

CHAPTER 328

VESSELS: TITLE CERTIFICATES; LIENS

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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. 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. The application shall be signed by the owner and shall be accompanied by the prescribed fee.

(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 Division of Law Enforcement of the Department of Environmental Protection or the Game and Fresh Water Fish 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.

(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.

(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 certified 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.

(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.

(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.

(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.

History.—s. 4, ch. 67-586; ss. 25, 35, ch. 69-106; s. 11, ch. 74-327; s. 4, ch. 80-266; s. 12, ch. 81-100; s. 11, ch. 84-184; s. 12, ch. 85-81; s. 159, ch. 94-356; s. 956, ch. 95-148; s. 57, ch. 95-333.

Note.—Former s. 371.75.

328.03 Certificate of title required.—

(1) Every vessel operated on the waters of this state must be titled by this state pursuant to this chapter, except the following vessels:

(a) A vessel owned by the United States Government.

(b) A non-motor-powered vessel less than 16 feet in length.

(c) A federally documented vessel.

(d) A vessel used exclusively on private lakes and ponds.

(e) A vessel already covered by a number in full force and effect which was awarded to the vessel pursuant to federal law or a federally approved numbering system of another state; provided such vessel is not located in this state for a period in excess of 90 days.

(f) An amphibious vessel for which a title is issued by the Department of Highway Safety and Motor Vehicles.

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

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

(i) A vessel from a country other than the United States temporarily using the waters of this state not in excess of 90 days.

(2) A person shall not operate 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 for a period of up to 180 days from 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. 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.

(4) A certificate of title is prima facie evidence 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.

(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.

(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.

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

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

History.—s. 4, ch. 67-586; ss. 24, 25, 35, ch. 69-106; s. 12, ch. 74-327; ss. 7, 8, ch. 79-359; s. 52, ch. 80-274; s. 13, ch. 81-100; s. 21, ch. 83-218; s. 11, ch. 84-184; s. 3, ch. 85-108; s. 7, ch. 85-324; s. 1, ch. 87-291; s. 467, ch. 95-148; s. 58, ch. 95-333.

Note.—Former s. 371.76.

328.05 Crimes relating to certificates of title to, or other indicia of ownership of, vessels; penalties.—

(1) It is unlawful for any person to procure or attempt to procure a certificate of title or duplicate certificate of title to a vessel, or to pass or attempt to pass a certificate of title or duplicate certificate of title to a vessel or any assignment thereof, if such person knows or has reason to believe that such vessel is stolen. Any person who violates any provision of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) It is unlawful for any person, knowingly and with intent to defraud, to have in his or her possession, sell, offer to sell, counterfeit, or supply a blank, forged, fictitious, counterfeit, stolen, or fraudulently or unlawfully obtained certificate of title, duplicate certificate of title, registration, bill of sale, or other indicia of ownership of a vessel or to conspire to do any of the foregoing. Any person who violates any provision of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) It is unlawful:

(a) To alter or forge any certificate of title to a vessel or any assignment thereof or any cancellation of any lien on a vessel.

(b) To retain or use such certificate, assignment, or cancellation knowing that it has been altered or forged.

(c) To use a false or fictitious name, give a false or fictitious address, or make any false statement in any application or affidavit required under the provisions of this chapter or in a bill of sale or sworn statement of ownership or otherwise commit a fraud in any application.

(d) To knowingly obtain goods, services, credit, or money by means of an invalid, duplicate, fictitious, forged, counterfeit, stolen, or unlawfully obtained certificate of title, registration, bill of sale, or other indicia of ownership of a vessel.

(e) To knowingly obtain goods, services, credit, or money by means of a certificate of title to a vessel which certificate is required by law to be surrendered to the department.

Any person who violates any provision of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A violation of any provision of this subsection with respect to any vessel shall constitute such vessel as contraband which may be seized by a law enforcement agency, or the division, and which shall be subject to forfeiture pursuant to ss. 932.701-932.704.

(4) This section is not exclusive of any other penalties prescribed by any existing or future laws for the larceny or unauthorized taking of vessels, but is supplementary thereto.

History.—s. 4, ch. 80-266; s. 11, ch. 84-184; s. 3, ch. 85-252; s. 28, ch. 87-243; s. 9, ch. 87-392; s. 468, ch. 95-148.

Note.—Former s. 371.763.

328.07 Hull identification number required.—

(1) No person shall operate on the waters of this state a vessel the construction of which began after October 31, 1972, for which the department has issued a certificate of title or which is required by law to be registered, unless the vessel displays the assigned hull identification number affixed by the manufacturer as required by the United States Coast Guard or by the department for a homemade vessel or other vessel for which a hull identification number is not required by the United States Coast Guard. The hull identification number must be carved, burned, stamped, embossed, or otherwise permanently affixed to the outboard side of the transom or, if there is no transom, to the outermost starboard side at the end of the hull that bears the rudder or other steering mechanism, above the waterline of the vessel in such a way that alteration, removal, or replacement would be obvious and evident. The characters of the hull identification number must be no less than 12 in number and no less than one-fourth inch in height.

(2) No person shall operate on the waters of this state a vessel the construction of which was completed before November 1, 1972, for which the department has issued a certificate of title or which is required by law to be registered, unless the vessel displays a hull identification number. The hull identification number shall be clearly imprinted in the transom or on the hull by stamping, impressing, or marking with pressure. In lieu of imprinting, the hull identification number may be displayed on a plate in a permanent manner. A vessel for which the manufacturer has provided no hull identification number or a homemade vessel shall be assigned a hull identification number by the department which shall be affixed to the vessel pursuant to this section.

(3)(a) No person, firm, association, or corporation shall destroy, remove, alter, cover, or deface the hull identification number or hull serial number, or plate bearing such number, of any vessel, except to make necessary repairs which require the removal of the hull identification number and immediately upon completion of such repairs shall reaffix the hull identification number in accordance with subsection (2).

(b) If any of the hull identification numbers required by the United States Coast Guard for a vessel manufactured after October 31, 1972, do not exist or have been altered, removed, destroyed, covered, or defaced or the real identity of the vessel cannot be determined, the vessel may be seized as contraband property by a law enforcement agency or the division, and shall be subject to forfeiture pursuant to ss. 932.701-932.707. Such vessel may not be sold or operated on the waters of the state unless the division receives a request from a law enforcement agency providing adequate documentation or is directed by written order of a court of competent jurisdiction to issue to the vessel a replacement hull identification number which shall thereafter be used for identification purposes. No vessel shall be forfeited under the Florida Contraband Forfeiture Act when the owner unknowingly, inadvertently, or neglectfully altered, removed, destroyed, covered, or defaced the vessel hull identification number.

(4)(a) It is unlawful for any person to knowingly possess, manufacture, sell or exchange, offer to sell or exchange, supply in blank, or give away any counterfeit manufacturer's vessel hull identification number plate or decal or any manufacturer's vessel hull identification plate or decal which is assigned to another vessel to be used for the purpose of identification of any vessel; to authorize, direct, aid in exchange, or give away such counterfeit manufacturer's vessel hull identification number plate or decal or any manufacturer's vessel hull identification number plate or decal which is assigned to another vessel; or to conspire to do any of the foregoing. However, nothing in this subsection shall be applicable to any approved hull identification number plate or decal issued as a replacement by the manufacturer, the department, or another state.

(b) It is unlawful for any person to knowingly buy, sell, offer for sale, receive, dispose of, conceal, or have in his or her possession any vessel or part thereof on which the assigned identification number has been altered, removed, destroyed, covered, or defaced or maintain such vessel in any manner which conceals or misrepresents the true identity of the vessel.

(c) Any person who violates any provision of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) The failure to have the hull identification number clearly displayed in compliance with this section shall be probable cause for any Division of Law Enforcement officer or other authorized law enforcement officer to make further inspection of the vessel in question to ascertain the true identity thereof.

(6) Each vessel manufactured after the effective date of this act for sale in the state shall have a hull identification number displayed prior to sale or delivery for sale in accordance with the regulations set forth in 33 C.F.R. part 181. The hull identification number shall not be altered or replaced by the manufacturer or manufacturer's representative for the purpose of upgrading the model year of a vessel after being offered for sale or delivered to any dealer.

(7) No person or firm shall assign the same hull identification number to more than one vessel.

History.—s. 4, ch. 67-586; ss. 25, 35, ch. 69-106; s. 13, ch. 74-327; s. 5, ch. 80-266; s. 5, ch. 83-102; s. 2, ch. 84-129; s. 12, ch. 84-184; s. 1, ch. 86-73; s. 10, ch. 92-54; s. 469, ch. 95-148.

Note.—Former s. 371.77.

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

(1) If the department determines at any time that an applicant for a certificate of title or registration gave a false statement or false or incomplete information in applying for the certificate or otherwise failed to comply with the applicable provisions pertaining to the application for a certificate, it may refuse to issue the certificate.

(2) If the department determines at any time that an owner or dealer named in a certificate of title or registration gave a false statement or false or incomplete information in applying for the certificate or otherwise failed to comply with the applicable provisions pertaining to the application for a certificate, it may cancel the certificate.

(3) The department may cancel any pending application or any certificate if it determines that any title or registration fee or sales tax pertaining to such registration has not been paid, provided such fee or tax is not paid upon reasonable notice.

History.—s. 4, ch. 67-586; ss. 25, 35, ch. 69-106; s. 13, ch. 74-327; s. 23, ch. 78-95; s. 13, ch. 84-184.

Note.—Former s. 371.78.

328.11 Duplicate certificate of title.—

(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.

(2) In addition to the fee imposed by subsection (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.

History.—s. 4, ch. 67-586; ss. 25, 35, ch. 69-106; s. 13, ch. 74-327; s. 14, ch. 84-184; s. 2, ch. 87-291; s. 59, ch. 95-333.

Note.—Former s. 371.79.

328.13 Manufacturer's statement of origin to be furnished.—

(1) Any person selling a new vessel in this state shall furnish a manufacturer's statement of origin to the purchaser of the vessel. The statement shall be signed and dated by an authorized representative of the manufacturer and shall indicate the complete name and address of the purchaser. The statement shall provide a complete description of the vessel, which shall include, but is not limited to, the hull identification number, hull length, hull material, type of propulsion, and model year of the vessel.

(2) It is unlawful for a vessel manufacturer, manufacturer's representative, or dealer to issue a manufacturer's certificate of origin describing a vessel, knowing that such description is false or that the vessel described does not exist or for any person to obtain or attempt to obtain such manufacturer's certificate of origin knowing the description is false or having reason to believe the vessel does not exist. Any person who violates any provision of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 1, ch. 69-167; s. 6, ch. 80-266; s. 15, ch. 84-184.

Note.—Former s. 371.791.

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 motorboat 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 motorboat 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.

(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) The director of the state child support enforcement program may place a subsequent lien or encumbrance against a vessel having a recorded first lien by sending a written request to the first lienholder by certified mail. The first lienholder shall forward the certificate to the Department of Highway Safety and Motor Vehicles for endorsement, and the department shall return the certificate to the first lienholder after endorsing the subsequent lien on the certificate and on the duplicate.

(3) Upon the payment of 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.

(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.

(5) The Department of Highway Safety and Motor Vehicles shall make such rules and regulations as it deems necessary or proper for the effective administration of this law. 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 permanent record of such notices of lien and satisfactions available for inspection by the public at all reasonable times. The division is authorized to furnish certified copies of such satisfactions for a fee of \$1, which certified copies shall be 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.

(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 Motorboat Revolving Trust Fund.

(7) 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 motorboat 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's fees, lawfully incurred by the debtor or the registered owner of such motorboat in any suit which may be brought in the courts of this state for the cancellation of such lien.

History.—s. 4, ch. 67-586; ss. 25, 35, ch. 69-106; s. 14, ch. 74-327; s. 7, ch. 80-266; s. 16, ch. 84-184; s. 13, ch. 85-81; s. 4, ch. 85-252; s. 9, ch. 88-176; s. 160, ch. 94-356; s. 60, ch. 95-333.

Note.—Former s. 371.81.

328.17 Nonjudicial sale of vessels.—

(1) It is the intent of the Legislature that any nonjudicial sale of any unclaimed vessel held for unpaid costs of repairs, improvements, or other work and related storage charges, or any vessel held for failure to pay removal costs pursuant to s. 327.53(7), or any undocumented vessel in default of marina storage fees be disposed of pursuant to the provisions of this section.

(2) The Department of Highway Safety and Motor Vehicles shall provide certification forms for the nonjudicial sale of vessels as authorized by this section.

(3) Unless otherwise stated, all nonjudicial sales as provided in this section shall be subject to prior recorded liens against said vessels.

(4) Written leases for the storage of undocumented vessels which are executed between a marina in this state and persons who own such undocumented vessels shall contain a provision which authorizes the marina to sell such vessels at a nonjudicial sale in the event of nonpayment of rent for a period of 6 months. Said provision shall be set forth in bold print. Such leases are valid and enforceable under the following conditions:

(a) The written lease contains the address of the vessel owner and the marina sends written notice by certified or registered mail, return receipt requested, to the address of the vessel owner as set forth in the lease at least 30 days prior to the proposed sale.

(b) The marina sends written notice of nonjudicial sale by certified or registered letter, return receipt requested, to each recorded lienholder of such vessel registered with this state as shown by the records of the Department of Highway Safety and Motor Vehicles at least 30 days prior to the proposed sale. In the event the vessel is registered with another state, such verification and notification of lienholder interests shall be based on records maintained by the vessel registering authority of the other state.

(c) The marina publishes in a newspaper of general circulation in the county in which the marina is located a notice indicating the time and place of the sale; a complete description of the vessel; and a statement that the sale will be a public sale at auction to the highest bidder, provided the sale price is greater than 50 percent of the fair market value of said vessel. Fair market value shall be determined by two independent appraisals by factory representatives of the vessel's manufacturer or licensed marine surveyors. The notice shall be published at least 10 days prior to the sale.

(5) In the event the proceeds from a sale conducted in conformance with the provisions of subsection (4) exceed the storage fees due and owing on the vessel as of the date of sale, together with the costs of the sale, including publication costs and appraisal costs, the balance of the proceeds shall be deposited within 72 hours of the sale with the clerk of the circuit court of the county in which the sale is held, to be returned to the owner or lienholder of the vessel sold upon application within 1 year from the date of the sale by the owner or lienholder, less any fee charged by the clerk for such deposit, as allowed by law.

(6) In making application for transfer of title from a previous owner in default of marina storage fees, the new owner shall establish proof of ownership by submitting with the application, which includes the applicable fees and original bill of sale executed by the marina, a certified copy of the written lease signed by the marina and the previous owner, a copy of each registered or certified letter sent by the marina to the previous owner and lienholder, certified copies of the appraisals as required in paragraph (4)(c), a certified copy of the signed receipt from the clerk of the circuit court for any proceeds from the sale deposited with the county in which the sale was held, and a certified copy of the public notice of intent to sell published in a newspaper of general circulation in the county in which the marina is located. At the time the purchase price is paid, the marina shall provide the documentation required by this subsection to the purchaser.

(7) Any person who, with the consent of the owner, has physical possession of an undocumented unclaimed vessel for repairs, improvements, or other work shall have an unrecorded lien against the vessel for all reasonable costs of the completed work and associated reasonable towing and storage charges levied against the vessel. If the costs which give rise to such a lien are due and unpaid 90 days after the vessel owner is given written notice of the completed work, said person may sell the vessel, including its machinery, rigging, and accessories, at public auction. Wrecker service in and of itself shall not constitute repair or storage, and the charge for such service shall not be grounds for the establishment of a lien interest in the vessel. The sale of such vessel shall be valid and enforceable under the following conditions:

(a) The person who intends to sell an undocumented vessel registered with the state sends written notice of nonjudicial sale and an itemized invoice of the charges owed and due to the owners and recorded lienholders of said vessel at least 30 days prior to the sale. Such notice shall be considered made when certified or registered letters, return receipt requested, are mailed to the owners and recorded lienholders at the latest address of each as shown by the records of the Department of Highway Safety and Motor Vehicles. In the event said vessel is registered in another state, such verification and notification shall be based on ownership and lienholder interest records maintained by the vessel registering authority of the other state.

(b) A notice is published in a newspaper of general circulation in the county in which the repair business is located and in the county of the owner's last known

address at least 10 days prior to the date of the sale. Such notice shall indicate the time and place of the sale; shall contain a complete description of the vessel, including the name of any known owner; and shall contain a statement that the sale will be a public sale at auction to the highest bidder, provided the sale price is greater than 50 percent of the fair market value of said vessel. Fair market value shall be determined by two independent appraisals by factory representatives of the vessel's manufacturer or licensed marine surveyors.

(c) The proceeds from the sale, less the costs incurred in the sale and the reasonable costs for the work done on the vessel and associated reasonable towing and storage costs, shall be deposited within 72 hours after the sale with the clerk of the circuit court of the county in which the sale is held. Upon receipt of the proceeds, the clerk shall be entitled to receive 5 percent of said proceeds for the care and disbursement thereof. At any time within 1 year after the sale of such vessel, the former owners or lienholders of the vessel may recover the net proceeds by filing a claim with the clerk against the county.

(8) When any vessel is sold pursuant to subsection (7), the person selling the vessel, at the time the purchase price is paid, shall deliver to the purchaser an executed bill of sale and certified copies of the documentation required by subsection (7).

(9) In making application for transfer of title from a previous owner whose vessel is sold pursuant to subsection (7), the new owner shall establish proof of ownership by submitting with the application, which includes the applicable fees and sales tax, the original bill of sale executed by the repair business, certified copies of the documentation required by subsection (7), and a certified copy of the signed receipt from the clerk of the circuit court for any proceeds from the sale deposited with the county in which the sale was held.

History.—s. 1, ch. 78-264; s. 17, ch. 84-184; s. 5, ch. 85-252; s. 13, ch. 87-225; s. 8, ch. 94-241; s. 957, ch. 95-148; s. 61, ch. 95-333.

Note.—Section 61, ch. 95-333, purported to amend subsection (1), but did not publish the amended subsection. Absent affirmative evidence that the Legislature intended to repeal the omitted material, it is set out in full here, pending clarification by the Legislature.

Note.—Former s. 371.84.

328.18 Power to conduct investigations.—The Department of Highway Safety and Motor Vehicles or any other law enforcement agency may make any investigation necessary to secure information required to carry out and enforce the provisions of this chapter.

History.—s. 10, ch. 84-184; s. 62, ch. 95-333.

328.19 Penalty.—Except as otherwise provided in this chapter, any person convicted of violating any of the provisions of this chapter is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 4, ch. 67-586; s. 305, ch. 71-136; s. 8, ch. 80-266; s. 50, ch. 91-224.

Note.—Former s. 371.82.

328.195 Legislative intent.—It is declared to be the legislative intent that if any section, subsection, sentence, clause or provision of this chapter is held invalid the remainder of this chapter and chapter 327 shall not be affected.

History.—s. 4, ch. 67-586.

Note.—Former s. 371.83.

328.20 Disposition of fees.—The Department of Highway Safety and Motor Vehicles shall deposit all funds collected by it pursuant to the provisions of this

chapter in the Motorboat Revolving Trust Fund.
History.—s. 18, ch. 84-184; s. 161, ch. 94-356; s. 63, ch. 95-333.