prohibiting a political subdivision from establishing, mandating, or otherwise requiring an employer to offer conditions of employment not otherwise required by state or federal law; specifying that certain requirements related to minimum wage and other conditions of employment are expressly preempted to the state, etc. Effective Date: Upon becoming a law
3/12/2019 SENATE Now in Community Affairs

SB 436

Use of Vessel Registration Fees

Hooper

Use of Vessel Registration Fees; Authorizing a portion of county or municipal vessel registration fees to be used for specified additional purposes, etc. Effective Date: 7/1/2019
4/10/2019 SENATE Read Second Time; Placed on Third Reading, 04/17/19

HB 437

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
4/11/2019 HOUSE Placed on Special Order Calendar, 04/17/19

SB 438

Prohibited Discrimination

Gruters

Prohibited Discrimination; Citing this act as the "Florida Inclusive Workforce Act"; revising the purposes of the Florida Civil Rights Act of 1992 to conform to changes made by the act; revising provisions regarding remedies for unlawful discrimination to include discrimination based on sexual orientation and gender identity in the area of employment, to conform to changes made by the act; adding sexual orientation and gender identity as impermissible grounds for discrimination with respect to specified unlawful employment practices, etc. Effective Date: 7/1/2019
2/1/2019 SENATE Referred to Governmental Oversight and Accountability; Judiciary; Rules

HB 443

Assessment of Property

Rodriguez (Ant)

Assessment of Property: 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

SB 474

Discrimination in Labor and Employment

Stewart

Discrimination in Labor and Employment; Creating the "Senator Helen Gordon Davis Fair Pay Protection Act"; prohibiting an employer from providing less favorable employment opportunities to employees based on their sex; prohibiting an employer from taking certain employment actions against employees; prohibiting an employer from engaging in certain activities relating to wages and benefits, etc. Effective Date: 7/1/2019
2/8/2019 SENATE Referred to Commerce and Tourism; Judiciary; Rules

HB 475

Certificates of Title for Vessels

Williamson

Certificates of Title for Vessels: Revises & provides requirements for application for and issuance of certificate of title for vessel; revises & provides duties of DHSMV related to issuance, renewal, replacement, or cancellation of certificate; revises & provides requirements for transferring ownership interest; 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
4/11/2019 HOUSE Read Third Time; Passed (Vote: 116 Yeas / 0 Nays)

HB 485

Prohibited Discrimination

Webb

Prohibited Discrimination: Provides that sexual orientation & gender identity are impermissible grounds for discrimination in public lodging establishments & public food service establishments; revises provisions of Florida Civil Rights Act of

1992 & Fair Housing Act to include sexual orientation & gender identity; provides exception for constitutionally protected free exercise of religion. Effective Date: July 1, 2019
1/30/2019 HOUSE Now in Civil Justice Subcommittee

- HB 493** **Social Media Accounts Privacy** Hart
Social Media Accounts Privacy: Prohibits employer from requesting or requiring access to social media account of employee or prospective employee; prohibits employer from taking retaliatory personnel action against employee or failing or refusing to hire prospective employee as result of employee's refusal to allow access to his or her social media account; provides for civil action; requires that civil action be brought within specified timeframe; provides for fees & costs. Effective Date: October 1, 2019
1/30/2019 HOUSE Now in Workforce Development & Tourism Subcommittee
- HB 497** **Sanitary Sewer Laterals** Webb
Sanitary Sewer Laterals: Defines "sanitary sewer lateral"; requires districts to notify homeowners if they discover leaky sanitary sewer lateral on homeowner's property; specifies that homeowner is not required to take action; requires districts to notify specified homeowners for past discoveries of leaky sanitary sewer laterals; requires certain districts to create publicly accessible databases for certain purposes; provides that certain districts are not liable for failure to maintain records of notifications. Effective Date: July 1, 2019
1/30/2019 HOUSE Now in Local, Federal & Veterans Affairs Subcommittee
- HB 507** **Annual Business Organization Reports and Fees** Hage
Annual Business Organization Reports and Fees: Authorizes domestic & foreign limited liability companies, corporations, corporations not for profit, limited partnerships, & limited liability corporations to submit biennial reports to DOS; establishes biennial report filing fee & biennial supplemental corporate fee; authorizes DOS to escrow amount necessary to annualize revenues collected from biennial report filing fees & biennial supplemental corporate fees. Effective Date: July 1, 2019
1/30/2019 HOUSE Now in Business & Professions Subcommittee
- HB 517** **Minimum Wage** Jacquet
Minimum Wage: Revises formula for adjusted state minimum wage. Effective Date: July 1, 2019
1/30/2019 HOUSE Now in Workforce Development & Tourism Subcommittee
- HB 521** **Wetland Mitigation** McClure
Wetland Mitigation: Authorizes local government to allow certain permittee-responsible mitigation on lands purchased & owned by local government for conservation purposes; provides exception to provisions prohibiting governmental entity from creating or providing mitigation for project other than its own unless certain conditions are met. Effective Date: July 1, 2019
4/11/2019 HOUSE Read Third Time; Passed (Vote: 72 Yeas / 42 Nays)
- 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

<u>HB 573</u>	Strategic Fuel Reserve	Casello
	Strategic Fuel Reserve: Creates Florida Strategic Fuel Reserve Task Force within DEM to develop strategic fuel reserve plan for emergencies or disasters; requires DEM to provide administrative & support services; specifies membership of task force; requires task force to elect chair & vice chair; requires task force to submit recommended plan to Governor & Legislature. Effective Date: July 1, 2019.	
	2/6/2019	HOUSE Now in Transportation & Infrastructure Subcommittee
<u>SB 580</u>	Taxation of Aircraft Sales and Leases	Bean
	Taxation of Aircraft Sales and Leases; Decreasing the sales tax rate on aircraft sales and leases; decreasing the maximum applicable sales tax rate under the flyable aircraft partial sales tax exemption, etc. Effective Date: 7/1/2019	
	3/20/2019	Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 03/22/19, 10:30 am, 117 K (No Votes Will Be Taken)
<u>SB 608</u>	Railroad-highway Grade Crossings	Bean
	Railroad-highway Grade Crossings; Prohibiting a railroad train from blocking a public highway, street, or road at a railroad-highway grade crossing for more than a specified time; exempting certain persons from liability for violations under certain circumstances, etc. Effective Date: 7/1/2019	
	4/2/2019	SENATE Temporarily Postponed by Infrastructure and Security
<u>SB 628</u>	Water Resources	Albritton
	Water Resources; Revising requirements for the Office of Economic and Demographic Research's annual assessment of this state's water resources and conservation lands; requiring the office to consult with the Department of Environmental Protection; requiring the assessment to be submitted to the Legislature by a specified date, etc. Effective Date: 7/1/2019	
	3/28/2019	SENATE Now in Infrastructure and Security
<u>HB 641</u>	Community Development District Bond Financing	Andrade
	Community Development District Bond Financing: Requires district boards to authorize bonds by two-thirds majority vote. Effective Date: October 1, 2019	
	4/11/2019	HOUSE Read Third Time; Passed (Vote: 109 Yeas / 3 Nays)
<u>HB 645</u>	Disaster Recovery	Trumbull
	Disaster Recovery: Authorizes specified counties to levy discretionary sales surtax; authorizes political subdivisions to declare local emergency irrespective of number of political subdivisions it affects; revises number of days each state of emergency is effective; specifies conditions & areas in which certain counties or their authorized collectors may remove debris as result of declared local or state emergency. Effective Date: upon becoming a law	
	2/21/2019	Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 02/22/19, 1:30 pm, 117 K (No Votes Will Be Taken)
<u>SB 660</u>	Transportation	Brandes
	Transportation; Requiring the Department of Transportation to consist of a central office that establishes policies and procedures and districts that carry out projects as authorized or required under the policies and procedures of the central office; prohibiting the driver of any vehicle from following another vehicle more closely than is reasonable and prudent given certain circumstances; revising the number of times that certain persons may elect to attend a basic driver improvement course; providing requirements, beginning on a specified date, for license plates, cab cards, and validation stickers for vehicles registered in accordance with the International Registration Plan; directing the department to implement protocols for issuing an optional electronic credential and to procure a related technology system, etc. Effective Date: Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect October 1, 2019	
	2/15/2019	SENATE Referred to Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations
<u>SB 676</u>	Certificates of Title for Vessels	Hooper
	Certificates of Title for Vessels; Designating the "Uniform Certificate of Title for Vessels Act"; revising requirements for application for, and information to be included in, a certificate of title for a vessel; requiring the Department of Highway Safety and Motor Vehicles to retain certain information relating to ownership and titling of vessels; providing duties of the department relating to creation, issuance, refusal to issue, or cancellation of a certificate of title; providing for the rights of a purchaser of a vessel who is not a secured party; providing rules for the transfer of ownership in a vessel, etc. Effective Date: 10/1/2019	
	4/11/2019	SENATE Now in Appropriations
<u>SB 690</u>	Single Subject Limitation for Taxation and Budget Reform Commission	Rodriguez (J)
	Single Subject Limitation for Taxation and Budget Reform Commission; Proposing an amendment to the State Constitution to require that any proposals to revise the State Constitution, or any part thereof, filed by the Taxation and Budget Reform Commission be limited to a single subject, etc.	
	3/21/2019	SENATE Placed on Calendar, on 2nd reading
<u>SB 692</u>	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

4/4/2019 SENATE Withdrawn from further consideration

SB 728

Community Development Districts

Lee

Community Development Districts; 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

4/4/2019 SENATE Now in Rules

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

4/9/2019 SENATE Now in Appropriations

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

4/12/2019 HOUSE On Committee agenda - Judiciary Committee, 04/16/19, 1:30 pm, 404 H

HB 847

Preemption of Conditions of Employment

Rommel

Preemption of Conditions of Employment: Preempts to state the right to regulate conditions of employment by an employer; voids existing ordinance, regulation, or policy that is preempted by act. Effective Date: upon becoming a law

3/28/2019 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

4/11/2019 SENATE Favorable with CS by Appropriations; 19 Yeas, 0 Nays

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

4/4/2019 HOUSE Now in State Affairs Committee

SB 1054

Community Redevelopment Agencies

Lee

Community Redevelopment Agencies; Requiring ethics training for community redevelopment agency commissioners; requiring a community redevelopment agency to publish certain digital boundary maps on its website; requiring the Department of Economic Opportunity to declare inactive community redevelopment agencies that have reported no financial activity for a specified number of years; specifying the level of tax increment financing that a governing body may establish for funding the redevelopment trust fund, etc. Effective Date: 10/1/2019

4/10/2019 SENATE Now in Appropriations

SB 1056

Florida Disaster Resilience Task Force

Rodriguez (J)

Florida Disaster Resilience Task Force; Establishing the task force adjunct to the Department of Environmental Protection; providing the purpose and membership of the task force; requiring the appointees to be experts from specified subject areas, etc. Effective Date: 7/1/2019

2/22/2019 SENATE Referred to Environment and Natural Resources; Innovation, Industry, and Technology; Rules

HB 1121

Support Organizations

Altman

Support Organizations: Requires DEP to submit report to Legislature; abrogates scheduled repeal of provisions governing DEP, DOS, FWCC, & DACS support organizations; repeals Florida Intergovernmental Relations Foundation & directs EOG & foundation to satisfy liabilities & transfer funds; authorizes court to order persons convicted of certain violations to pay additional assessment; authorizes specified citizen support organization to pay certain rewards. Effective Date: July 1, 2019

4/12/2019 HOUSE Placed on Calendar, on 2nd reading

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. Effective Date: July 1, 2019

4/4/2019 HOUSE Now in State Affairs Committee

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

4/3/2019 SENATE Now in Rules

SB 1148

Vehicles for Rent or Lease

Perry

Vehicles for Rent or Lease; Requiring a member of a certain car-sharing service who uses a motor vehicle for less than a specified period of time pursuant to an agreement with the car-sharing service to pay a specified surcharge per usage; authorizing an electronic copy of certain rental or lease documentation to be in the possession of the vehicle operator or

carried in the vehicle and to be exhibited upon demand of any authorized law enforcement officer or any agent of the Department of Highway Safety and Motor Vehicles; prohibiting a person from renting a motor vehicle to another person unless he or she has verified that the renter's driver license is unexpired, etc. Effective Date: 7/1/2019
4/11/2019 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 04/12/19, 10:00 am, 117 K (No Votes Will Be Taken)

- HB 1149** **Workforce Retention** Hattersley
Workforce Retention: Requires employers intending to relocate out of state or cease operation to notify DBPR; provides penalty; requires DBPR to compile list of employers that relocate or cease operation; provides that such employers are ineligible for certain benefits for specified period; requires employers to remit certain funds to DBPR; requires each state agency head to ensure certain services are performed by state contractors within state. Effective Date: 240 days after becoming a law
3/4/2019 HOUSE Now in Workforce Development & Tourism Subcommittee
- SB 1150** **Wildlife Protection** Pizzo
Wildlife Protection; Prohibiting the import, sale, purchase, and distribution of ivory articles and rhinoceros horns; providing that it is unlawful to take, possess, injure, shoot, collect, or sell Florida black bears; providing that the illegal taking, possession, injuring, shooting, collecting, or selling of Florida black bears is a Level Four violation, which is subject to criminal and civil penalties, etc. Effective Date: 7/1/2019
4/3/2019 SENATE Withdrawn from further consideration
- HB 1199** **Water Resources** Jacobs
Water Resources: Revises requirements for Office of Economic & Demographic Research's annual assessment of this state's water resources & conservation lands; requires office to consult with DEP; requires assessment to be submitted to Legislature by specified date. Effective Date: July 1, 2019
3/8/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee
- HB 1221** **Anchored Vessels** Polsky
Anchored Vessels: Directs FWCC to conduct study of impacts of long-term stored vessels & certain anchored & moored vessels on local communities & state & to submit report to Governor & Legislature; prohibits residing or dwelling on certain derelict vessels until certain conditions are met. Effective Date: July 1, 2019
3/26/2019 HOUSE Now in State Affairs Committee
- HB 1237** **Towing and Immobilizing Vehicles and Vessels** McClain
Towing and Immobilizing Vehicles and Vessels: Authorizes local governments to enact rates to tow vessels on private property & remove & store vessels; prohibits counties or municipalities from enacting ordinances imposing costs or penalties on owners, persons in control, or lienholders of vehicles or vessels or that require wrecker operators or towing businesses to accept specified form of payment; authorizes persons to place liens on vehicles or vessels to recover fees or charges; removes requirement regarding notices & signs concerning towing or removal of vehicles & vessels & liability for attorney fees; prohibits counties or municipalities from authorizing attorney fees in connection with towing activities & preempts to state regulation of such fees. Effective Date: July 1, 2019
4/11/2019 HOUSE Placed on Special Order Calendar, 04/17/19
- HB 1269** **Vehicle and Vessel Registration Data** Fernandez-Barquin
Vehicle and Vessel Registration Data: Requires DHSMV to provide tax collectors & their agents with real-time access to certain vehicle & vessel registration data in same manner as provided to other third parties. Effective Date: July 1, 2019
4/3/2019 HOUSE Now in State Affairs Committee
- HB 1273** **Legislative Preemption** Goff-Marcil
Legislative Preemption: Proposes s. 22 of Art. III of State Constitution to require supermajority of each house to approve general law preempting subject of legislation to state. Effective Date: Not Specified
3/8/2019 HOUSE Now in Local, Federal & Veterans Affairs Subcommittee
- HB 1279** **Prohibited Discrimination** Fernández
Prohibited Discrimination: Defines terms "gender identity" & "sexual orientation"; revises functions of Florida Commission on Human Relations; revises provisions regarding remedies for unlawful discrimination to include discrimination based on sexual orientation & gender identity in area of employment; adds sexual orientation & gender identity as impermissible grounds for discrimination with respect to specified unlawful employment practices; provides exception to specified provisions for constitutionally protected free exercise of religion. Effective Date: July 1, 2019
3/8/2019 HOUSE Now in Civil Justice Subcommittee
- HB 1285** **Heat Illness Prevention** Smith (C)
Heat Illness Prevention: Requires certain employers to provide drinking water, shade, & annual training to certain employees & supervisors; requires DACS to adopt rules. Effective Date: October 1, 2019
3/8/2019 HOUSE Now in Workforce Development & Tourism Subcommittee
- HB 1291** **State Renewable Energy Goals** Eskamani
State Renewable Energy Goals: Directs Office of Energy within DACS to develop unified statewide plan to generate state's energy from renewable sources by specified dates; requires state & public entities to cooperate as requested;

provides plan requirements; requires office to submit plan & updates to Governor & Legislature. Effective Date: July 1, 2019

3/8/2019 HOUSE Now in Energy & Utilities Subcommittee

HB 1319

Vessels

Diamond

Vessels: Requires vessel operators to reduce speed in specified hazardous situations; revises criteria for at risk vessel determinations; revises civil penalties relating to certain at risk vessels & prohibited anchoring or mooring; provides civil penalties for vessels that fail to reduce speed for special hazards. Effective Date: July 1, 2019

4/4/2019 HOUSE Now in State Affairs Committee

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

4/10/2019 SENATE Now in Appropriations

SB 1530

Vessels

Rouson

Vessels; Requiring vessel operators to reduce speed in specified hazardous situations; revising civil penalties relating to certain at-risk vessels and prohibited anchoring or mooring; providing civil penalties relating to vessels that fail to reduce speed for special hazards, etc. Effective Date: 7/1/2019

4/8/2019 SENATE Now in Rules

SB 1538

Heat Illness Prevention

Torres, Jr.

Heat Illness Prevention; Providing applicability; providing definitions; providing responsibilities of certain employers and employees; requiring the Department of Agriculture and Consumer Services to adopt rules, etc. Effective Date: 10/1/2019

3/8/2019 SENATE Referred to Health Policy; Governmental Oversight and Accountability; Rules

SB 1552

Florida Red Tide Mitigation and Technology Development Initiative

Gruters

Florida Red Tide Mitigation and Technology Development Initiative; Establishing the Florida Red Tide Mitigation and Technology Development Initiative; requiring the initiative to submit an annual 8 report by a specified date to the Governor, the Legislature, the Secretary of Environmental Protection, and the executive director of the Fish and Wildlife Conservation Commission; establishing the Initiative Technology Advisory Council, etc. APPROPRIATION: Indeterminate Effective Date: 7/1/2019

4/10/2019 SENATE Now in Appropriations

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
4/12/2019 SENATE Placed on Calendar, on 2nd reading

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
4/3/2019 SENATE Now in Appropriations

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 of Vehicles and Vessels

Gruters

Towing 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 or municipalities from enacting certain ordinances or rules that impose fees or charges on authorized wrecker operators or towing businesses; prohibiting municipalities or counties from enacting an ordinance or rule requiring an authorized wrecker

operator to accept checks as a form of payment; authorizing certain persons to place liens on vehicles or vessels to recover specified fees or charges, etc. Effective Date: 7/1/2019
4/4/2019 SENATE Now in Rules

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
4/10/2019 SENATE Read Second Time; Placed on Third Reading, 04/17/19

SB 7024 **Department of Environmental Protection Citizen Support Organizations** Environment and Natural Resources
Department of Environmental Protection Citizen Support Organizations; Requiring the department to submit a report to the Legislature by a specified date; abrogating the scheduled repeal of provisions governing citizen support organizations established under the department; abrogating the scheduled repeal of provisions governing citizen support organizations established under the department for the benefit of the state park system, 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