

CHAPTER 2019-76

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 475

An act relating to certificates of title for vessels; creating s. 328.001, F.S.; providing a short title; creating s. 328.0015, F.S.; providing definitions; amending s. 328.01, F.S.; revising requirements for application for, and information to be included in, a certificate of title for a vessel; creating s. 328.015, F.S.; requiring the Department of Highway Safety and Motor Vehicles to retain certain information relating to ownership and titling of vessels; requiring the department to furnish certain information upon request; creating s. 328.02, F.S.; providing that the law of the state in which a vessel is titled governs all issues relating to a certificate of title; specifying when a vessel becomes covered by such certificate; amending s. 328.03, F.S.; requiring a vessel owner to deliver an application for certificate of title to the department by a specified time; revising circumstances under which a vessel must be titled by this state; providing requirements for issuing, transferring, or renewing the number of an undocumented vessel issued under certain federal provisions; deleting provisions relating to operation, use, or storage of a vessel; deleting provisions relating to selling, assigning, or transferring a vessel; specifying that a certificate of title is prima facie evidence of the accuracy of the information in the record that constitutes the certificate; creating s. 328.04, F.S.; providing requirements for the contents of a certificate of title; creating s. 328.045, F.S.; providing responsibilities of an owner and insurer of a hull-damaged vessel when transferring an ownership interest in the vessel; requiring the department to create a new certificate indicating such damage; providing civil penalties; creating s. 328.055, F.S.; requiring the department to maintain certain information in its files; creating s. 328.06, F.S.; providing responsibilities of the department when creating a certificate of title; creating s. 328.065, F.S.; specifying effect of possession of a certificate of title; providing construction; amending s. 328.09, F.S.; providing duties of the department relating to creation, issuance, refusal to issue, or cancellation of a certificate of title; providing for a hearing; creating s. 328.101, F.S.; specifying that a certificate of title and certain other records are effective despite missing or incorrect information; amending s. 328.11, F.S.; providing requirements for obtaining a duplicate certificate of title; creating s. 328.12, F.S.; providing requirements for determination and perfection of a security interest in a vessel; providing applicability; creating s. 328.125, F.S.; providing requirements for the delivery of a statement of termination of a security interest; providing duties of the department; providing liability for noncompliance; creating s. 328.14, F.S.; providing for the rights of a purchaser of a vessel who is not a secured party; creating s. 328.145, F.S.; providing for the rights of a secured party; amending s. 328.15, F.S.; deleting certain provisions relating to notice of a lien; providing for future repeal of certain provisions; amending ss. 328.16 and 328.165, F.S.;

conforming provisions to changes made by the act; creating s. 328.215, F.S.; specifying circumstances under which the department may create a new certificate of title after receipt of an application for a transfer of ownership or termination of a security interest unaccompanied by a certificate of title; authorizing the department to indicate certain information on the new certificate; authorizing the department to require a bond, indemnity, or other security; providing for the release of such bond, indemnity, or other security; providing that the department is not liable for creating a certificate of title based on erroneous or fraudulent information; providing penalties; creating s. 328.22, F.S.; providing requirements for the transfer of ownership in a vessel; providing effect of noncompliance; creating s. 328.23, F.S.; providing a definition; providing duties of the department upon receipt of a secured party's transfer statement; providing construction; creating s. 328.24, F.S.; providing a definition; providing requirements for a transfer of ownership by operation of law; providing duties of the department; providing applicability; creating s. 328.25, F.S.; providing that the principles and law of equity supplement the provisions of the act; creating s. 328.35, F.S.; authorizing the department to adopt rules to implement vessel titling provisions; **amending ss. 409.2575, 705.103, and 721.08, F.S.;** conforming provisions and cross-references to changes made by the act; providing construction and applicability regarding transactions, certificates of title, and records entered into or created, actions or proceedings commenced, and security interests perfected before the effective date of the act; providing applicability; providing an effective date.

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

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

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

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

328.0015 Definitions.—

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

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

(b) “Builder’s certificate” means a certificate of the facts of build of a vessel described in 46 C.F.R. s. 67.99.

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

(d) “Cancel,” with respect to a certificate of title, means to make the certificate ineffective.

(e) “Certificate of origin” means a record created by a manufacturer or importer as the manufacturer’s or importer’s proof of identity of a vessel. The term includes a manufacturer’s certificate or statement of origin and an importer’s certificate or statement of origin. The term does not include a builder’s certificate.

(f) “Certificate of title” means a record, created by the department or by a governmental agency of another jurisdiction under the law of that jurisdiction, that is designated as a certificate of title by the department or agency and is evidence of ownership of a vessel.

(g) “Dealer” means a person, including a manufacturer, in the business of selling vessels.

(h) “Department” means the Department of Highway Safety and Motor Vehicles.

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

(j) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

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

(l) “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.

(m) “Good faith” means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(n) “Hull damaged” means compromised with respect to the integrity of a vessel’s hull by a collision, allision, lightning strike, fire, explosion, running aground, or similar occurrence, or the sinking of a vessel in a manner that creates a significant risk to the integrity of the vessel’s hull.

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

(p) “Lien creditor,” with respect to a vessel, means:

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

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

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

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

(q) “Owner” means a person who has legal title to a vessel.

(r) “Owner of record” means the owner indicated in the files of the department or, if the files indicate more than one owner, the one first indicated.

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

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

(u) “Purchaser” means a person who takes by purchase.

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

(w) “Secured party,” with respect to a vessel, means a person:

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

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

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

(x) “Secured party of record” means the secured party whose name is indicated as the name of the secured party in the files of the department or, if the files indicate more than one secured party, the one first indicated.

(y) “Security interest” means an interest in a vessel which secures payment or performance of an obligation if the interest is created by contract or arises under s. 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5). The term includes any interest of a consignor in a vessel in a transaction that is subject to chapter 679. The term does not include the special property interest of a buyer of a vessel on identification of that vessel to a contract for sale under s. 672.501, but a buyer also may acquire a security interest by complying with chapter 679. Except as otherwise provided in s. 672.505, the right of a seller or lessor of a vessel under chapter 672 or chapter 680 to retain or acquire possession of the vessel is not a security interest, but a seller or lessor also may acquire a security interest by complying with chapter 679. The retention or reservation of title by a seller of a vessel notwithstanding shipment or delivery to the buyer under s. 672.401 is

limited in effect to a reservation of a security interest. Whether a transaction in the form of a lease creates a security interest is determined as provided in part II of chapter 671.

(z) “Sign” means, with present intent to authenticate or adopt a record, to:

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

(aa) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

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

(cc) “Title brand” means a designation of previous damage, use, or condition that must be indicated on a certificate of title.

(dd) “Transfer of ownership” means a voluntary or involuntary conveyance of an interest in a vessel.

(ee) “Vessel” means a watercraft used or capable of being used as a means of transportation on water, except:

1. A seaplane;
2. An amphibious vehicle for which a certificate of title is issued pursuant to chapter 319 or a similar statute of another state;
3. Nonmotor-powered watercraft less than 16 feet in length;
4. Watercraft that operate only on a permanently fixed, manufactured course and the movement of which is restricted to or guided by means of a mechanical device to which the watercraft is attached or by which the watercraft is controlled;
5. A stationary floating structure that:
 - a. Does not have and is not designed to have a mode of propulsion of its own;
 - b. Is dependent for utilities upon a continuous utility hookup to a source originating on shore; and
 - c. Has a permanent, continuous hookup to a shoreside sewage system;

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

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

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

(gg) “Written certificate of title” means a certificate of title consisting of information inscribed on a tangible medium.

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

(a) “Agreement” as defined in s. 671.201(3).

(b) “Buyer in ordinary course of business” as defined in s. 671.201(9).

(c) “Conspicuous” as defined in s. 671.201(10).

(d) “Consumer goods” as defined in s. 679.1021(1)(w).

(e) “Debtor” as defined in s. 679.1021(1)(bb).

(f) “Knowledge” as defined in s. 671.209.

(g) “Lease” as defined in s. 680.1031(1)(j).

(h) “Lessor” as defined in 680.1031(1)(p).

(i) “Notice” as defined s. 671.209.

(j) “Representative” as defined in s. 671.201(36).

(k) “Sale” as defined in s. 672.106(1).

(l) “Security agreement” as defined in s. 679.1021(1)(uuu).

(m) “Seller” as defined in s. 672.103(1)(d).

(n) “Send” as defined in s. 671.201(39).

(o) “Value” as defined in s. 671.211.

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

328.01 Application for certificate of title.—

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

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

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

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

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

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

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

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

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

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

4. The overall length of the vessel;

5. The vessel type;

6. The hull material;

7. The propulsion type;

8. The engine drive type, if any; and

9. The fuel type, if any;

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

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

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

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

(j) 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

(k) 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.

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

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

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

1. Identifies the applicant as the owner of the vessel; or

2. Is accompanied by a record that identifies the applicant as the owner; or

(b) If there is no certificate of title:

1. 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;

2. 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

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

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

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

(7)(a) The application shall be signed by the owner and shall be accompanied by personal or business identification and the prescribed fee. An individual applicant must provide a valid driver license or identification card issued by this state or another state or a valid passport. A business applicant must provide a federal employer identification number, if

applicable, verification that the business is authorized to conduct business in the state, or a Florida city or county business license or number.

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

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

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

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

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

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

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

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

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

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

application is in the proper form, the department shall issue a certificate of title.

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

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

~~(b) If the application for transfer of title is based upon a contractual default, the recorded lienholder shall 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 shall accompany the application for transfer of title. If, on the basis of departmental records, there appears to be any other lien on the vessel, the certificate of title must contain a statement of such a lien, unless the application for a certificate of title is either accompanied by proper evidence of the satisfaction or extinction of the lien or contains a statement certifying that any lienholder named on the last issued certificate of title has been sent notice by certified mail, at least 5 days before the application was filed, of the applicant's intention to seek a repossessed title. If such notice is given and no written protest to the department is presented by a subsequent lienholder within 15 days after the date on which the notice was mailed, the certificate of title shall be issued showing no liens. If the former owner or any subsequent lienholder files a written protest under oath within the 15-day period, the department shall not issue the repossessed certificate for 10 days thereafter. If, within the 10-day period, no injunction or other order of a court of competent jurisdiction has been served on the department commanding it not to deliver the certificate, the department shall deliver the repossessed certificate to the applicant, or as is otherwise directed in the application, showing no other liens than those shown in the application.~~

(c) In making application for transfer of title from a deceased titled owner, the new owner or surviving coowner shall 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 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 department. If the decedent died intestate, a court order awarding the ownership of the vessel or an affidavit by the decedent's surviving spouse or heirs establishing or releasing all rights of ownership and a copy of the decedent's death certificate shall be submitted to the department.

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

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

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

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

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

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

~~(8)(4)~~ If the owner cannot furnish the department of ~~Highway Safety and Motor Vehicles~~ with all the required ownership documentation, the department may, at its discretion, issue a title conditioned on the owner's

agreement to indemnify the department and its agents and defend the title against all claims or actions arising out of such issuance.

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

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

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

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

328.015 Duties and operation of the department.—

(1) The department shall 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.

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

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

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

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

- 1. Identified by a hull identification number designated in the request;
- 2. Identified by a vessel number designated in the request; or
- 3. Owned by a person designated in the request;

(b) With respect to the vessel:

- 1. The name and address of any owner as indicated in the files of the department or on the certificate of title;
- 2. The name and address of any secured party as indicated in the files of the department or on the certificate, and the effective date of the information; and
- 3. A copy of any termination statement indicated in the files of the department and the effective date of the termination statement; and

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

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

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

328.02 Law governing vessel covered by certificate of title.—

(1) The law of the state under which a vessel’s certificate of title 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 other relationship exists between the state and the vessel or its owner.

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

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

328.03 Certificate of title required.—

(1) Except as otherwise provided in subsections (2) and (3), each vessel that is operated, used, or stored on the waters of this state must be titled by this state pursuant to this part, and the owner of a vessel for which this state is the state of principal use shall deliver to the department an application for

a certificate of title for the vessel, with the applicable fee, not later than 30 days after the later of:

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

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

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

(a) A documented vessel;

(b) A foreign-documented vessel;

(c) A barge;

(d) A vessel before delivery if the vessel is under construction or completed pursuant to contract;

(e) A vessel held by a dealer for sale or lease;

(f) A vessel used solely for demonstration, testing, or sales promotional purposes by the manufacturer or dealer;

(g)(a) A vessel operated, used, or stored exclusively on private lakes and ponds;

(h)(b) A vessel owned by the United States Government;

~~(e) A non-motor-powered vessel less than 16 feet in length;~~

~~(d) A federally documented vessel;~~

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

(j)(f) 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;

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

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

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

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

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

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

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

(5)(4) A certificate of title is prima facie evidence of the accuracy of the information in the record that constitutes the certificate and of the ownership of the vessel. A certificate of title is good for the life of the vessel so long as the certificate is owned or held by the legal holder. If a titled vessel is destroyed or abandoned, the owner, with the consent of any recorded lienholders, shall, within 30 days after the destruction or abandonment, surrender to the department for cancellation any and all title documents. If a titled vessel is insured and the insurer has paid the owner for the total loss of the vessel, the insurer shall obtain the title to the vessel and, within 30 days after receiving the title, forward the title to the department of Highway Safety and Motor Vehicles for cancellation. The insurer may retain the certificate of title when payment for the loss was made because of the theft of the vessel.

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

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

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

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

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

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

328.04 Content of certificate of title.—

(1) A certificate of title must contain:

(a) The date the certificate was created;

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

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

(d) The hull identification number;

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

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

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

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

(3) For each title brand indicated on a certificate of title, the certificate must identify the jurisdiction under whose law the title brand was created or the jurisdiction that created the certificate on which the title brand was indicated. If the meaning of a title brand is not easily ascertainable or cannot be accommodated on the certificate, the certificate may state: "Previously

branded in (insert the jurisdiction under whose law the title brand was created or whose certificate of title previously indicated the title brand)."

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

(5) A 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 to another person. The form must include a certification, signed under penalty of perjury, that the statements made are true and correct to the best of each owner's knowledge, information, and belief.

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

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

328.045 Title brands.—

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

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

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

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

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

(4) An owner of record who fails to comply with subsection (1), a person who solicits or colludes in a failure by an owner of record to comply with subsection (1), or an insurer that fails to comply with subsection (3) commits a noncriminal infraction under s. 327.73(1) for which the penalty is \$5,000

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

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

328.055 Maintenance of and access to files.—

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

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

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

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

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

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

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

328.06 Action required on creation of certificate of title.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

328.11 Duplicate certificate of title.—

(1) If a written certificate of title is lost, stolen, mutilated, destroyed, or otherwise becomes unavailable or illegible, the secured party of record or, if no secured party is indicated in the files of the department, the owner of

record may apply for and, by furnishing information satisfactory to the department, obtain a duplicate certificate in the name of the owner of record.

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

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

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

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

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

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

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

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

328.12 Perfection of security interest.—

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

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

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

(3) If the department has created a certificate of title for a vessel, a security interest in the vessel may be perfected by delivery to the department of an application, on a form the department may require, 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:

(a) The name of the owner of record;

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

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

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

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

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

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

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

(a) 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;

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

(c) 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 the department.

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

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

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

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

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

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

328.125 Termination statement.—

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

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

(b) If the vessel is consumer goods, 30 days after 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.

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

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

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

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

328.14 Rights of purchaser other than secured party.—

(1) A buyer in ordinary course of business has the protections afforded by ss. 672.403(2) and 679.320(1) 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.

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

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

328.145 Rights of secured party.—

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

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

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

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

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

328.15 Notice of lien on vessel; recording.—

~~(1) No 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 shall be enforceable in any of the courts of this state against creditors or subsequent purchasers for a valuable consideration and without notice unless a sworn notice of such lien is recorded. The lien certificate shall contain the following information:~~

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

~~(b) Date of lien;~~

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

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

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

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

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

signature of each coowner is required in order to place a lien or encumbrance on the vessel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) An authorized person must sign the original certificate of title and each corrected certificate and, if there are no liens, security interests, or encumbrances on the vessel, as shown in the records of the department or as shown in the application, must deliver the certificate to the applicant or to another person as directed by the applicant or person, agent, or attorney submitting the application. If there are one or more liens, security interests, or encumbrances on the vessel, the department must deliver the certificate to the first lienholder or secured party as shown by department records. The department shall deliver to the first lienholder or secured party, along with the certificate, a form to be subsequently used by the lienholder or secured party as a satisfaction. If the application for certificate of title shows the name of a first lienholder or secured party which is different from the name of the first lienholder or secured party as shown by the records of the department, the certificate shall not be issued to any person until after the department notifies all parties who appear to hold a lien or a security interest and the applicant for the certificate, in writing by certified mail. If the parties do not amicably resolve the conflict within 10 days after the date the notice was mailed, the department shall serve notice in writing by certified mail on all persons that appear to hold liens or security interests on

that particular vessel, including the applicant for the certificate, to show cause within 15 days after the date the notice is mailed why it should not issue and deliver the certificate to the secured party of record or person indicated in the notice of lien filed by the lienholder whose name appears in the application as the first lienholder without showing any lien or liens as outstanding other than those appearing in the application or those filed subsequent to the filing of the application for the certificate of title. If, within the 15-day period, any person other than the lienholder or secured party of record shown in the application or a party filing a subsequent lien or security interest, in answer to the notice to show cause, appears in person or by a representative, or responds in writing, and files a written statement under oath that his or her lien or security interest on that particular vessel is still outstanding, the department shall not issue the certificate to anyone until after the conflict has been settled by the lien or security interest claimants involved or by a court of competent jurisdiction. If the conflict is not settled amicably within 10 days after the final date for filing an answer to the notice to show cause, the complaining party shall have 10 days to obtain a ruling, or a stay order, from a court of competent jurisdiction. If a ruling or stay order is not issued and served on the department within the 10-day period, the department shall issue the certificate showing no liens or security interests, except those shown in the application or thereafter filed, to the original applicant if there are no liens or security interests shown in the application and none are thereafter filed, or to the person indicated as the secured party of record or in the notice of lien filed by the lienholder whose name appears in the application as the first lienholder if there are liens shown in the application or thereafter filed. A duplicate certificate or corrected certificate must show only such security interest or interests or lien or liens as were shown in the application and subsequently filed liens or security interests that may be outstanding.

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

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

(5) The owner of a vessel, upon which a lien or security interest has been filed with the department or noted upon a certificate of title for a period of 5 years, may apply to the department in writing for such lien or security interest to be removed from the department files or from the certificate of title. The application must be accompanied by evidence satisfactory to the department that the applicant has notified the lienholder or secured party by certified mail, not less than 20 days ~~before~~ ~~prior~~ to the date of the application, of his or her intention to apply to the department for removal of the lien or security interest. Ten days after receipt of the application, the department may remove the lien or security interest from its files or from the certificate of title, as the case may be, if no statement in writing protesting removal of the lien or security interest is received by the department from the lienholder or secured party within the 10-day period. However, if the lienholder or secured party files with the department, within the 10-day period, a written statement that the lien or security interest is still outstanding, the department may not remove the lien or security interest until the lienholder or secured party presents a satisfaction of lien or satisfaction of security interest to the department.

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

328.165 Cancellation of certificates.—

(1) If it appears that a certificate of title has been improperly issued, the department shall cancel the certificate. Upon cancellation of any certificate of title, the department shall notify the person to whom the certificate of title was issued, and any lienholders or secured parties appearing thereon, of the cancellation and shall demand the surrender of the certificate of title; however, the cancellation does not affect the validity of any lien or security interest noted thereon. The holder of the certificate of title shall immediately return it to the department. If a certificate of registration has been issued to the holder of a certificate of title so canceled, the department shall immediately cancel the certificate of registration and demand the return of the certificate of registration, and the holder of such certificate of registration shall immediately return it to the department.

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

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

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

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

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

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

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

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

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

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

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

328.22 Transfer of ownership.—

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

(a) If the certificate is a written certificate of title and the transferor's interest is noted on the certificate, the transferor shall 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 transferor's compliance with this paragraph. A secured party does not have a duty to facilitate the transferor's compliance with this paragraph if the proposed transfer is prohibited by the security agreement.

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

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

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

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

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

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

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

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

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

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

(c) 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;

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

(e) The name of the transferee;

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

(g) One of the following:

1. The certificate of title is an electronic certificate;

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

3. The secured party is delivering the written certificate of title to the department with the secured party’s transfer statement.

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

(a) Accept the statement;

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

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

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

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

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

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

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

328.24 Transfer by operation of law.—

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

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

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

(c) Through other legal process.

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

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

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

(c) A statement that:

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

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

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

(d) Except for a transfer described in paragraph (1)(a), 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 files of the department as having an interest, including a security interest, in the vessel.

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

(a) Accept the statement;

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

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

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

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

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

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

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

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

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

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

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

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

409.2575 Liens on motor vehicles and vessels.—

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

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

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

705.103 Procedure for abandoned or lost property.—

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

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY. This property, to wit: ...(setting forth brief description)... is unlawfully upon public property known as ...(setting forth brief description of location)... and must be removed within 5 days; otherwise, it will be removed and disposed of pursuant to chapter 705, Florida Statutes. The owner will be liable for the costs of removal, storage,

and publication of notice. Dated this: ...(setting forth the date of posting of notice)..., signed: ...(setting forth name, title, address, and telephone number of law enforcement officer)...

Such notice shall be not less than 8 inches by 10 inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the law enforcement officer shall make a reasonable effort to ascertain the name and address of the owner. If such is reasonably available to the officer, she or he shall mail a copy of such notice to the owner on or before the date of posting. If the property is a motor vehicle as defined in s. 320.01(1) or a vessel as defined in s. 327.02, the law enforcement agency shall contact the Department of Highway Safety and Motor Vehicles in order to determine the name and address of the owner and any person who has filed a lien on the vehicle or vessel as provided in s. 319.27(2) or (3) or s. 328.15 ~~s. 328.15(1)~~. On receipt of this information, the law enforcement agency shall mail a copy of the notice by certified mail, return receipt requested, to the owner and to the lienholder, if any, except that a law enforcement officer who has issued a citation for a violation of s. 823.11 to the owner of a derelict vessel is not required to mail a copy of the notice by certified mail, return receipt requested, to the owner. If, at the end of 5 days after posting the notice and mailing such notice, if required, the owner or any person interested in the lost or abandoned article or articles described has not removed the article or articles from public property or shown reasonable cause for failure to do so, the following shall apply:

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

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

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

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

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

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

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

(c) Compliance with conditions.—

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

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

(I) Expiration of the cancellation period.

(II) Completion of construction.

(III) Closing.

(IV) Either:

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

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

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

c. One of the following:

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

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

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

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

(I) Expiration of the cancellation period.

(II) Completion of construction.

(III) Closing.

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

c. Evidence that each accommodation and facility:

(I) Is free and clear of the claims of any interestholders, other than the claims of interestholders that, through a recorded instrument, are

irrevocably made subject to the timeshare instrument and the use rights of purchasers made available through the timeshare instrument;

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

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

d. Evidence that the timeshare estate:

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

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

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

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

(I) Expiration of the cancellation period.

(II) Completion of construction.

(III) Closing.

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

c. Evidence that one of the following has occurred:

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

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

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

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

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

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

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

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

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

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

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

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

(III) If the vessel is a foreign vessel, the vessel must be registered in a jurisdiction that permits a filing evidencing the use rights of purchasers in the subject accommodations and facilities, offers protection for such use

rights against unfiled and inferior claims, and recognizes the document or instrument creating such use rights as a lien against the vessel.

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

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

4. Trust.—

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

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

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

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

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

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

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

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

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

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

5. Owners' association.—

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

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

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

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

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

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

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

(VI) For owners' associations holding property in a timeshare plan located outside this state, the owners' association holding such property

shall be deemed in compliance with the requirements of this subparagraph if such owners' association is authorized and qualified to conduct owners' association business under the laws of such jurisdiction and the agreement or law governing such arrangement provides substantially similar protections for the purchaser as are required in this subparagraph for owners' associations holding property in a timeshare plan in this state.

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

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

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

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

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

Section 31. (1) 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 this act and would be subject to this act if it had been entered into or created on or after the effective date of this act remain valid on and after the effective date of this act.

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

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

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

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

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

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

Section 32. 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.

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

Approved by the Governor June 7, 2019.

Filed in Office Secretary of State June 7, 2019.