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# A BILL FOR AN ACT

RELATING TO THE UNIFORM CERTIFICATE OF TITLE FOR VESSELS ACT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4                               **"CHAPTER**

5                               **UNIFORM CERTIFICATE OF TITLE FOR VESSELS ACT**

6       §   -1   **Short title.** This chapter may be cited as the  
7 Uniform Certificate of Title for Vessels Act.

8       §   -2   **Definitions.** (a) As used in this chapter unless  
9 the context otherwise requires:

10       "Barge" means a vessel that is not self-propelled or fitted  
11 for propulsion by sail, paddle, oar, or similar device.

12       "Builder's certificate" means a certificate of the facts of  
13 build of a vessel described in title 46 Code of Federal  
14 Regulations section 67.99, as amended.

15       "Buyer" means a person that buys or contracts to buy a  
16 vessel.



1 "Cancel", with respect to a certificate of title, means to  
2 make the certificate ineffective.

3 "Certificate of origin" means a record created by a  
4 manufacturer or importer as the manufacturer's or importer's  
5 proof of identity of a vessel. "Certificate of origin" includes  
6 a manufacturer's certificate or statement of origin and an  
7 importer's certificate or statement of origin. The term does  
8 not include a builder's certificate.

9 "Certificate of title" means a record, created by the  
10 department under this chapter or by a governmental agency of  
11 another jurisdiction under the law of that jurisdiction, that is  
12 designated as a certificate of title by the department or agency  
13 and is evidence of ownership of a vessel.

14 "Dealer" means a person, including a manufacturer, in the  
15 business of selling vessels.

16 "Department" means the department of land and natural  
17 resources.

18 "Documented vessel" means a vessel covered by a certificate  
19 of documentation issued pursuant to title 46 United States Code  
20 section 12105, as amended. "Documented vessel" does not include  
21 a foreign documented vessel.



1 "Electronic" means relating to technology having  
2 electrical, digital, magnetic, wireless, optical,  
3 electromagnetic, or similar capabilities.

4 "Electronic certificate of title" means a certificate of  
5 title consisting of information that is stored solely in an  
6 electronic medium and is retrievable in perceivable form.

7 "Foreign documented vessel" means a vessel the ownership of  
8 which is recorded in a registry maintained by a country other  
9 than the United States that identifies each person that has an  
10 ownership interest in a vessel and includes a unique  
11 alphanumeric designation for the vessel.

12 "Good faith" means honesty in fact and the observance of  
13 reasonable commercial standards of fair dealing.

14 "Hull damaged" means compromised with respect to the  
15 integrity of a vessel's hull by a collision, allision, lightning  
16 strike, fire, explosion, running aground, or similar occurrence,  
17 or the sinking of a vessel in a manner that creates a  
18 significant risk to the integrity of the vessel's hull.

19 "Hull identification number" means the alphanumeric  
20 designation assigned to a vessel pursuant to title 33 Code of  
21 Federal Regulations part 181, as amended.



1 "Lien creditor", with respect to a vessel, means:

2 (1) A creditor that has acquired a lien on the vessel by  
3 attachment, levy, or the like;

4 (2) An assignee for benefit of creditors from the time of  
5 assignment;

6 (3) A trustee in bankruptcy from the date of the filing of  
7 the petition; or

8 (4) A receiver in equity from the time of appointment.

9 "Owner" means a person that has legal title to a vessel.

10 "Owner of record" means the owner indicated in the  
11 department's files or, if the files indicate more than one  
12 owner, the owner indicated first.

13 "Person" means an individual, corporation, business trust,  
14 estate, trust, statutory trust, partnership, limited liability  
15 company, association, joint venture, public corporation,  
16 government or governmental subdivision, agency, or  
17 instrumentality, or any other legal or commercial entity.

18 "Purchase" means to take by sale, lease, mortgage, pledge,  
19 consensual lien, security interest, gift, or any other voluntary  
20 transaction that creates an interest in a vessel.

21 "Purchaser" means a person that takes by purchase.



1 "Record" means information that is inscribed on a tangible  
2 medium or that is stored in an electronic or other medium, and  
3 is retrievable in perceivable form.

4 "Secured party", with respect to a vessel, means a person:

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

8 (2) That is a consignor under article 9 of chapter 490; or

9 (3) That holds a security interest arising under section

10 490:2-401, 490:2-505, 490:2-711(3), or 490:2A-508(e).

11 "Secured party of record" means the secured party whose  
12 name is indicated as the name of the secured party in the  
13 department's files or, if the files indicate more than one  
14 secured party, the name indicated first.

15 "Security interest" means an interest in a vessel that  
16 secures payment or performance of an obligation if the interest  
17 is created by contract or arises under section 490:2-401,  
18 490:2-505, 490:2-711(3), or 490:2A-508(e). The term includes  
19 any interest of a consignor in a vessel in a transaction that is  
20 subject to article 9 of chapter 490. The term does not include  
21 the special property interest of a buyer of a vessel on



1 identification of that vessel to a contract for sale under  
2 section 490:2-501, but a buyer also may acquire a security  
3 interest by complying with article 9 of chapter 490. Except as  
4 otherwise provided in section 490:2-505, the right of a seller  
5 or lessor of a vessel under article 2 or 2A of chapter 490 to  
6 retain or acquire possession of the vessel is not a security  
7 interest, but a seller or lessor also may acquire a security  
8 interest by complying with article 9 of chapter 490. The  
9 retention or reservation of title by a seller of a vessel  
10 notwithstanding shipment or delivery to the buyer under section  
11 490:2-401 is limited in effect to a reservation of a security  
12 interest. Whether a transaction in the form of a lease creates  
13 a security interest shall be determined by section 490:1-203.

14 "Sign" means, with present intent to authenticate or adopt  
15 a record, to:

- 16 (1) Make or adopt a tangible symbol; or  
17 (2) Attach to or logically associate with the record an  
18 electronic symbol, sound, or process.

19 "State" means a state of the United States, the District of  
20 Columbia, Puerto Rico, the United States Virgin Islands, or any



1 territory or insular possession subject to the jurisdiction of  
2 the United States.

3 "State of principal use" means the state on whose waters a  
4 vessel is or will be used, operated, navigated, or employed more  
5 than on the waters of any other state during a calendar year.

6 "Title brand" means a designation of previous damage, use,  
7 or condition that shall be indicated on a certificate of title.

8 "Transfer of ownership" means a voluntary or involuntary  
9 conveyance of an interest in a vessel.

10 "Vessel" means any watercraft used or capable of being used  
11 as a means of transportation on water, except:

12 (1) An amphibious vehicle for which a certificate of title  
13 is issued pursuant to part III of chapter 286 or a  
14 similar statute of another state;

15 (2) A watercraft less than eight feet in length and  
16 propelled solely by sail, paddle, oar, or an engine of  
17 less than ten horsepower;

18 (3) A watercraft that operates only on a permanently  
19 fixed, manufactured course and the movement of which  
20 is restricted to or guided by means of a mechanical



1 device to which the watercraft is attached or by which  
2 the watercraft is controlled;

3 (4) A stationary floating structure that:

4 (A) Does not have and is not designed to have a mode  
5 of propulsion of its own;

6 (B) Is dependent for utilities upon a continuous  
7 utility hookup to a source originating on shore;  
8 and

9 (C) Has a permanent, continuous hookup to a shoreside  
10 sewage system;

11 (5) A watercraft owned by the United States, a state, a  
12 foreign government, or a political subdivision of the  
13 United States, a state, or a foreign government; and

14 (6) A watercraft used solely as a lifeboat on another  
15 watercraft.

16 "Vessel number" means the alphanumeric designation for a  
17 vessel issued pursuant to title 46 United States Code  
18 section 12301, as amended.

19 "Written certificate of title" means a certificate of title  
20 consisting of information inscribed on a tangible medium.



1 (b) The following definitions and terms also apply to this  
2 chapter:

3 "Agreement" shall have the same meaning as in section  
4 490:1-201(b).

5 "Buyer in ordinary course of business" shall have the same  
6 meaning as in section 490:1-201(b).

7 "Conspicuous" shall have the same meaning as in section  
8 490:1-201(b).

9 "Consumer goods" shall have the same meaning as in section  
10 490:9-102(a).

11 "Debtor" shall have the same meaning as in section 490:9-  
12 102(a).

13 "Knowledge" shall have the same meaning as in section  
14 490:1-202(b).

15 "Lease" shall have the same meaning as in section 490:2A-  
16 103(a)(10).

17 "Lessor" shall have the same meaning as in section 490:2A-  
18 103(a)(16).

19 "Notice" shall have the same meaning as in section 490:1-  
20 202.



1 "Representative" shall have the same meaning as in section  
2 490:1-201(b).

3 "Sale" shall have the same meaning as in section 490:2-  
4 106(1).

5 "Security agreement" shall have the same meaning as in  
6 section 490:9-102(a).

7 "Seller" shall have the same meaning as in section 490:2-  
8 103(1)(d).

9 "Send" shall have the same meaning as in section 490:1-  
10 201(b).

11 "Value" shall have the same meaning as in section 490:1-  
12 204.

13 (c) The definitions in subsections (a) and (b) shall not  
14 apply to any state or federal law governing licensing,  
15 numbering, or registration if the same term is used in that law.

16 § -3 **Applicability.** Pursuant to section -28, this  
17 chapter applies to any transaction, certificate of title, or  
18 record relating to a vessel, even if the transaction,  
19 certificate of title, or record was entered into or created  
20 before the effective date of this chapter.



1       §   -4   Supplemental principles of law and equity. Unless  
2 displaced by any provision of this chapter, the principles of  
3 law and equity shall supplement the provisions of this chapter.

4       §   -5   Law governing vessel covered by certificate of  
5 title. (a) The local law of the jurisdiction under whose  
6 certificate of title for a vessel is covered governs all issues  
7 relating to the certificate from the time the vessel becomes  
8 covered by the certificate until the vessel becomes covered by  
9 another certificate or becomes a documented vessel, even if no  
10 other relationship exists between the jurisdiction and the  
11 vessel or its owner.

12       (b) A vessel becomes covered by a certificate of title  
13 when an application for the certificate and the applicable fee  
14 are delivered to the department in accordance with this chapter  
15 or to the governmental agency that creates a certificate in  
16 another jurisdiction in accordance with the law of that  
17 jurisdiction.

18       §   -6   Certificate of title covered. (a) Beginning  
19 July 1, 2018, and except as otherwise provided in subsections  
20 (c) and (d):



(1) The owner of the vessel that does not have a valid certificate of number pursuant to section 200-31 or a valid certificate of title pursuant to this chapter shall comply with subsection (b); and

(2) The owner of a vessel that has a valid certificate of number pursuant to section 200-31, but does not have a valid certificate of title pursuant to this chapter may comply with subsection (b) before the expiration date of the vessel's certificate of number and shall comply with subsection (b) after the expiration date of the vessel's certificate of number.

(b) 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, no later than twenty days after the later of:

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

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

(c) An application for a certificate of title is not required for:

(1) A documented vessel;



(2) A foreign documented vessel;

(3) A barge;

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

(5) A vessel held by a dealer for sale or lease.

(d) The department shall not issue, transfer, or renew a certificate of title for a vessel issued pursuant to the requirements of title 46 United States Code section 12301, as amended, 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 has been delivered to the department.

**§ -7 Application for certificate of title.** (a) Except as otherwise provided in sections -10, -15, -19, -20, -21, and -22, only an owner may apply for a certificate of title.

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

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



- 1 (2) The name and mailing address of each other owner of  
2 the vessel;
- 3 (3) The hull identification number for the vessel or, if  
4 none, an application for the issuance of a hull  
5 identification number for the vessel;
- 6 (4) The vessel number for the vessel or, if none is issued  
7 by the department, an application for a vessel number;
- 8 (5) A description of the vessel as required by the  
9 department, which shall include:
- 10 (A) The official number for the vessel, if any,  
11 assigned by the United States Coast Guard or the  
12 vessel registration number assigned by  
13 department;
- 14 (B) The name of the manufacturer, builder, or maker;
- 15 (C) The model year or the year in which the  
16 manufacture or build of the vessel was completed;
- 17 (D) The overall length of the vessel;
- 18 (E) The vessel type;
- 19 (F) The hull material;
- 20 (G) The propulsion type;
- 21 (H) The engine drive type, if any; and



- 1 (I) The fuel type, if any;
- 2 (6) An indication of all security interests in the vessel
- 3 known to the applicant and the name and mailing
- 4 address of each secured party;
- 5 (7) A statement that the vessel is not a documented
- 6 vessel, a foreign documented vessel, or a barge;
- 7 (8) Any title brand known to the applicant and, if known,
- 8 the jurisdiction under whose law the title brand was
- 9 created;
- 10 (9) If the applicant knows that the vessel is hull
- 11 damaged, a statement that the vessel is hull damaged;
- 12 (10) If the application is made in connection with a
- 13 transfer of ownership, the transferor's name, street
- 14 address, and, if different, mailing address, the sales
- 15 price, if any, and the date of the transfer; and
- 16 (11) If the vessel previously was registered or titled in
- 17 another jurisdiction, a statement identifying each
- 18 jurisdiction known to the applicant in which the
- 19 vessel was registered or titled.
- 20 (c) In addition to the information required by subsection
- 21 (b), an application for a certificate of title may contain an



1 electronic communication address of the owner, transferor, or  
2 secured party.

3 (d) Except as otherwise provided in section -19,  
4 -20, -21, or -22, an application for a certificate of  
5 title shall be accompanied by:

6 (1) A certificate of title signed by the owner shown on  
7 the certificate and that:

8 (A) Identifies the applicant as the owner of the  
9 vessel; or

10 (B) Is accompanied by a record that identifies the  
11 applicant as the owner; or

12 (2) If there is no certificate of title:

13 (A) If the vessel was a documented vessel, a record  
14 issued by the United States Coast Guard that  
15 shows the vessel is no longer a documented vessel  
16 and identifies the applicant as the owner;

17 (B) If the vessel was a foreign documented vessel, a  
18 record issued by the foreign country that shows  
19 the vessel is no longer a foreign documented  
20 vessel and identifies the applicant as the owner;  
21 or



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

5 The application shall also be accompanied by payment of any  
6 applicable titling fees, as set by the department.

7 (e) A record submitted in connection with an application  
8 shall be deemed part of the application. The department shall  
9 maintain the record in its files.

10 (f) The department may require that an application for a  
11 certificate of title be accompanied by payment or evidence of  
12 payment of all fees and taxes payable by the applicant under law  
13 of this State other than this chapter in connection with the  
14 application or the acquisition or use of the vessel.

15 **§ -8 Creation and cancellation of certificate of title.**

16 (a) Unless an application for a certificate of title is  
17 rejected under subsection (c) or (d), the department shall  
18 create a certificate for the vessel in accordance with  
19 subsection (b) no later than sixty days after delivery to it of  
20 an application that complies with section -7.



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

6 (c) Except as otherwise provided in subsection (d), the  
7 department may reject an application for a certificate of title  
8 only if:

9 (1) The application does not comply with section -7;

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

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

16 (4) The application does not comply with the law of this  
17 State other than this chapter.

18 (d) The department shall reject an application for a  
19 certificate of title for a vessel that is a documented vessel or  
20 a foreign documented vessel.



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

- (1) Could have rejected the application for the certificate pursuant to subsection (c);
- (2) Is required to cancel the certificate under another section of this chapter; or
- (3) Receives satisfactory evidence that the vessel is a documented vessel or a foreign documented vessel.

§ -9 Content of certificate of title. (a) A certificate of title shall contain:

- (1) The date the certificate was created;
- (2) The name of the owner of record and, if not all owners are listed, an indication that there are additional owners indicated in the department's files;
- (3) The mailing address of the owner of record;
- (4) The hull identification number;
- (5) The information regarding security interests listed in section -7(b)(6);
- (6) Except as otherwise provided in section -15(b), the name and mailing address of the secured party of record, if any, and if not all secured parties are



1 listed, an indication that there are other security  
2 interests indicated in the department's files; and

3 (7) All title brands indicated in the department's files  
4 covering the vessel, including brands indicated on a  
5 certificate created by a governmental agency of  
6 another jurisdiction and delivered to the department.

7 (b) This chapter shall not preclude the department from  
8 noting on a certificate of title the name and mailing address of  
9 a secured party that is not a secured party of record.

10 (c) For each title brand indicated on a certificate of  
11 title, the certificate shall identify the jurisdiction under  
12 whose law the title brand was created or the jurisdiction that  
13 created the certificate on which the title brand was indicated.  
14 If the meaning of a title brand is not easily ascertainable or  
15 cannot be accommodated on the certificate, the certificate may  
16 state: "Previously branded in (insert the jurisdiction under  
17 whose law the title brand was created or whose certificate of  
18 title previously indicated the title brand)".

19 (d) If the department's files indicate that a vessel was  
20 previously registered or titled in a foreign country, the



1 department shall indicate on the certificate of title that the  
2 vessel was registered or titled in that country.

3 (e) A written certificate of title shall contain a form  
4 that all owners indicated on the certificate may sign to  
5 evidence consent to a transfer of an ownership interest to  
6 another person. The form shall include a certification, signed  
7 under penalty of unsworn falsification to authorities pursuant  
8 to section 710-1063, that the statements made are true and  
9 correct to the best of each owner's knowledge, information, and  
10 belief.

11 (f) A written certificate of title shall contain a form  
12 for the owner of record to indicate, in connection with a  
13 transfer of an ownership interest, that the vessel is hull  
14 damaged.

15 **§ -10 Title brand.** (a) Unless subsection (c) applies,  
16 at or before the time the owner of record transfers an ownership  
17 interest in a hull damaged vessel that is covered by a  
18 certificate of title created by the department, the owner shall:

19 (1) Deliver to the department an application for a new  
20 certificate that complies with section -7 and  
21 include the title brand designation "Hull Damaged"; or



1           (2)    Indicate on the certificate in the place designated  
2                   for that purpose that the vessel is hull damaged and  
3                   deliver the certificate to the transferee,  
4   if the damage occurred while that person was an owner of the  
5   vessel and the person has notice of the damage at the time of  
6   the transfer.

7           (b)    No later than twenty days after delivery to the  
8   department of the application under subsection (a)(1) or the  
9   certificate of title under subsection (a)(2), the department  
10   shall create a new certificate that indicates that the vessel is  
11   branded "Hull Damaged".

12          (c)    Before an insurer transfers an ownership interest in a  
13   hull damaged vessel that is covered by a certificate of title  
14   created by the department, the insurer shall deliver to the  
15   department an application for a new certificate that complies  
16   with section     -7 and includes the title brand designation  
17   "Hull Damaged". No later than twenty days after delivery of the  
18   application to the department, the department shall create a new  
19   certificate that indicates that the vessel is branded "Hull  
20   Damaged".



(d) An owner of record that fails to comply with subsection (a), a person that solicits or colludes in a failure by an owner of record to comply with subsection (a), or an insurer that fails to comply with subsection (c) shall be subject to an administrative penalty of \$1,000.

**§ -11 Maintenance of and access to files.** (a) For each record relating to a certificate of title submitted to the department, the department shall:

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

(2) Maintain the hull identification number and all the information submitted with the application pursuant to section -7(b) to which the record relates, including the date and time the record was delivered to the department;

(3) Maintain the files for public inspection subject to subsection (e); and

(4) Index the department's files as required by subsection (b).

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



1 this chapter. The information in the department's files shall  
2 be searchable by the hull identification number of the vessel,  
3 the vessel number, the name of the owner of record, and any  
4 other method used by the department.

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

11 (d) Upon request, for safety, security, or law enforcement  
12 purposes, the department shall provide to federal, state, or  
13 local government the information in its files relating to any  
14 vessel for which the department has issued a certificate of  
15 title.

16 (e) Except as otherwise provided by the law of this State  
17 other than this chapter, the information required under section  
18 -9 is a government record.

19 § -12 Action required on creation of certificate of  
20 title. (a) On creation of a written certificate of title, the  
21 department shall promptly send the certificate to the secured



1 party of record or, if none, to the owner of record, at the  
2 address indicated for that person in the department's files. On  
3 creation of an electronic certificate of title, the department  
4 shall promptly send a record evidencing the certificate to the  
5 owner of record and, if there is one, to the secured party of  
6 record, at the address indicated for that person in the  
7 department's files. The department may send the record to the  
8 person's mailing address or, if indicated in its files, an  
9 electronic mail address.

10 (b) If the department creates a written certificate of  
11 title, any electronic certificate of title for the vessel is  
12 canceled and replaced by the written certificate. The  
13 department shall maintain in its files the date and time of  
14 cancellation.

15 (c) Before the department creates an electronic  
16 certificate of title, any written certificate for the vessel  
17 shall be surrendered to the department. If the department  
18 creates an electronic certificate, the department shall destroy  
19 or otherwise cancel the written certificate for the vessel that  
20 has been surrendered to the department and maintain in its files  
21 the date and time of destruction or other cancellation. If a



1 written certificate being canceled is not destroyed, the  
2 department shall indicate on the face of the certificate that it  
3 has been canceled.

4       **§ -13 Effect of certificate of title.** A certificate of  
5 title is prima facie evidence of the accuracy of the information  
6 in the record that constitutes the certificate.

7       **§ -14 Effect of possession of certificate of title;**  
8 **judicial process.** Possession of a certificate of title shall  
9 not by itself provide a right to obtain possession of a vessel.  
10 Garnishment, attachment, levy, replevin, or other judicial  
11 process against the certificate shall not be effective to  
12 determine possessory rights to the vessel. This chapter shall  
13 not prohibit enforcement under law of this State other than this  
14 chapter of a security interest in, levy on, or foreclosure of a  
15 statutory or common law lien on a vessel. Absence of an  
16 indication of a statutory or common law lien on a certificate  
17 shall not invalidate the lien.

18       **§ -15 Perfection of security interest.** (a) Except as  
19 otherwise provided in this section or section -28, a security  
20 interest in a vessel may be perfected only by delivery to the  
21 department of an application for a certificate of title that



1 identifies the secured party and otherwise complies with section  
2 -7. The security interest is perfected on delivery to the  
3 department of the application and the applicable fee or  
4 attachment of the security interest under section 490:9-203,  
5 whichever occurs later.

6 (b) If the interest of a person named as owner, lessor,  
7 consignor, or bailor in an application for a certificate of  
8 title delivered to the department is a security interest, the  
9 application shall be deemed as sufficiently identifying the  
10 person as a secured party. Identification on the application  
11 for a certificate of a person as owner, lessor, consignor, or  
12 bailor shall not be by itself a factor in determining whether  
13 the person's interest is a security interest.

14 (c) If the department has created a certificate of title  
15 for a vessel, a security interest in the vessel may be perfected  
16 by delivery to the department of an application, on a form the  
17 department may require, to have the security interest added to  
18 the certificate. The application shall be signed by an owner of  
19 the vessel or by the secured party and shall include:

20 (1) The name of the owner of record;

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



1 (3) The hull identification number for the vessel; and

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

4 (d) A security interest perfected under subsection (c) is  
5 perfected on delivery to the department of the application and  
6 all applicable fees or attachment of the security interest under  
7 section 490:9-203, whichever occurs later.

8 (e) On delivery of an application that complies with  
9 subsection (c) and payment of all applicable fees, the  
10 department shall create a new certificate of title pursuant to  
11 section -8 and deliver the new certificate or a record  
12 evidencing an electronic certificate pursuant to section  
13 -12(a). The department shall maintain in its files the date  
14 and time of delivery of the application to the department.

15 (f) If a secured party assigns a perfected security  
16 interest in a vessel, the receipt by the department of a  
17 statement providing the name of the assignee as secured party  
18 shall not be required to continue the perfected status of the  
19 security interest against creditors of and transferees from the  
20 original debtor. A purchaser of a vessel subject to a security  
21 interest that obtains a release from the secured party indicated



1 in the department's files or on the certificate takes free of  
2 the security interest and of the rights of a transferee unless  
3 the transfer is indicated in the department's files or on the  
4 certificate.

5 (g) This section shall not apply to a security interest:

6 (1) Created in a vessel by a person during any period in  
7 which the vessel is inventory held for sale or lease  
8 by the person or is leased by the person as lessor if  
9 the person is in the business of selling vessels;

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

12 (3) In a vessel before delivery if the vessel is under  
13 construction, or completed, pursuant to contract and  
14 for which no application for a certificate has been  
15 delivered to the department.

16 (h) This subsection shall apply only if a certificate of  
17 documentation for a documented vessel is deleted or canceled.

18 If a security interest in the vessel was valid immediately  
19 before deletion or cancellation against a third party as a  
20 result of compliance with title 46 United States Code section  
21 31321, as amended, the security interest is and remains



1 perfected until four months after cancellation of the  
2 certificate or the time the security interest becomes perfected  
3 under this chapter, whichever occurs earlier.

4 (i) A security interest in a vessel arising under section  
5 490:2-401, 490:2-505, 490:2-711(3), or 490:2A-508(e) is  
6 perfected when it attaches, but becomes unperfected when the  
7 debtor obtains possession of the vessel, unless before the  
8 debtor obtains possession the security interest is perfected  
9 pursuant to subsection (a) or (c).

10 (j) A security interest in a vessel as proceeds of other  
11 collateral is perfected to the extent provided in section 490:9-  
12 315.

13 (k) A security interest in a vessel perfected under the  
14 law of another jurisdiction is perfected to the extent provided  
15 in section 490:9-316(d).

16 § -16 Termination statement. (a) A secured party  
17 indicated in the department's files as having a security  
18 interest in a vessel shall deliver a termination statement to  
19 the department and, on the debtor's request, to the debtor, by  
20 the earlier of:



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

7           (2) If the vessel holds consumer goods, thirty days after  
8           there is no obligation secured by the vessel and no  
9           commitment to make an advance, incur an obligation, or  
10          otherwise give value secured by the vessel.

11          (b) If a written certificate of title has been created and  
12          delivered to a secured party and a termination statement is  
13          required under subsection (a), the secured party, no later than  
14          the date required by subsection (a), shall deliver the  
15          certificate to the debtor or to the department with the  
16          statement. If the certificate is lost, stolen, mutilated,  
17          destroyed, or is otherwise unavailable or illegible, the secured  
18          party shall deliver with the statement, no later than the date  
19          required by subsection (a), an application for a replacement  
20          certificate in accordance with section       -22.



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

10 (d) A secured party that fails to comply with this section  
11 is liable for any loss that the secured party had reason to know  
12 may result from its failure to comply and could not reasonably  
13 have been prevented and for the cost of an application for a  
14 certificate of title under section -7 or -22.

15 § -17 **Transfer of ownership.** (a) On voluntary transfer  
16 of an ownership interest in a vessel covered by a certificate of  
17 title, the following rules shall apply:

18 (1) If the certificate is a written certificate of title  
19 and the transferor's interest is noted on the  
20 certificate, the transferor shall promptly sign the  
21 certificate and deliver it to the transferee. If the



1 transferor does not have possession of the  
2 certificate, the person in possession of the  
3 certificate shall have the duty to facilitate the  
4 transferor's compliance with this paragraph. A  
5 secured party shall not have a duty to facilitate the  
6 transferor's compliance with this paragraph if the  
7 proposed transfer is prohibited by the security  
8 agreement;

- 9 (2) If the certificate of title is an electronic  
10 certificate of title, the transferor promptly shall  
11 sign and deliver to the transferee a record evidencing  
12 the transfer of ownership to the transferee; and
- 13 (3) The transferee shall have a right enforceable by  
14 specific performance to require the transferor to  
15 comply with paragraph (1) or (2).

16 (b) The creation of a certificate of title identifying the  
17 transferee as owner of record satisfies subsection (a).

18 (c) A failure to comply with subsection (a) or to apply  
19 for a new certificate of title shall not render a transfer of  
20 ownership of a vessel ineffective between the parties. Except  
21 as otherwise provided in section -18, -19, -23(a), or



1 -24, a transfer of ownership without compliance with  
2 subsection (a) shall not be effective against another person  
3 claiming an interest in the vessel.

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

8 **§ -18 Effect of missing or incorrect information.**

9 Except as otherwise provided in section 490:9-337, a certificate  
10 of title or other record required or authorized by this chapter  
11 shall be effective even if it contains incorrect information or  
12 does not contain required information.

13 **§ -19 Transfer of ownership by secured party's transfer**  
14 **statement.** (a) As used in this section, "secured party's  
15 transfer statement" means a record signed by the secured party  
16 of record stating:

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

19 (2) The secured party of record is exercising or has  
20 exercised post default remedies with respect to the  
21 vessel;



1 (3) By reason of the exercise, the secured party of record  
2 has the right to transfer the ownership interest of an  
3 owner, and the name of the owner;

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

6 (5) The name of the transferee;

7 (6) Other information required by section -7(b); and

8 (7) One of the following:

9 (A) The certificate of title is an electronic  
10 certificate;

11 (B) The secured party does not have possession of the  
12 written certificate of title created in the name  
13 of the owner of record; or

14 (C) The secured party is delivering the written  
15 certificate of title to the department with the  
16 secured party's transfer statement.

17 (b) Unless the department rejects a secured party's  
18 transfer statement for a reason stated in section -8(c), no  
19 later than twenty days after delivery to the department of the  
20 statement and payment of fees and taxes payable under the law of  
21 this State other than this chapter in connection with the



1 statement or the acquisition or use of the vessel, the  
2 department shall:

3 (1) Accept the statement;  
4 (2) Amend the department's files to reflect the transfer;  
5 and

6 (3) If the name of the owner whose ownership interest is  
7 being transferred is indicated on the certificate of  
8 title:

9 (A) Cancel the certificate even if the certificate  
10 has not been delivered to the department;

11 (B) Create a new certificate indicating the  
12 transferee as owner; and

13 (C) Deliver the new certificate or a record  
14 evidencing an electronic certificate.

15 (c) An application under subsection (a) or the creation of  
16 a certificate of title under subsection (b) shall not be by  
17 itself a disposition of the vessel and shall not by itself  
18 relieve the secured party of its duties under article 9 of  
19 chapter 490.

20 § -20 Transfer by operation of law. (a) As used in  
21 this section:



1 "By operation of law" means pursuant to a law or judicial  
2 order affecting ownership of a vessel:

3 (1) Because of death, divorce, or other family law  
4 proceeding, merger, consolidation, dissolution, or  
5 bankruptcy;

6 (2) Through the exercise of the rights of a lien creditor  
7 or a person having a lien created by statute or rule  
8 of law; or

9 (3) Through other legal process.

10 "Transfer by law statement" means a record signed by a  
11 transferee stating that by operation of law the transferee has  
12 acquired or has the right to acquire an ownership interest in a  
13 vessel.

14 (b) A transfer by law statement shall contain:

15 (1) The name and last known mailing address of the owner  
16 of record and the transferee and the other information  
17 required by section -7(b);

18 (2) Documentation sufficient to establish the transferee's  
19 ownership interest or right to acquire the ownership  
20 interest;

21 (3) A statement that:



1 (A) The certificate of title is an electronic  
2 certificate of title;

3 (B) The transferee does not have possession of the  
4 written certificate of title created in the name  
5 of the owner of record; or

6 (C) The transferee is delivering the written  
7 certificate to the department with the transfer  
8 by law statement; and

9 (4) Except for a transfer by operation of law that affects  
10 the ownership of a vessel because of death, divorce,  
11 or other family law proceeding, merger, consolidation,  
12 dissolution, or bankruptcy, evidence that notification  
13 of the transfer and the intent to file the transfer by  
14 law statement has been sent to all persons indicated  
15 in the department's files as having an interest,  
16 including a security interest, in the vessel.

17 (c) Unless the department rejects a transfer by law  
18 statement for a reason stated in section -8(c) or because the  
19 statement does not include documentation satisfactory to the  
20 department as to the transferee's ownership interest or right to  
21 acquire the ownership interest, no later than twenty days after



1 delivery to the department of the statement and payment of fees  
2 and taxes payable under the law of this State other than this  
3 chapter in connection with the statement or with the acquisition  
4 or use of the vessel, the department shall:

5 (1) Accept the statement;

6 (2) Amend the department's files to reflect the transfer;  
7 and

8 (3) If the name of the owner whose ownership interest is  
9 being transferred is indicated on the certificate of  
10 title:

11 (A) Cancel the certificate even if the certificate  
12 has not been delivered to the department;

13 (B) Create a new certificate indicating the  
14 transferee as owner;

15 (C) Indicate on the new certificate any security  
16 interest indicated on the canceled certificate,  
17 unless a court order provides otherwise; and

18 (D) Deliver the new certificate or a record  
19 evidencing an electronic certificate.



(d) This section shall not apply to a transfer of an interest in a vessel by a secured party under part 6, article 9 of chapter 490.

§ -21 Application for transfer of ownership or termination of security interest without certificate of title.

(a) Except as otherwise provided in section -19 or -20, 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:

(1) All other requirements under sections -7 and -8 are met;

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

(3) 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 department's files as having an interest, including a security interest, in



1 the vessel, at least forty-five days have passed since  
2 the notification was sent, and the department has not  
3 received an objection from any of those persons; and

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

11 (b) The department may indicate in a certificate of title  
12 created under subsection (a) that the certificate was created  
13 without submission of a signed certificate or termination  
14 statement. Unless credible information indicating theft, fraud,  
15 or an undisclosed or unsatisfied security interest, lien, or  
16 other claim to an interest in the vessel is delivered to the  
17 department no later than one year after creation of the  
18 certificate, on request in a form and manner required by the  
19 department, the department shall remove the indication from the  
20 certificate.



1           §   -22 Replacement certificate of title. (a) If a

2 written certificate of title is lost, stolen, mutilated,  
3 destroyed, or otherwise becomes unavailable or illegible, the  
4 secured party of record or, if no secured party is indicated in  
5 the department's files, the owner of record may apply for and,  
6 by furnishing information satisfactory to the department, obtain  
7 a replacement certificate in the name of the owner of record.

8           (b) An applicant for a replacement certificate of title  
9 shall sign the application, and, except as otherwise permitted  
10 by the department, the application shall comply with section

11       -7. The application shall include the existing certificate  
12 unless the certificate is lost, stolen, mutilated, destroyed, or  
13 otherwise unavailable.

14           (c) A replacement certificate of title created by the  
15 department shall comply with section       -9 and indicate on the  
16 face of the certificate that it is a replacement certificate.

17           (d) If a person receiving a replacement certificate of  
18 title subsequently obtains possession of the original written  
19 certificate, the person shall promptly destroy the original  
20 certificate of title.



(e) The department may set and charge fees by rule in accordance with chapter 91 for a replacement certificate of title.

**§ -23 Rights of purchaser other than secured party. (a)**

A buyer in ordinary course of business has the protections afforded by sections 490:2-403(2) and 490:9-320(a) 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.

(b) Except as otherwise provided in sections -17 and -24, the rights of a purchaser of a vessel that is not a buyer in ordinary course of business or a lien creditor are governed by chapter 490.

**§ -24 Rights of secured party. (a)** Subject to subsection (b), 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, shall be governed by chapter 490.

(b) If, while a security interest in a vessel is perfected by any method under this chapter, the department creates a



1 certificate of title that does not indicate that the vessel is  
2 subject to the security interest or contain a statement that it  
3 may be subject to security interests not indicated on the  
4 certificate:

- 5 (1) A buyer of the vessel, other than a person in the  
6 business of selling or leasing vessels of that kind,  
7 takes free of the security interest if the buyer,  
8 acting in good faith and without knowledge of the  
9 security interest, gives value and receives possession  
10 of the vessel; and
- 11 (2) The security interest is subordinate to a conflicting  
12 security interest in the vessel that is perfected  
13 under section -15 after creation of the certificate  
14 and without the conflicting secured party's knowledge  
15 of the security interest.

16 § -25 Duties and operation of department. (a) The  
17 department shall retain the evidence used to establish the  
18 accuracy of the information in its files relating to the current  
19 ownership of a vessel and the information on the certificate of  
20 title.



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

7 (c) If a person submits a record to the department, or  
8 submits information that is accepted by the department, and  
9 requests an acknowledgment of the filing or submission, the  
10 department shall send to the person an acknowledgment showing  
11 the hull identification number of the vessel to which the record  
12 or submission relates, the information in the filed record or  
13 submission, and the date and time the record was received or the  
14 submission accepted. A request under this section shall contain  
15 the hull identification number and be delivered by means  
16 authorized by the department.

17 (d) The department shall send or otherwise make available  
18 in a record the following information to any person that  
19 requests it and pays the applicable fee:

- 20 (1) Whether the department's files indicate, as of a date  
21 and time specified by the department, but not a date



1 earlier than three days before the department received  
2 the request, any certificate of title, security  
3 interest, termination statement, or title brand that  
4 relates to a vessel:

5 (A) Identified by a hull identification number  
6 designated in the request;

7 (B) Identified by a vessel number designated in the  
8 request; or

9 (C) Owned by a person designated in the request;

10 (2) With respect to the vessel:

11 (A) The name and address of any owner as indicated in  
12 the department's files or on the certificate of  
13 title;

14 (B) The name and address of any secured party as  
15 indicated in the department's files or on the  
16 certificate, and the effective date of the  
17 information; and

18 (C) A copy of any termination statement indicated in  
19 the department's files and the effective date of  
20 the termination statement; and



(3) With respect to the vessel, a copy of any certificate of origin, secured party transfer statement, transfer by law statement under section -20, and other evidence of previous or current transfers of ownership.

(e) 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 under section 626-1, rule 902.

**§ -26 Uniformity of application and construction.** In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**§ -27 Relation to the Electronic Signatures in Global and National Commerce Act.** This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, title 15 United States Code section 7001, et seq., but does not modify, limit, or supersede section 101(c) of that Act, title 15 United States Code section 7001(c), or authorize electronic delivery of any of the notices described in



1 section 103(b) of that Act, title 15 United States Code section  
2 7003(b).

3       § -28 Savings clause. (a) The rights, duties, and  
4 interests flowing from a transaction, certificate of title, or  
5 record relating to a vessel that was validly entered into or  
6 created before the effective date of this chapter and would be  
7 subject to this chapter if it had been entered into or created  
8 on or after the effective date of this chapter, remain valid on  
9 and after the effective date of this chapter.

10       (b) This chapter shall not affect an action or proceeding  
11 commenced before the effective date of this chapter.

12       (c) Except as otherwise provided in subsection (d), a  
13 security interest that is enforceable immediately before the  
14 effective date of this chapter and would have priority over the  
15 rights of a person that becomes a lien creditor at that time is  
16 a perfected security interest under this chapter.

17       (d) A security interest perfected immediately before the  
18 effective date of this chapter remains perfected until the  
19 earlier of:

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



1 (2) Three years after the effective date of this chapter.

2 (e) This chapter shall not affect the priority of a  
3 security interest in a vessel if immediately before the  
4 effective date of this chapter the security interest is  
5 enforceable and perfected, and that priority is established.

6 § -29 Rules. The department may adopt rules in  
7 accordance with chapter 91 to effectuate this chapter."

8 SECTION 2. This Act shall take effect on July 1, 2018.

9



**Report Title:**

Uniform Certificate of Title for Vessels Act; Vessel Titling

**Description:**

Requires certain vessel owners to apply for a certificate of title within twenty days of becoming an owner or within twenty days of establishing principal use of the vessel in waters of the State. Establishes what information is required to be included in an application for a certificate of title; how to deal with transfer of vessel ownership and title; rights of a secured party; and rights of a purchaser other than a secured party. (SD1)

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