

Report of the Study Committee
on Certificate of Title Act for Boats

TO: Committee on Scope and Program

FROM: Study Committee on Certificate of Title Act for Boats

DATE: December 4, 2007

On July 29, 2007, the Committee on Scope and Program resolved and the Executive Committee later approved:

that a study committee on a certificate of title system for boats and possibly manufactured homes be formed, with a charge including consideration whether such an act should be a free-standing act or incorporated within the Uniform Certificate of Title Act (UCOTA).

I. Recommendation. The Study Committee on Certificate of Title Act for Boats ("Study Committee") recommends that the National Conference of Commissioners on Uniform State Laws form a drafting committee to prepare initially a free-standing uniform certificate of title act for boats. At this stage, there does not appear to be sufficient support for a uniform title act for manufactured housing. However, the Study Committee recommends inviting appropriate manufactured housing representatives as well as the representatives who were observers to UCOTA to participate in the drafting committee discussions. In that way, experience from those areas, which may inform the work on the act being drafted, can be gathered and support for a manufactured housing title act may be generated. At the same time, additional input and experience from these two areas can benefit UCOTA, making it more desirable for adoption by the states.

II. Existing State Law. The states are inconsistent in their handling of certificate of title for boats and manufactured housing. A significant minority of states do not have certificate of title laws governing boats and/or manufactured housing.

Approximately 34 states (including the District of Columbia) require that boats be titled, while 16 are non-title states. Mississippi is an optional title state. The National Association of Boating Law Administrators has already drafted a model law for boat titling that will likely be useful as we move forward on our own draft. The laws of some

of these states have many provisions like those for motor vehicles; therefore, having observers from the UCOTA effort present will be useful.

Some 44 jurisdictions title manufactured homes. In most instances, titling is done under the motor vehicle statutes. Thus, as with boats, it would be useful to have representatives from the motor vehicle industry and observers from the UCOTA effort present. Manufactured homes are not titled in 7 states, and 2 states require both a title and a UCC-1 filing. There are 36 states that offer a formal procedure for converting a manufactured home from personal property to real property. In addition, the states differ in terms of their laws governing manufactured housing affixed to real property. For instance, some states have a clear statutory framework for surrendering the title once the manufactured home is permanently affixed to the land. In other states, a manufactured home might become part of the real property, but the certificate of title remains outstanding.

III. Benefits of Uniformity. Because the states vary in their handling of certificate of title for boats and manufactured housing, the benefits of uniformity are great. Uniformity would be beneficial for the purposes of information exchange and title interchange between the states. Mandatory titling of boats would benefit boaters, banking institutions, insurance firms, and law enforcement agencies. As provided by Dave Barber of the National Association of State Boating Law Administrators (NASBLA), specific benefits of boat titling include the following:

- Citizens who buy boats where perfection of a lien occurs upon recordation on the title certificate may benefit from lower loan and insurance rates since their loan is secured and marketable
- Titling enhances the ability and willingness of banks and other lending institutions to participate in the marine industry as a provider of loans
- A certificate of title that provides for recordation of liens protects boat owners against third-party claims
- Mandatory titling can deter theft by making it more difficult to register and title a stolen watercraft and can increase the opportunities for owners to obtain affordable financing and insurance

- An official title of record will reduce fraud against insurance companies, thereby reducing premiums for all insured people.
- States that collect sales and/or excise tax on watercraft can use title information to verify that the proper tax has been paid
- The Coast Guard Vessel Identification System (discussed in Section IV) is a nationwide system to track watercraft throughout the United States, and a uniform title act will serve to enhance this system and reduce the chance of fraud
- Reduce ownership disputes
- Watercraft owners who title and finance their boats in one state sometimes have problems when moving to another state of residence - financial institutions do not want to see the boat moved to a state where a title is not required
- Some institutions will not finance watercraft registered in a non-title state
- Consumers and dealers are assured they have a clear ownership

Though they may not transport as easily as boats, many of these benefits, especially as they concern financing and insurance, would also be applicable to manufactured homes.

IV. Impact of Federal Laws and Regulations. The United States Coast Guard is currently in the process of implementing the Vessel Identification System ("VIS") under 46 USC § 12501 et seq. Uniform titling would simplify the approval by the Coast Guard of each participating state's titling statutes. Under the VIS regulations, the Coast Guard must approve the vessel title law of any state which wishes to participate in the VIS program. As such, it seems necessary that a Coast Guard representative be involved with any drafting of a uniform title act for boats so that we can assure compliance with any regulations under the VIS program. While the VIS program is open-ended in terms of any required completion date, it would certainly be beneficial to draft a uniform title act for boats now so that we can take advantage of any VIS requirements.

There are no federal standards relating to titling for manufactured housing. A uniform title act would lead to clarity in state title laws, thereby promoting financing and production of low-cost manufactured housing.

V. Interested Organizations. Numerous organizations have expressed their interest in a project that would create a uniform certificate of title act for boats, some of whom might also support the same for manufactured housing. The organizations appear below, with any relevant contact information.

BOATS

Organization	Contact
First American Transportation Title Insurance Co.	Victor I. Kook (Vice President and General Counsel), vkook@firstam.com
Maritime Law Association of the United States	www.mlaus.org Elizabeth Burrell (President), lburrell@cm-p.com
American Vessel Documentation Association	www.americanvessel.com Jane LaScala (President), hailing.ny@verizon.net
National Marine Bankers Association	www.marinebankers.org Jim Coburn (President), jacoburn@bbandt.com James Stewart, stewarjy@butzel.com
National Association of State Boating Law Administrators	Dave.Barber@state.ma.us Walden.Boyd@hsmv.state.fl.us Rick.Barrera@dnr.state.oh.us
Boat Owners Association of the United States	
Marine Retailers Association of America	Robert Soucey (Chairman), 708/763-9210
International Association of Marine Investigators	
National Boating Federation	
National Insurance Crime Bureau	
National Marine Manufacturers Association	Cindy Squires, csquires@nmma.org
National Association of Professional Insurance Agents	
United States Coast Guard	
National Vessel Documentation Center	

MANUFACTURED HOUSING

Organization	Contact
Manufactured Housing Institute	Marc Lifest (Chair, MHI Finance Lawyers Committee), mlifest@mcglinchey.com

As the charts demonstrate, support for a uniform title act for boats is rather strong, whereas support from the manufactured housing industry is not as widespread at the current time. This is one reason we would suggest moving forward with an act for boats and inviting interested representatives from the manufactured housing industry to participate in the drafting committee discussions.

VI. Resources. Representatives of both the manufactured housing and boating industries have attended the UCOTA drafting committee meetings and have indicated greater or lesser support for creating a uniform title act in these two areas. These and other groups can be found under Section V. We also have the benefit of UCOTA itself as a model upon which to draft any additional title acts. If this project is approved, funding may be available from governmental resources, particularly in the case of boats, but federal agencies involved in manufactured housing may be interested as well.

VII. Additional Considerations. There are some major issues that the drafting committee will probably want to consider as the discussion on a uniform title act for boats moves forward. Many of these issues have been raised by Robert Fisher, member of the Maritime Law Association and founder and former chair of the Yacht Finance Subcommittee. He sets out important issues to consider and how they compare to motor vehicle titles in a June 1, 2007 memo. A copy has been attached to this Report.

To summarize, the Study Committee recommends that a drafting project to prepare a free-standing uniform certificate of title act for boats be authorized. The Study Committee also recommends that the drafting discussions include representatives from the manufactured housing industry and observers from the UCOTA project. If at a point in the drafting process it appears sensible, the drafting committee may come to the Committee on Scope and Program and the Executive Committee with a recommendation to fold the project into UCOTA (with or without other amendments to UCOTA), combine the project with provisions on manufactured housing or authorize a separate project on manufactured housing, and/or prepare separate amendments to UCOTA.

Attachment:

June 1, 2007 Memo from Robert S. Fisher to Alvin C. Harrell