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GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
JUDICIARY**

**Thursday, March 29, 2018
9:30 AM
State Capitol, Conference Room 016**

**In consideration of
HOUSE BILL 2596, HOUSE DRAFT 2, SENATE DRAFT 1
RELATING TO THE UNIFORM CERTIFICATE OF TITLE FOR VESSELS ACT**

House Bill 2596, House Draft 2, Senate Draft 1 proposes to implement the Uniform Certificate of Title for Vessels Act (UCOTVA). **The Department of Land and Natural Resources (Department) strongly supports this measure.**

UCOTVA was drafted by the Uniform Law Commission with extensive input from boat manufacturers, dealers, state boating law administrators, and the United States Coast Guard (USCG). UCOTVA provides a consistent consumer protection measure for vessel owners across the United States and its territories. Thirty-five states have implemented some form of a vessel titling law, and three of those thirty-five states have adopted UCOTVA as their vessel titling law.

Currently, vessels under the jurisdiction of the Department that do not have a USCG documentation number are only required to obtain a certificate of number with DOBOR's Vessel Registration Office (VRO). However, this certificate of number does not ensure that a vessel is not stolen because the VRO cannot verify ownership of a vessel other than with documents that a registrant provides. Thus, absence of a vessel titling law can lead to extensive fraud. Unfortunately, the Department cannot track statistics for stolen vessels because there is no vessel titling system by which to gather such information.

An example of how absence of a vessel titling law negatively affects owners of stolen vessels is the "homebuilt" vessel scenario the Department occasionally encounters. Although there are legitimate owners of homebuilt vessels, without a vessel titling requirement, a person could steal a vessel, modify the vessel to remove resemblance to its original appearance, and obtain a certificate of number from the Department with the vessel classified as a homebuilt vessel. Under this type of homebuilt vessel scenario, even if the Department receives all the required

SUZANNE D. CASE
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CONSERVATION AND RESOURCES ENFORCEMENT
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LAND
STATE PARKS

paperwork for a certificate of number, it will still not have any way of knowing that the vessel was stolen.

UCOTVA will allow the Department to issue titles for vessels in a manner similar to how the State issues titles for automobiles, with certificates of title for vessels becoming the official documents that identify the owner of a vessel. Certificates of title for vessels would be issued once for each vessel, and certificates of number would need to be renewed annually, in the same way the State's automobile title and registration system functions.

By implementing a vessel titling law, the Department hopes to reduce the amount of stolen vessels being fraudulently registered in the State. Having certificates of title for vessels will also help the VRO quickly verify the owner of a vessel, which in turn will potentially decrease processing and wait times in vessel transfers.

Thank you for the opportunity to comment this measure.

**WRITTEN TESTIMONY OF THE
COMMISSION TO PROMOTE UNIFORM LEGISLATION**

**on H.B. NO. 2596, H.D. 2, S.D. 1
RELATING TO THE UNIFORM CERTIFICATE OF TITLE FOR VESSELS ACT.**

BEFORE THE SENATE COMMITTEE ON JUDICIARY

DATE: Thursday, March 29, 2018, at 9:30 a.m.
Conference Room 016, State Capitol

WRITTEN TESTIMONY ONLY: For more information,
Please contact Lani Ewart at 547-5600

Chair Taniguchi, Vice Chair Rhoads, and the Members of the Senate Committee on
Judiciary:

Members of the state Commission to Promote Uniform Legislation thank you for this opportunity to submit written testimony in support of H.B. No. 2596, H.D. 2, S.D. 1, Relating to the Uniform Certificate of Title for Vessels Act. The members of our state commission are Hawaii's representatives to the national Uniform Law Commission, or ULC. The ULC is a nonprofit organization that is made up of volunteer attorneys appointed by their states, and its mission is to develop and draft model legislation for states in areas in which uniformity is practical and desirable.

The ULC promulgated the Uniform Certificate of Title for Vessels Act ("UCOTVA") to allow states to issue a title identifying the owner of a boat in the same way that all states now issue a title for an owner of an automobile. Two-thirds of all states have some form of certificate of title law for vessels, but titling law for boats varies greatly from state to state, and Hawaii is one of the states without any titling requirement. This patchwork of laws across states can lead to extensive fraud. For example, title for a vessel can be "washed" by moving the vessel to a jurisdiction that does not have a vessel titling statute or has a statute that does not cover the type of vessel stolen.

UCOTVA provides the best approach to vessel titling because it (1) integrates with the Uniform Commercial Code, (2) improves consumer protection, and (3) clarifies where a vessel should be titled, just to name a few benefits.

UCOTVA was drafted to keep pace with updates to Article 9 of the Uniform Commercial Code, which has been enacted in all states to cover security interests in personal property. Titling laws in place before UCOTVA do not integrate with the Uniform Commercial Code. UCOTVA's clear rules on all matters relating to a security interest in a vessel means fewer disputes will go to court.

UCOTVA also includes a special "branding" requirement to protect consumers from purchasing unseaworthy and unsafe vessels. If the integrity of a vessel's hull was compromised by a casualty event, including a hurricane or other natural disaster, the owner or insurer must, prior to selling the vessel, either note this on the certificate or apply for a new certificate that indicates that the vessel is "hull damaged". The owner or insurer who does not comply faces an administrative penalty.

Finally, UCOTVA clarifies that a vessel must be titled where it is principally used. The owner is given 20 days to title the vessel after moving to a new state. This provision also helps to clarify where the owner is to be taxed on the vessel.

UCOTVA is supported by the National Association of State Boating Law Administrators, National Marine Manufacturers Association, lenders, and insurers, because it protects consumers and facilitates vessel purchasing and financing.

The Hawaii Commission to Promote Uniform Legislation respectfully requests passage of H.B. No. 2596, H.D. 2, S.D. 1.

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To: Senate Committee on Judiciary

From: Cheryl Kakazu Park, Director

Date: March 29, 2018, 9:30 a.m.
State Capitol, Conference Room 016

Re: Testimony on H.B. No. 2596, H.D. 2, S.D. 1
Relating to the Uniform Certificate of Title for Vessels Act

Thank you for the opportunity to submit testimony on this bill, which would require vessel owners to apply for a certificate of title and establish the information required in such an application. The Office of Information Practices (OIP) previously testified to support a proposed amendment by the Department of Land and Natural Resources (DLNR) to clarify the public accessibility of information relating to such applications. That amendment was made in the S.D. 1, and OIP has no further concerns regarding this bill.

Thank you for considering OIP's testimony.