

## CERTIFICATE OF TITLE ACT FOR VESSELS ~~ACT~~

**SECTION 1. SHORT TITLE.** This act may be cited as the Certificate of Title Act for Vessels ~~Act~~.

### SECTION 2. DEFINITIONS.

(a) ~~[In this {act}]~~ [The following definitions apply to ~~{[this act]}~~] and do not apply to ~~{[state statutes governing licensing or registration]}~~ if the same term is used in ~~{[that act]}~~ ~~{[those acts]}~~].

(1) “Barge” means a ~~vessel described in 46 U.S.C. Section 102 and which is neither propelled by sail, paddles, oar, or the like, nor~~ non-self-propelled vessel which is not fitted for propulsion by sail, paddles, oar, or the like.

~~(2) “Builder’s certificate” means a certificate of the facts of build of a vessel described in 46 C.F.R. Section 67.99.~~

~~(3)~~ “Buyer” means a person that buys or contracts to buy a vessel.

~~(4)~~ “Buyer in ordinary course of business”; has the meaning ascribed in [Uniform Commercial Code Section 1-201(b)(9)], ~~except that~~; a buyer in ordinary course of business does not lose that status solely because no existing certificate of title was signed and delivered to the buyer or no new certificate of title listing the buyer as owner of record was created.

~~(5)~~ “Cancel”, with respect to a certificate of title, means to make the certificate ineffective.

~~(6)~~ “Casualty” includes a collision, allision, lightning strike, fire, explosion, or the running aground of a vessel.

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

(87) “Certificate of title” means a record, created by the office under [this act] or by a governmental agency of another jurisdiction under the law of that jurisdiction, that is designated as a certificate of title by the office or governmental agency; and that is evidence of ownership of a vessel.

(98) “Damaged,” with respect to a vessel, means:

- (i) not ~~salvaged~~ insurer sold; and
- (ii) ~~sunk or~~ a casualty has ~~affected a propulsion system of the vessel~~ or compromised the integrity of the vessel’s hull [or the vessel has sunk in a manner that creates a significant risk that the integrity of the vessel’s hull has been compromised].

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

(110) “Documented vessel” means a vessel covered by a certificate of documentation issued pursuant to 46 U.S.C. Section 12105 [, as amended]. The term does not include a foreign documented vessel.

(11) “Foreign documented vessel” means a vessel the ownership of which is recorded in a registry maintained by a government of a nation other than the United States for the purpose of identifying the persons with an ownership interest in vessels [and in which each vessel is identified by a unique alphanumeric designation].

(12) “Electronic certificate of title” means a certificate of title consisting of information that is stored solely in an electronic or other medium and is retrievable in perceivable form. The term does not include a written certificate of title.

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

(14) “Hull identification number”; means the number assigned to a vessel pursuant to 33 C.F.R. Part 181 [as amended from time to time].

(15) “Insurer sold” means an ownership interest in a vessel has been or is about to be transferred by an insurer acting on its on behalf or as agent for its insured if a casualty has compromised the integrity of the vessel’s hull [or the vessel has sunk in a manner that creates a significant risk that the integrity of the vessel’s hull has been compromised].

(156) “Lien creditor” means:

(A) a creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(B) an assignee for benefit of creditors from the time of assignment;

(C) a trustee in bankruptcy from the date of the filing of the petition; or

(D) a receiver in equity from the time of appointment.

(167) “Office” means [insert name of relevant department or agency that creates certificates of title in enacting state].

(178) “Owner” means a person that has legal title to a vessel.

(189) “Owner of record” means the owner as indicated in the files of the office or, if more than one owner is indicated in the files of the office, the one first indicated.

(~~19~~20) “Person” means an individual, corporation, business trust, estate, trust, statutory trust, partnership, limited liability company, association, joint venture, federally recognized Indian Tribe, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(~~20~~1) “Principally used on the waters of this state” means used or to be used on the waters within the territorial limits of this state more than on the waters within the territorial limits of any other state during a calendar year. For the purposes of this paragraph, “use” includes operation, navigation, ~~and employment but does not include storage on land or mooring~~, mooring, and storage in readiness for use in the jurisdiction where stored.

(~~21~~2) “Purchase” means to take by sale, lease, mortgage, pledge, consensual lien, security interest, gift, or any other voluntary transaction that creates an interest in a vessel.

(~~22~~3) “Purchaser” means a person that takes by purchase.

(~~23~~4) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~(24) “Salvaged” means that an insurer has paid or has agreed to pay, as a result of damage to a vessel, at least 65 percent of the insured value of the vessel.~~

(25) “Secured party” means:

(A) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) a person that is a consignor under [Uniform Commercial Code Article 9];

(C) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest is created or provided for; or

(D) a person that holds a security interest arising under [Uniform Commercial Code Section 2-401, 2-505, 2-711(3), or 2A-508(5)].

(26) “Secured party of record” means the secured party whose name is provided as the name of the secured party ~~or a representative of the secured party~~ in an application for a certificate of title received by the office or, if more than one secured party is indicated, the one first indicated in the files of the office.

(27) “Security interest” means an interest in a vessel which secures payment or performance of an obligation if the interest is created by contract or arises under [Uniform Commercial Code Section 2-401, 2-505, 2-711(3) or 2A-508(5)]. The term includes any interest of a consignor in a vessel in a transaction that is subject to [Uniform Commercial Code Article 9]. The term does not include the special property interest of a buyer of a vessel on identification of that vessel to a contract for sale under [Uniform Commercial Code Section 2-401], but a buyer may acquire a security interest by complying with [Uniform Commercial Code Article 9]. Except as otherwise provided in [Uniform Commercial Code Section 2-505], the right of a seller or lessor of a vessel under [Uniform Commercial Code Article 2 or 2A] to retain or acquire possession of the vessel is not a security interest, but a seller or lessor may also acquire a security interest by complying with [Uniform Commercial Code Article 9]. The retention or reservation of title by a seller of a vessel notwithstanding shipment or delivery to the buyer under [Uniform Commercial Code Section 2-401] is limited in effect to a reservation of a security interest. Whether a transaction in the form of a lease creates a security interest is determined by [UCC Section 1-203].

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

(A) make or adopt a tangible symbol; or

(B) attach to or logically associate with the record an electronic sound, symbol, or process.

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

(30) “Title brand” means a designation of previous damage, use, or condition that [this act] or law other than [this act] requires to be indicated on a certificate of title created by a governmental agency of any jurisdiction.

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

(32) “Vessel” includes any watercraft used or capable of being used as a means of transportation on water, except the following:

(A) A seaplane.

(B) An amphibious vehicle for which a certificate of title is issued pursuant to [state motor vehicle certificate of title act] or a similar statute of another state.

(C) Watercraft less than 16 feet in length and propelled solely by sail, paddles, oars, or an engine of less than 10 horsepower.

(D) Watercraft that operates only on a permanently fixed, manufactured course and the movement of which is restricted to or guided by means of a mechanical device to which the watercraft is attached or by which the watercraft is controlled.

(E) A stationary floating structure which:

(i) does not have and is not designed to have a mode of propulsion of its own;

(ii) is dependent for utilities upon a continuous utility linkage to a source originating on shore; and

(iii) has a permanent, continuous hookup to a shoreside sewage system.

(F) Watercraft owned by United States, a state, or a foreign government, or a political subdivision of any of them.

(G) Watercraft used solely as a lifeboat on another watercraft.

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

(b) The following definitions and terms also apply to this [act]:

(1) “Agreement”, [UCC Section 1-201(b)(3)].

~~(2) “Collateral”, [UCC Section 9-102(a)(12)].~~

~~(3)~~ “Conspicuous”, [UCC Section 1-201(b)(10)].

~~(4)~~ “Consumer goods”, [UCC Section 9-102(a)(23)].

~~(5)~~ “Debtor”, [UCC Section 9-102(a)(28)].

(5) “Knowledge”, [UCC Section 1-202].

(6) “Lease”, [UCC Section 2A-103(a)(j)].

~~(6)~~ “Lesseeecor”, [UCC Section 2A-103(~~1~~)(~~n~~)].

~~(7) “Lessee in ordinary course of business”, [UCC Section 2A-103(1)(o)]~~

~~(9) “Lessor”, [UCC Section 2A-103(a)(p)].~~

~~(10) “Merchant”, [UCC Section 2-104(1)].~~

~~(11) “Notice; Knowledge”, [UCC Section 1-202].~~

~~(12)~~a)(p)].

(8) “Representative”, [UCC Section 1-201(b)(33)].

~~(139)~~ “Sale”, [UCC Section 2-106(1)].

~~(140)~~ “Security agreement”, [UCC Section 9-102(a)(73)].

~~(151)~~ “Seller”, [UCC Section 2-103(1)(o)].

~~(162)~~ “Send”, [UCC Section 1-201(b)(36)].

~~(173)~~ “Value”, [UCC Section 1-204].

**SECTION 3. SUPPLEMENTAL PRINCIPLES OF LAW AND EQUITY.** Unless displaced by a provision of [this act], the principles of law and equity supplement its provisions.

**SECTION 4. LAW GOVERNING VESSEL COVERED BY CERTIFICATE OF TITLE.**

(a) The local law of the jurisdiction under whose certificate of title a vessel is covered governs all issues relating to the certificate of title from the time the vessel becomes covered by the certificate of title until the time the vessel ceases to be covered by the certificate of title, even if no other relationship exists between the jurisdiction and the vessel or its owner.

(b) A vessel becomes covered by a certificate of title when an application for a certificate of title and the applicable fee are delivered to the office in accordance with [this act] or to the governmental agency that creates certificates of title in another jurisdiction in accordance with the law of that jurisdiction.

(c) A vessel ceases to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the jurisdiction under which it was



created or the time the vessel subsequently either becomes covered by another certificate of title or becomes a documented vessel.

### **SECTION 5. CERTIFICATE OF TITLE REQUIRED.**

(a) Except as otherwise provided in subsections (b) and (c), the owner of a vessel principally used on the waters of this state shall deliver to the office an application for a certificate of title for the vessel, together with the applicable fee, not later than [20] days after the later of:

- (1) the date of any transfer of ownership; or
- (2) the date the vessel first became principally used on the waters of this state.

(b) No application for a certificate of title is required for:

(1) a documented vessel;

(2) a foreign documented vessel;

(23) a barge;

(34) a vessel under construction pursuant to contract before delivery of the vessel;

or

(45) a vessel held by a dealer for sale.

(c) The [issuing authority in this State] shall not issue, transfer, or renew a certificate of number for a vessel unless the office has created a certificate of title for the vessel or an application for a certificate of title for the vessel and the applicable fee has been delivered to the office.

## SECTION 6. APPLICATION FOR CERTIFICATE OF TITLE.

(a) Except as otherwise provided in Sections 14, 19, 20, and 21, only the owner of a vessel may apply for a certificate of title covering the vessel.

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

(1) the applicant's name, street address, and, if different, address for receiving first class mail delivered by the United States Postal Service;

(2) the names of all other owners of the vessel;

(3) the principal residence of at least one owner;

(4) the mailing address of at least one owner, if different from the principal residence;

(45) the social security number or taxpayer identification number of each owner;

(56) the hull identification number for the vessel or, if there is none, an application for the issuance of a hull identification number for the vessel;

(67) a description of the vessel as required by the office, which must include:

(A) the official number for the vessel, if any, assigned by the United States Coast Guard;

(B) the name of the manufacturer, builder, or maker;

(C) the model year or the year in which the manufacture or build of a vessel was completed;

(D) the overall length of the vessel;

(E) the vessel type;

(F) the hull material;

(G) the propulsion type; and

(H) the engine drive type.

(78) an indication of all security interests in the vessel known to the applicant, including for each security interest the name and mailing address ~~of the secured party or a representative~~ of the secured party;

(89) an affirmation that the vessel is neither a documented vessel nor a foreign documented ~~under the laws of a foreign country~~ vessel;

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

(101) if the applicant knows that the vessel is damaged or salvaged insurer sold, a statement indicating that the vessel is damaged or salvaged insurer sold, whichever applies; ~~and~~

(1+2) if the application is made in connection with a transfer of ownership, the transferor's name, street address and, if different, address for receiving first class mail delivered by the United States Postal Service, the sales price if any, and the date of the transfer; and

(13) if the vessel was previously registered or licensed in a jurisdiction other than the United States or a state, a statement indicating the jurisdiction in which the vessel was registered or licensed.

(c) In addition to the information required in subsection (b), an application for a certificate of title may contain electronic communication addresses of the owner or the transferor.

(d) Except as otherwise provided in Section 18, 19, 20, or 21, the application must be accompanied by one of the following:

(1) a certificate of title covering the vessel which has been signed by the owner shown on the certificate and which:

(A) identifies the applicant as owner of the vessel; or

(B) is accompanied by a record or records that identify the applicant as the owner of the vessel;

~~[(2) in the case of a vessel that has been documented, a record or records showing surrender of documentation]; or~~

~~[(2)] [(3)] or~~

~~(2) if there is not a certificate of title covering the vessel, all existing certificates of origin and bills of sale or other documents of transfer covering the vessel which are known to:~~

~~(A) if the vessel was a documented vessel, a record issued by the United States Coast Guard that shows that the vessel is no longer a documented vessel and that identifies the applicant and which collectively identify as the owner of the vessel;~~

~~(B) if vessel was a foreign documented vessel, a record issued by the foreign country that shows that the vessel is no longer a foreign documented vessel and that identifies the applicant as the owner of the vessel; or~~

~~(C) in all other cases, a certificate of origin, bill of sale, or other record that to the satisfaction of the office identifies the applicant as the owner of the vessel.~~

(e) A record submitted in connection with an application is part of the application and the office shall maintain the record, or an electronic ~~version~~image of the record, in its files.

(f) The office may require that an application for a certificate of title be accompanied by:

(1) payment of all taxes and fees payable by the applicant under the law of this state in connection with the application or with the acquisition or use of the vessel; or

(2) evidence of payment of any taxes and fees not paid as provided in paragraph (1).

**SECTION 7. CREATION AND CANCELLATION OF CERTIFICATE OF TITLE.**

(a) Unless an application for a certificate of title is rejected under subsection (c), the office shall create a certificate of title for the vessel in accordance with subsection (b) not later than [15] business days after delivery to it of an application that complies with Section 6.

(b) If the office is authorized to create electronic certificates of title, the office shall create an electronic certificate of title unless in the application the secured party of record or, if there is no secured party of record, the owner of record, requests that the office create a written certificate of title.

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

(1) the application does not comply with Section 6;

(2) the application does not contain documentation sufficient for the office to determine whether the applicant is entitled to a certificate of title for the vessel;

(3) there is a reasonable basis for ~~[concluding]~~ ~~[believing]~~ that the application is fraudulent or would facilitate a fraudulent or illegal act; or

(4) the application does not comply with law of this state other than [this act].

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

(e) The office may cancel a certificate of title created by it only if:

~~(1)~~ the office:

(1) could have rejected the application for the certificate of title under subsection (c);

(2) ~~it~~ is required to cancel the certificate of title under another provision of [this act]; or

(3) ~~the office~~ receives satisfactory evidence that the vessel ~~has become~~is a documented vessel or a foreign documented vessel.

[(f) (1) In this section, "serve," means to provide with personal service or to post in the United States mail, properly addressed, postage prepaid, return receipt requested. Service by mail is complete upon deposit in the United States mail. The office may, by rule, authorize service by electronic transmission, if a copy is mailed simultaneously, or by commercial parcel delivery company.]

~~f~~(f2) The office shall provide an opportunity for a hearing at which the applicant and any other interested party may present evidence in support of or opposition to the cancellation. The office shall serve notice of the opportunity for a hearing ~~in person, or send it by first class mail, return receipt requested, through the United States Postal Service~~ to the applicant, the owner of record, and all secured parties indicated in the files of the office. If not later than [30] days after the notice was sent, the office receives a request for a hearing from the applicant or any other interested party, the office shall hold the hearing no later than [20] days after receiving the request.]

## **SECTION 8. CONTENTS OF CERTIFICATE OF TITLE.**

(a) A certificate of title must contain:

(1) the date the certificate of title was created;

(2) the name of at least the owner of record and, if not all owners are listed, an indication that there are additional owners;

(3) the address of the owner of record;

(4) the hull identification number;

(5) the information listed in Section 6(b)(67);

(6) except as otherwise provided in Section 14(b), the name and address of the secured party of record, if any, and if not all secured parties are listed, an indication that there are other security interests indicated in the files of the office or on a record created by a governmental agency of another jurisdiction and submitted to the office; and

(7) all title brands covering the vessel, including brands indicated on a certificate of title created by a governmental agency of another jurisdiction and delivered to the office.

(b) Nothing in [this act] precludes the office from noting on a certificate of title the name and address of a secured party that is not a secured party of record.

(c) An indication of a title brand on a certificate of title may consist of an abbreviation, but not a symbol, and must identify the jurisdiction that under whose law the title brand was created or the jurisdiction that created a certificate of title on which the title brand was indicated. If the meaning of a title brand is not easily ascertainable or cannot be accommodated on the certificate of title, the certificate of title may state: “Previously branded in [insert the particular jurisdiction under whose law the title brand was created or whose certificate of title previously indicated the title brand].”

(d) If a vessel was previously registered or licensed in a jurisdiction other than the United States or a state, the office shall indicate on the certificate of title that the vessel was registered or licensed in that jurisdiction.

(e) A certificate of title must contain a form that all owners shown on the certificate may sign in order to evidence consent to a transfer of ownership to another person. The form shall

include a certification, signed under penalty of perjury, that the statements made are true and correct to the best of the owner's knowledge, information, and belief.

## SECTION 9. TITLE BRAND

(a) ~~B~~Unless subsection (b) applies, before transferring an ownership interest in a ~~vessel that is or was~~ damaged ~~and~~vessel that is covered by a certificate of title created by the office, the owner of record shall deliver to the office an application to have the certificate amended by adding the title brand designation "Damaged." Not later than [15] business days after delivery of the application to the office, the office shall create a new certificate of title that conspicuously indicates that the vessel is branded "Damaged." The office shall deliver the new certificate pursuant to Section 11.

(b) ~~Not later than [x] days after a~~Before transferring an ownership interest in an insurer sold vessel that is covered by a certificate of title created by the office ~~becomes salvaged, the~~an insurer shall deliver to the office:

~~(1) if the insurer has become the owner of the vessel, an application for a new certificate of title pursuant to Section 6; or~~

~~(2)~~ an application to have the certificate amended by adding the title brand designation ~~"Salvaged"~~"Insurer Sold."

~~(c)~~ Not later than [15] business days after delivery of the application to the office ~~of an application pursuant to subsection (b),~~ the office shall create a new ~~or amended~~ certificate of title that conspicuously indicates that the vessel is branded ~~"Salvaged"~~"Insurer Sold." The office shall deliver the new ~~or amended~~ certificate pursuant to Section 11.



~~(dc)~~ Except as provided in subsection (d), a person that transfers ~~an ownership interest~~ in a ~~damaged or salvaged vessel~~ to a good-faith purchaser for value an ownership interest in a vessel that is damaged or insurer sold warrants to the purchaser and to all subsequent transferees that the vessel is merchantable within the meaning of [Uniform Commercial Code Section 2-314] and seaworthy unless, before the purchaser gives value:

(1) a certificate of title covering the vessel and indicating the ~~applicable title brand has been~~ vessel is damaged or insurer sold, whichever applies, is provided to the purchaser;

or

(2) a record signed by the person and [conspicuously] indicating that the vessel is damaged or ~~salvaged~~ insurer sold, whichever applies, is provided to the purchaser.

~~(e) An insurer that fails to comply with subsection (b) warrants to a good-faith purchaser of the vessel for value and to all subsequent transferees that the vessel is merchantable within the meaning of [Uniform Commercial Code Section 2-314] and seaworthy unless, before the purchaser gives value:~~

~~(1) a certificate of title covering the vessel and indicating that the vessel is salvaged has been provided to the purchaser; or~~

~~(2) a record signed by the person and indicating that the vessel is salvaged is provided to the purchaser.~~

(fd) Subsection (c) shall not apply to a person[, other than an insurer,] who transfers an ownership interest pursuant to the exercise of the person's rights as a secured party, lien creditor, or the holder of a lien created by statute or rule of law.

(e) A warranty made under subsection (c) ~~or (e)~~ cannot be modified or disclaimed by agreement.

(f) (1) An action for breach of the warranty arising under subsection (c) must be commenced within the latter of [four] years after the right of action has accrued under paragraph (2) or one year after the breach was or should have been discovered, but no longer than [five] years after the right of action accrued.

(2) A purchaser's right of action of breach of the warranty arising under subsection (c) accrues when the purchaser receives the vessel.

#### **SECTION 10. MAINTENANCE OF AND ACCESS TO FILES.**

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

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

(2) maintain in its files the hull identification number and all the information submitted with the application pursuant to Section 6(b) to which the record relates, including the date [and time] the record was delivered to the office;

(3) maintain the file for public inspection [subject to subsection (d)]; and

(4) index the files of the office as required by subsection (b).

(b) The office shall maintain in its files the information contained in all certificates of title created under [this act]. The files of the office must be accessible by the hull identification number for the vessel covered by the certificate, by the name of the owner of record, and by any other indexing method used by the office.

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

[(d) Except as otherwise provided by [public records law of this state], the information required under Section 8 is a public record. Whether other information in the files of the office is made available to the public is governed by law of this state other than {this act}.]

**SECTION 11. ACTIONS REQUIRED UPON CREATION OF CERTIFICATE OF TITLE.**

(a) Upon creation of a written certificate of title, the office shall promptly send the certificate to the secured party of record or, if there is none, to the owner of record, at the address indicated for that person in the files of the office. Upon creation of an electronic certificate of title, the office shall promptly send a record evidencing the certificate of title to the owner of record and, if there is one, to the secured party of record, at the address indicated for that person in the files of the office. A record evidencing an electronic certificate of title may be sent to a mailing address or, if indicated in the files of the office, an electronic address.

(b) If the office creates a written certificate of title for a vessel, any electronic certificate of title for the vessel is thereby cancelled and replaced by the written certificate of title. The office shall maintain in the files of the office an indication of the date [and time] of cancellation.

(c) Before the office creates an electronic certificate of title for a vessel, any written certificate of title for the vessel must be surrendered to the office. If the office creates an electronic certificate of title for a vessel, the office shall destroy or otherwise cancel the existing written certificate of title for the vessel which has been surrendered to the office, and shall maintain in the files of the office an indication of the date [and time] of destruction or other cancellation. If a written certificate of title being cancelled is not destroyed, the office shall

indicate on the face of the written certificate of title that the written certificate of title has been cancelled.

## **SECTION 12. EFFECT OF CERTIFICATE.**

(a) A certificate of title is prima facie evidence of the accuracy of the information in the record that constitutes the certificate of title.

(b) After compliance with Section 16(a), a transferor is not liable as owner for any damages resulting from operation of the vessel thereafter even if the transferee fails to apply for a new certificate of title reflecting the transfer.

## **SECTION 13. EFFECT OF POSSESSION OF CERTIFICATE OF TITLE;**

**JUDICIAL PROCESS.** A certificate of title does not by itself provide a right to obtain possession of a vessel. Garnishment, attachment, levy, replevin, or other judicial process against the certificate of title is not effective to determine possessory rights with respect to the vessel. However, [this act] does not prohibit enforcement of a security interest in, levy on, or foreclosure of a statutory or common-law lien on a vessel under law other than [this act]. The absence of an indication of a statutory or common-law lien on a certificate of title does not invalidate the lien.

## **SECTION 14. PERFECTION OF SECURITY INTEREST.**

(a) Except as otherwise provided in this section, a security interest in a vessel may be perfected only by delivery to the office of an application for a certificate of title that identifies the secured party ~~or a representative of the secured party~~ and that otherwise complies with Section 6. The security interest is perfected upon the later of delivery to the office of the application and any

applicable fee or attachment of the security interest under [Uniform Commercial Code Section 9-203].

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

(c) If the office has created a certificate of title for a vessel, a security interest in the vessel may be perfected by delivery to the office of an application[, on such form as the office may require,] to have the security interest added to the certificate of title. The application must be authenticated by an owner of the vessel or by the secured party and must include:

- (1) the name of the owner of record;
- (2) the name and mailing address of the secured party ~~or a representative of the secured party~~;
- (3) the hull identification number for the vessel; and
- (4) if the office has created a written certificate of title for the vessel, the written certificate of title.

(d) A security interest perfected under subsection (c) is perfected upon the later of delivery to the office of the application and any applicable fee or attachment of the security interest under [Uniform Commercial Code Section 9-203].

(e) Upon delivery of an application that complies with subsection (c) and payment of all fees, the office shall create a new certificate of title pursuant to Section 7 and deliver the new

certificate pursuant to Section 11(a). The office shall maintain in the files of the office the date [and time] of delivery of the application to the office.

(f) If a secured party assigns a perfected security interest in a vessel, the receipt by the office of a statement providing the name of the assignee ~~or its representative~~ as secured party is not required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor. However, a purchaser of a vessel subject to a security interest which obtains a release from the secured party indicated in the files of the office or on the certificate of title takes free of the security interest and of the rights of a transferee if the transfer is not indicated either in the files of the office or on the certificate of title.

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

(1) a vessel created by a person during any period in which the vessel is inventory held for sale or lease by the person or is leased by the person as lessor if the person is in the business of selling goods of that kind;

(2) a barge for which no application for a certificate of title has been delivered to the office; or

(3) a vessel under construction pursuant to contract, for which no application for a certificate of title has been delivered to the office, before delivery.

(h) ~~A~~ If a certificate of documentation for a vessel is canceled, a security interest in a ~~documented~~ the vessel which is valid against third parties as a result of compliance with 46 U.S.C. ~~Section 31321~~ § 31321 remains perfected ~~for 30 days from~~ until the ~~date~~ earlier of four months after cancellation of the certificate of documentation ~~is [cancelled] [surrendered to the Secretary of the United States Department of Homeland Security].~~

~~(~~ for the time the security interest becomes perfected under this [Act].

(i) A security interest in a vessel arising under [Uniform Commercial Code Sections 2-401, ~~4-505~~2-505, 2-711(3) or 2A-508(5)] is perfected when it attaches and remains perfected until the debtor obtains possession of the vessel, unless before such time the security interest is perfected pursuant to subsection (a) or (c).

(j) ~~[In the case of a security interest in a vessel perfected by any method under the law of another jurisdiction, when the vessel becomes covered by a certificate of title issued by this state, the security interest remains]~~ [A security interest in a vessel is] perfected to the extent provided in [Uniform Commercial Code Section 9-~~3~~316(d)].

~~(k) [A security interest perfected under this section has priority over the rights of purchasers and creditors, including lien creditors, to the extent provided in {Uniform Commercial Code Article 9, Part 3}]. For the purposes of priority over a purchaser of a vessel or a creditor with an interest in a vessel, including a lien creditor, delivery of an application pursuant to subsection (a) or (c) and payment of the applicable fee is the equivalent of, and has the same effect as, the filing a financing statement under [Uniform Commercial Code Article 9].~~

## **SECTION 15. TERMINATION STATEMENT.**

(a) A secured party indicated in the files of the office as having a security interest in a vessel shall deliver to the office and, upon the debtor's request, to the debtor, a termination statement upon the earlier of:

(1) if the vessel is consumer goods, [30] days after there is no obligation secured by the vessel and no commitment to make an advance, incur an obligation, or otherwise give value secured by the vessel; or

(2) [14] days after the secured party receives a signed demand from an owner and there is no obligation secured by the vessel subject to the security interest and no commitment to make an advance, incur an obligation, or otherwise give value secured by the vessel.

(b) If a written certificate of title has been created and delivered to a secured party and a termination statement is required under subsection (a), the secured party, within the time provided in subsection (a), shall deliver the written certificate of title to the debtor or the office with the termination statement. If the written certificate is lost, stolen, mutilated, or destroyed, or is otherwise unavailable or illegible, the secured party shall deliver with the termination statement, within the time provided in subsection (a), an application for a replacement certificate of title meeting the requirements of Section 21.

(c) Upon delivery to the office of a termination statement authorized by the secured party, the security interest to which the termination statement relates ceases to be perfected. If the security interest to which the termination statement relates was indicated on the certificate of title, the office shall create a new certificate of title pursuant to Section 7 and deliver the new certificate pursuant to Section 11(a). The office shall maintain in its files the date [and time] of delivery to the office of the termination statement.

(d) A secured party that fails to comply with this section is liable for any loss that the secured party had reason to know might result from its failure to comply and which could not reasonably have been prevented, and for the cost of an application for a certificate of title under Section 6 or 21.



## SECTION 16. TRANSFER.

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

(1) If the certificate is a written certificate of title and if the transferor's interest is noted on the certificate, the transferor, as promptly as practicable, shall sign the certificate and deliver it to the transferee. ~~Upon a voluntary transfer of ownership of a vessel covered by~~ If the transferor does not have possession of the certificate, the person in possession of the certificate has a duty to facilitate the transferor's compliance with this paragraph.

(2) If the certificate of title is an electronic certificate of title, the transferor, as promptly as practicable, shall ~~authenticate~~ sign and deliver to the transferee a record evidencing the transfer of ownership to the transferee.

(3) A buyer of a vessel covered by a certificate of title ~~The transferee~~ has a specifically enforceable right to require the ~~seller~~ transferor to sign and deliver the written certificate of title to the ~~purchaser~~ transferee or ~~authenticate~~ sign and deliver to the ~~purchaser~~ transferee a record evidencing the transfer of ownership.

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

(c) As among the parties to a transfer and their assignees and successors, a transfer of ownership of a vessel is not rendered ineffective by a failure to comply with subsection (a) or by a failure to apply for a new certificate of title. However, except as otherwise provided in Sections 17, 18, 22(~~b~~ and ~~ca~~), or 23, a transfer of ownership without compliance with subsection (a) is not effective against other persons claiming an interest in the vessel.

~~(d) After compliance with subsection (a), a transferor is not liable as owner for any damages resulting from operation of the vessel thereafter even if the transferee fails to apply for a new certificate of title reflecting the transfer.~~

#### **SECTION 17. EFFECT OF MISSING OR INCORRECT INFORMATION.**

(a) Except as otherwise provided in this section, a certificate of title or other record required or authorized by [this act] is effective even if it contains incorrect information or does not contain required information.

(b) Nothing in this section affects the application of [Uniform Commercial Code Section 9-337].

#### **SECTION 18. TRANSFER BY SECURED PARTY'S TRANSFER STATEMENT.**

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

(1) that the owner of record has defaulted on an obligation to the secured party of record;

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

(3) that, by reason of the exercise, the secured party of record has the right to transfer the rights of the owner of record;

(4) the name and last known mailing address of:

(A) the owner of record;

(B) the secured party of record; and

(C) the person acquiring the rights of the owner of record.

(5) any other information required by Section 6(b); and

(6) that:

(~~i~~A) the certificate of title is an electronic certificate of title;

(~~ii~~B) the secured party does not have possession of the written certificate of title created in the name of the owner of record; or

(~~iii~~C) the secured party is delivering the written certificate of title to the office with the secured party's transfer statement.

(b) Unless the office rejects a secured party's transfer statement for a reason set forth in Section 7(c), not later than [15] business days after delivery to the office of the transfer statement and payment of all applicable taxes and fees, the office shall:

(1) accept the secured party's transfer statement;

(2) amend the files of the office to reflect the transfer;

(3) cancel the certificate of title created in the name of the owner of record listed in the secured party's transfer statement, whether or not the certificate of title has been delivered to the office;

(4) create a new certificate of title indicating name of the person designated in paragraph (a)(4)(C) as the owner of record; and

(5) deliver the new certificate of title pursuant to Section 11.

(c) ~~F~~Neither an application under subsection (a) nor the creation of a certificate of title under subsection (b) is not by itself a disposition of the vessel and does not by itself relieve the secured party of its duties under [Uniform Commercial Code Article 9].

## **SECTION 19. TRANSFER BY OPERATION OF LAW.**

(a) In this section:

(1) “By operation of law” means pursuant to a law or judicial order affecting ownership of a vessel:

(A) on account of death, divorce, other family law proceeding, merger, consolidation, dissolution, or bankruptcy;

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

(C) through other legal process.

(2) “Transfer-by-law statement” means a record signed by a transferee stating that, by operation of law, the transferee has acquired or has the right to acquire the ownership interest of the owner of record and containing:

(A) the name and mailing address of the owner of record and the transferee and the other information required by Section 6(b);

(B) documentation sufficient to establish the transferee’s ownership interest or right to acquire the ownership interest of the owner of record;

(C) a statement that:

(i) the certificate of title is an electronic certificate of title;

(ii) the transferee does not have possession of the written certificate of title created in the name of the owner of record; or

(iii) the transferee is delivering the written certificate of title to the office with the transfer-by-law statement; and

(D) except for a transfer pursuant to paragraph (a)(1)(A), evidence that notification of the transfer and the intent to file the transfer-by-law-statement has been sent to ~~the owner of record and to~~ all persons indicated in the files of the office as having an interest, including a security interest, in the vessel.

(b) Unless the office rejects a transfer-by-law statement for a reason set forth in Section 7(c), not later than [15] business days after delivery to the office of the a transfer-by-law statement, including documentation satisfactory to the office as to the transferee's ownership interest or right to acquire the ownership interest of the owner of record, and payment of all applicable taxes and fees, the office shall:

(1) accept delivery of the transfer-by-law statement;

(2) amend the files of the office to reflect the transfer;

(3) cancel the certificate of title created in the name of the owner of record indicated in the transfer-by-law statement, whether or not the certificate has been delivered to the office;

(4) create a new certificate of title, indicating the transferee as owner of record;

~~[(5) indicate on the new certificate of title any security interest indicated on the cancelled certificate of title, unless a court order provides otherwise;]~~ and

~~[(5)][(6)]~~ send the new certificate of title pursuant to Section 11(a).

(c) This section does not apply to a transfer of an interest in a vessel by a secured party under [Uniform Commercial Code Article 9, Part 6].

**SECTION 20. APPLICATION FOR TRANSFER OF OWNERSHIP OR  
TERMINATION OF SECURITY INTEREST WITHOUT CERTIFICATE OF TITLE.**

(a) Except as otherwise provided in Section 18 or 19, if the office receives, unaccompanied by submission of a signed certificate of title, either an application for a new or amended certificate of title that includes an indication of a transfer of ownership or a termination statement, the office may create or amend a certificate of title under this section only if:

(1) all other requirements under Sections 6 and 7 are met;

(2) the applicant has provided an affidavit stating facts that indicate the applicant is entitled to a transfer of ownership or termination statement;

(3) the applicant has provided the office with satisfactory evidence that notification of the application has been sent to the owner of record and to all persons indicated in the files of the office as having an interest in the vessel, at least 45 days have passed since the notification was sent, and no objection from any of those persons has been received by the office; and

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

(b) The office may indicate in a certificate of title created or amended under subsection (a) that the certificate of title was created without submission of a signed certificate of title or termination statement. If no credible information indicating theft, fraud, or any undisclosed or unsatisfied security interest, lien, or other claim to an interest in the vessel has been delivered to

the office within one year after creation of the certificate of title, upon request in a form and manner specified by the office, the office shall remove the indication from the certificate of title.

[(c) Unless the office determines, by any reasonable method, that the value of the vessel is less than [\$x,000], before creating or amending the certificate of title, the office may require an applicant under subsection (a) to post a bond or provide an equivalent source of indemnity or security. The bond, indemnity, or other security, which may not exceed twice the value of the vessel as determined by the office, must be in a form prescribed by the office and provide for indemnification of any owner, purchaser, or other claimant for any expense, loss, delay, or damage, including reasonable attorney's fees and costs but not consequential damages, resulting from creation or amendment of the certificate of title.]

[(d) If the office has not received a claim for indemnity within one year after creation or amendment of the certificate of title under subsection (a), upon request in a form and manner specified by the office, the office shall release any bond, indemnity, or other security.]

## **SECTION 21. REPLACEMENT CERTIFICATE OF TITLE.**

(a) If a written certificate of title is lost, stolen, mutilated, destroyed, or otherwise becomes unavailable or illegible, the secured party of record or, if there is no secured party indicated in the files of the office, the owner of record may apply for and, by furnishing information satisfactory to the office, obtain a replacement certificate of title in the name of the owner of record.

(b) An application for a replacement certificate of title must be submitted in a record signed by the applicant and, except as otherwise permitted by the office, must comply with Section 6.

(c) Unless it has been lost, stolen, or destroyed or is otherwise unavailable, the existing written certificate of title must be submitted to the office with an application for a replacement certificate of title.

(d) A replacement certificate of title created by the office must comply with Section 8 and indicate on the face of the certificate of title that it is a replacement certificate of title.

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

## **SECTION 22. RIGHTS OF PURCHASERS GENERALLY.**

~~(a) A purchaser of a vessel has the protections afforded by [Uniform Commercial Code Sections 2-403(1), 2A-304(1), and 2A-305(1)].~~

~~(b)~~ (b) A buyer in ordinary course of business has the protections afforded by [Uniform Commercial Code Sections 2-403(2) and 9-320(a)]; even if the seller does not comply with Section 16(a).

~~(c) A purchase of a leasehold interest is subject to [Uniform Commercial Code Section 2A-303].~~

~~(d)~~ (d) Except as otherwise provided in Sections 16 and 23, the rights of other purchasers of vessels and of lien creditors are governed by [Uniform Commercial Code Articles 2, 2A, [6,] 7, and 9].



**SECTION 23. RIGHTS ~~AGAINST~~OF SECURED PARTIES.**

(a) ~~Except as otherwise provided in this section or Section 22(b), a transferee of ownership takes subject to a perfected~~Subject to subsection (b), the effect of perfection and non-perfection of a security interest and the priority of a perfected or unperfected security in a vessel~~interest with respect to the rights of purchasers and creditors, including lien creditors, is governed by [the Uniform Commercial Code].~~

(b) If, while a security interest in a vessel is perfected by any method under ~~the law of any jurisdiction~~this [Act], the office creates a certificate of title ~~that does not indicate the vessel is subject to the security interest or contain a statement that it may be subject to security interests not indicated on the certificate, a buyer of the vessel, other than a person in the business of selling or leasing goods of that kind, takes free of the security interest if the buyer:~~

~~(1) gives value in good faith, receives possession of the vessel, and obtains execution of the certificate of title; and~~

~~(2) does not have knowledge of the security interest in the vessel.~~

~~(c) A buyer in ordinary course of business takes free of a security interest in the vessel, including a security interest indicated on a certificate of title, created by the buyer's seller, even if the security interest is perfected, the buyer knows of the existence of the security interest, and the seller did not comply with Section 16(a). A lessee in ordinary course of business takes its leasehold interest free of a security interest in the vessel, including a security interest indicated on a certificate of title, created by the lessee's lessor, even if the security interest is perfected, the lessee knows of its existence, and the lessor did not comply with Section 16(a). This subsection does not affect a security interest in a vessel in the possession of the secured party under [Uniform Commercial Code Article 9].~~

~~(d) If, while a security interest in a vessel is perfected by any method under the law of any jurisdiction, the office creates a certificate of title for the vessel that does not indicate that the vessel is subject to the security interest or contain a statement that it may be subject to security interests not indicated on the certificate of title;~~

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

(2) the security interest is subordinate to a conflicting security interest in the vessel ~~which~~that is perfected ~~[under Section 14] [through compliance with Section 14]~~ after creation of the certificate of title and without the conflicting secured party's knowledge of the security interest.

~~(e) A security interest is indicated on an electronic certificate of title if it is indicated in the record of the certificate of title maintained by the office.~~

#### **SECTION 24. DUTIES AND OPERATION OF FILING OFFICE.**

(a) The office shall retain the evidence used to establish the accuracy of the information in its files relating to the current ownership of the vessel and all information on the certificate of title.

(b) The office shall retain in its files all information regarding a security interest in a vessel, including any termination statement received by the office under Section 15, until at least [10] years after the office receives a termination statement regarding the security interest. The information must be accessible by the hull identification number for the vessel and any other indexing methods provided by the office.



(f) In responding to a request under this section, the office may communicate the requested information in any medium. However, if requested, the office shall send the requested information in a record that is self-authenticating under [cite applicable rule of evidence].

**SECTION 25. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**SECTION 26. ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** [This act] modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001, et seq.) but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Section 7003(b)).

**SECTION 27. SAVINGS CLAUSE.**

(a) Except as otherwise provided in this section, [this act] applies to any transaction, certificate of title, or record involving a vessel, even if the transaction, certificate of title, or record was entered into or created before the effective date of [this act].

(b) A transaction, certificate of title, or record that was validly entered into or created before the effective date of [this act] and would be subject to [this act] if it had been entered into or created on or after the effective date of [this act], and the rights, duties, and interests flowing from the transaction, certificate of title, or record, remains valid after the effective date of [this act].

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

(d) A security interest that is enforceable immediately before the effective date of [this act] and would have priority over the rights of a person that becomes a lien creditor at that time is a perfected security interest under [this act].

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

(f) No warranty arises under Section 9 in connection with a transaction entered into before the effective date of [this act].

**SECTION 28. REPEALS.** The following acts and parts of acts are repealed:  
[add legislative note]

**SECTION 29. EFFECTIVE DATE.** [This act] takes effect ....