

UNIFORM CERTIFICATE OF TITLE ACT FOR VESSELS*

Drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

at its

ANNUAL CONFERENCE
MEETING IN ITS ONE-HUNDRED-AND-TWENTIETH YEAR
VAIL, COLORADO
JULY 7 - JULY 13, 2011

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By

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

July 18, 2011

UNIFORM CERTIFICATE OF TITLE ACT FOR VESSELS

SECTION 1. SHORT TITLE. This [act] may be cited as the Uniform Certificate of Title Act for Vessels.

SECTION 2. DEFINITIONS.

(a) in this [act]:

(1) “Barge” means a vessel that is not self-propelled or fitted for propulsion by sail, paddle, oar, or similar device.

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

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

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

(5) “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 or statement of origin and an importer’s certificate or statement of origin. The term does not include a builder’s certificate.

(6) “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 agency and is evidence of ownership of a vessel.

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

(8) “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.

(9) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(10) “Electronic certificate of title” means a certificate of title consisting of information that is stored solely in an electronic medium and is retrievable in perceivable form.

(11) “Foreign-documented vessel” means a vessel the ownership of which is recorded in a registry maintained by a country other than the United States to identify each person that has an ownership interest in a vessel and a unique alphanumeric designation for the vessel.

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

(13) “Hull damaged” means the integrity of a vessel’s hull has been compromised by a collision, allision, lightning strike, fire, explosion, running aground, or similar occurrence. The term includes the sinking of a vessel in a manner that creates a significant risk that the integrity of the vessel’s hull has been compromised.

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

(15) “Lien creditor”, with respect to a vessel, means:

(A) a creditor that has acquired a lien on a vessel 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.

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

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

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

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

(20) “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.

(21) “Purchaser” means a person that takes by purchase.

(22) “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.

(23) “Secured party”, with respect to a vessel, 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 [UCC Article 9];

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

(24) “Secured party of record” means the secured party whose name is indicated

as the name of the secured party in the files of the office or, if the files indicate more than one secured party, the one first indicated.

(25) “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 [UCC 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 [UCC 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 [UCC Section 2-401], but a buyer may also acquire a security interest by complying with [UCC Article 9]. Except as otherwise provided in [UCC Section 2-505], the right of a seller or lessor of a vessel under [UCC 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 [UCC Article 9]. The retention or reservation of title by a seller of a vessel notwithstanding shipment or delivery to the buyer under [UCC 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].

(26) “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 symbol, sound, or process.

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

(28) “State of principal use” means the state on whose waters a vessel is or will

be used, operated, navigated, or employed more than any other state during a calendar year.

(29) “Title brand” means a designation of previous damage, use, or condition that must be indicated on a certificate of title.

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

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

(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 operate 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 that:

(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 hookup to a source originating on shore; and

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

(F) watercraft owned by the United States, a state, or a foreign

government, or a political subdivision of any of them; and

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

(32) “Vessel number” means the alphanumeric designation for a vessel issued pursuant to the requirements 46 U.S.C. Section 12301[, as amended].

(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) “Buyer in ordinary course of business”, [UCC Section 1-201(b)(9)].

(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)].

(6) “Knowledge”, [UCC Section 1-202].

(7) “Lease”, [UCC Section 2A-103(1)(j)].

(8) “Lessor”, [UCC Section 2A-103(1)(p)].

(9) “Notice”, [UCC Section 1-202].

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

(11) “Sale”, [UCC Section 2-106(1)].

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

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

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

(15) “Value”, [UCC Section 1-204].

(c) The definitions in subsections (a) and (b) do not apply to any state or federal law

governing licensing, numbering, or registration if the same term is used in that law.

***Legislative Note:** In states in which the constitution does not permit the phrase “as amended” when federal statutes are incorporated into state law, the phrase should be deleted from paragraphs (a)(2), (8), (14), and (32). In its place, the legislature may wish to expressly delegate to the office the power to promulgate rules that conform the definition to whatever the federal term means.*

SECTION 3. APPLICABILITY. Except as otherwise provided in Section 28, 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].

SECTION 4. SUPPLEMENTAL PRINCIPLES OF LAW AND EQUITY. Unless displaced by a provision of this [act], the principles of law and equity supplement its provisions.

SECTION 5. 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 from the time the vessel becomes covered by the certificate until the vessel becomes covered by another certificate or becomes a documented vessel, 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 and the applicable fee are delivered to the office in accordance with this [act] or to the governmental agency that creates a certificate in another jurisdiction in accordance with the law of that jurisdiction.

SECTION 6. CERTIFICATE OF TITLE REQUIRED.

(a) Except as otherwise provided in subsections (b) and (c), the owner of a vessel for which this state is the state of principal use 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 this state becomes the state of principal use of the vessel.

(b) 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 under construction, or completed, pursuant to contract before delivery

of the vessel; or

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

(c) The office may not issue, transfer, or renew a certificate of number for a vessel issued pursuant to the requirements of 46 U.S.C. Section 12301[, as amended,] unless the office has created a certificate of title for the vessel or an application for a certificate for the vessel and the applicable fee have been delivered to the office.

***Legislative Note:** The reference in subsection (c) to 46 U.S.C. Section 12301, "as amended" is intended to cover any future amendments to that provision that Congress may enact. That language appears in brackets because in some states this may be an unconstitutional delegation of state legislative power. Such states should not enact the bracketed language. In its place, they may wish to expressly delegate to the office the power to enact regulations that conform this rule to whatever changes Congress may make to the vessel numbering rules.*

This act deals only with titling; it does not cover registration, licensing, or numbering. States may wish to consider amending their registration, licensing, and numbering statutes, to condition registration, licensing, and numbering on compliance with Section 6 of this act.]

SECTION 7. APPLICATION FOR CERTIFICATE OF TITLE.

(a) Except as otherwise provided in Sections 10, 15, and 19 through 22, only an owner may apply for a certificate of title.

- (b) An application for a certificate of title must 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;
 - (2) the name and mailing address of each other owner of the vessel;
 - (3) the social security number or taxpayer identification number of each owner;
 - (4) the hull identification number for the vessel or, if none, an application for the issuance of a hull identification number for the vessel;
 - (5) the vessel number for the vessel or, if none issued by the office, an application for a vessel number;
 - (6) 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 the vessel was completed;
 - (D) the overall length of the vessel;
 - (E) the vessel type;
 - (F) the hull material;
 - (G) the propulsion type;
 - (H) the engine drive type, if any; and
 - (I) the fuel type, if any;
 - (7) an indication of all security interests in the vessel known to the applicant and the name and mailing address of each secured party;

(8) a statement that the vessel is not a documented vessel or a foreign-documented vessel;

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

(10) if the applicant knows that the vessel is hull-damaged, a statement that the vessel is hull damaged;

(11) if the application is made in connection with a transfer of ownership, the transferor's name, street address, and, if different, mailing address, the sales price, if any, and the date of the transfer; and

(12) if the vessel was previously registered or titled in another jurisdiction, a statement identifying each jurisdiction known to the applicant in which the vessel was registered or titled.

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

(d) Except as otherwise provided in Section 19, 20, 21, or 22, an application for a certificate of title must be accompanied by:

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

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

(B) is accompanied by a record that identifies the applicant as the owner;

or

(2) if there is no certificate of title:

(A) if the vessel was a documented vessel, a record issued by the United

States Coast Guard which shows the vessel is no longer a documented vessel and identifies the applicant as the owner;

(B) if the vessel was a foreign-documented vessel, a record issued by the foreign country which shows the vessel is no longer a foreign-documented vessel and identifies the applicant as the owner; 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.

(e) A record submitted in connection with an application is part of the application. The office shall maintain the record in its files.

(f) The office may require that an application for a certificate of title be accompanied by payment or evidence of payment of all fees and taxes payable by the applicant under law of this state other than this [act] in connection with the application or with the acquisition or use of the vessel.

SECTION 8. CREATION AND CANCELLATION OF CERTIFICATE OF TITLE.

(a) Unless an application for a certificate of title is rejected under subsection (c) or (d), the office shall create a certificate for the vessel in accordance with subsection (b) not later than 20 days after delivery to it of an application that complies with Section 7.

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

(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 7;

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

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

(4) the application does not comply with the 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 the office:

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

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

(3) receives satisfactory evidence that the vessel is a documented vessel or a foreign-documented vessel.

[(f) (1) In this subsection, “serve” means to serve personally or by mail through the United States Postal Service, properly addressed, postage paid, return receipt requested. Service by mail is complete on deposit with the United States Postal Service. The office may, by rule, authorize service by electronic transmission if a copy is sent on the same day by first-class mail or by a commercial delivery company.

(2) The office shall provide an opportunity for a hearing at which the owner and any other interested party may present evidence in support of or opposition to cancellation of a certificate of title. The office shall serve all owners and secured parties indicated in the files of the office with notice of the opportunity for a hearing. If not later than 30 days after the notice was served, the office receives a request for a hearing from an interested party, the office shall

hold the hearing not later than 20 days after receiving the request.]

Legislative Note: *Subsection (f) is optional. It provides a procedure for the office to follow before canceling a certificate of title. It is intended for those states whose public records or other law does not already provide a procedure that ensures all interested parties are notified in advance and given an opportunity to be heard.*

SECTION 9. CONTENT OF CERTIFICATE OF TITLE.

(a) A certificate of title must 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 files of the office;

(3) the mailing address of the owner of record;

(4) the hull identification number;

(5) the information 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 listed, an indication that there are other security interests indicated in the files of the office; and

(7) all title brands indicated in the files of the office covering the vessel, including brands indicated on a certificate 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 mailing address of a secured party that is not a secured party of record.

(c) For each title brand indicated on a certificate of title, the certificate must identify the jurisdiction under whose law the title brand was created or the jurisdiction that created the certificate 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, the certificate 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 the files of the office indicate that a vessel was previously registered or titled in a foreign country, the office shall indicate on the certificate of title that the vessel was registered or titled in that country.

(e) A written certificate of title must contain a form that all owners indicated on the certificate may sign to evidence consent to a transfer of an ownership interest 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 each owner’s knowledge, information, and belief.

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

SECTION 10. TITLE BRAND.

(a) Unless subsection (c) applies, at or before the time the owner of record transfers an ownership interest in a hull-damaged vessel that is covered by a certificate of title created by the office, the owner, if the hull damage occurred while the owner was an owner of the vessel and the owner had notice of the damage at the time of the transfer, shall:

(1) deliver to the office an application for a new certificate that complies with Section 7 and includes the title brand designation “Hull Damaged”; or

(2) indicate on the certificate in the place designated for that purpose that the vessel is hull damaged and deliver the certificate to the transferee.

(b) Not later than 20 days after delivery to the office of the application under subsection (a)(1) or the certificate of title under subsection (a)(2), the office shall create a new certificate

that indicates that the vessel is branded “Hull Damaged”.

(c) Before an insurer transfers an ownership interest in a hull-damaged vessel that is covered by a certificate of title created by the office, the insurer shall deliver to the office an application for a new certificate that complies with Section 6 and includes the title brand designation “Hull Damaged”. Not later than 20 days after delivery of the application to the office, the office shall create a new certificate that indicates that the vessel is branded “Hull 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) is liable to the office for [an administrative] penalty of \$1,000.

SECTION 11. 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 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 office;

(3) maintain the files for public inspection subject to subsection (e); 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 searchable by the hull identification number of the vessel, the vessel number of the vessel, the name of the owner of record, and 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.

(d) The office, upon request, for safety, security, or law-enforcement purposes, shall provide to federal, state, or local government the information in its files relating to any vessel for which the office has issued a certificate of title.

(e) Except as otherwise provided by [public records law of this state], the information required under Section 9 is a public record. Notwithstanding any other provision of law, the information provided under Section 7(b)(3) is not a public record.

SECTION 12. ACTION REQUIRED ON CREATION OF CERTIFICATE OF TITLE.

(a) On creation of a written certificate of title, the office shall send promptly 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. On creation of an electronic certificate of title, the office shall send promptly 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. The office may send a record evidencing an electronic certificate of title 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, any electronic certificate of title for the vessel is canceled and replaced by the written certificate. 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, any written certificate for the vessel must be surrendered to the office. If the office creates an electronic certificate of title, the office shall destroy or otherwise cancel the existing written certificate for the vessel which has

been surrendered to the office and maintain in the files of the office an indication of the date and time of destruction or other cancellation. If a written certificate being canceled is not destroyed, the office shall indicate on the face of the certificate that the written certificate of title has been canceled.

SECTION 13. EFFECT OF CERTIFICATE OF TITLE. A certificate of title is prima facie evidence of the accuracy of the information in the record that constitutes the certificate.

SECTION 14. EFFECT OF POSSESSION OF CERTIFICATE OF TITLE; JUDICIAL PROCESS. Possession of 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 is not effective to determine possessory rights with respect to the vessel. This [act] does not prohibit enforcement under law of this state other than this [act] of a security interest in, levy on, or foreclosure of a statutory or common-law lien on a vessel. Absence of an indication of a statutory or common-law lien on a certificate does not invalidate the lien.

SECTION 15. PERFECTION OF SECURITY INTEREST.

(a) Except as otherwise provided in this section or in Section 28, 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 and otherwise complies with Section 7. The security interest is perfected on the later of delivery to the office of the application and any applicable fee or attachment of the security interest under [UCC Section 9-203].

(b) If the interest of a person named as owner, lessor, consignor, 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 a secured party. Identification on the application for a

certificate 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 a form the office may require, to have the security interest added to the certificate. The application must be signed 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;
- (3) the hull identification number for the vessel; and
- (4) if the office has created a written certificate of title for the vessel, the

certificate.

(d) A security interest perfected under subsection (c) is perfected on the later of delivery to the office of the application and all applicable fees or attachment of the security interest under [UCC Section 9-203].

(e) On delivery of an application that complies with subsection (c) and payment of all applicable fees, the office shall create a new certificate of title pursuant to Section 8 and deliver the new certificate or a record evidencing an electronic certificate pursuant to Section 12(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 as secured party is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor. 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 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.

(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 vessels;

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

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

(h) If a certificate of documentation for a vessel is deleted or canceled, a security interest in the vessel which, immediately before deletion or cancellation, was valid against a third party as a result of compliance with 46 U.S.C. Section 31321 is and remains perfected until the earlier of four months after cancellation of the certificate of documentation or the time the security interest becomes perfected under this [act].

(i) A security interest in a vessel arising under [UCC Section 2-401, 2-505, 2-711(3), or 2A-508(5)] is perfected when it attaches but becomes unperfected when the debtor obtains possession of the vessel, unless before that time the security interest is perfected pursuant to subsection (a) or (c).

(j) A security interest in a vessel as proceeds of other collateral is perfected to the extent provided in [UCC Section 9-315].

(k) A security interest in a vessel perfected under the law of another jurisdiction is

perfected to the extent provided in [UCC Section 9-316(d)].

SECTION 16. TERMINATION STATEMENT.

(a) A secured party indicated in the files of the office as having a security interest in a vessel shall deliver a termination statement to the office and, on the debtor's request, to the debtor, on 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) 20 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, not later than the time provided in subsection (a), shall deliver the certificate to the debtor or to the office with the statement. If the certificate is lost, stolen, mutilated, destroyed, or is otherwise unavailable or illegible, the secured party shall deliver with the statement, not later than the time provided in subsection (a), an application for a replacement certificate meeting the requirements of Section 22.

(c) On delivery to the office of a termination statement authorized by the secured party, the security interest to which the statement relates ceases to be perfected. If the security interest to which the statement relates was indicated on the certificate of title, the office shall create a new certificate pursuant to Section 8 and deliver the new certificate or a record evidencing an electronic certificate pursuant to Section 12(a). The office shall maintain in its files the date and

time of delivery to the office of the 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 7 or 22.

SECTION 17. TRANSFER OF OWNERSHIP.

(a) On voluntary transfer of an ownership 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 the transferor's interest is noted on the certificate, the transferor promptly shall sign the certificate and deliver it to the transferee. 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. A secured party does not have a duty to facilitate the transferor's compliance with this paragraph if the proposed transfer is prohibited by the security agreement.

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

(3) The transferee has a right enforceable by specific performance to require the transferor comply with paragraph (1) or (2).

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

(c) A failure to comply with subsection (a) or to apply for a new certificate of title does not render a transfer of ownership of a vessel ineffective between the parties. Except as

otherwise provided in Section 18, 19, 23(a), or 24, a transfer of ownership without compliance with subsection (a) is not effective against another person claiming an interest in the vessel.

(d) A transferor that complies with subsection (a) is not liable as owner of the vessel for any event occurring after the transfer, regardless of whether the transferee applies for a new certificate of title.

SECTION 18. EFFECT OF MISSING OR INCORRECT INFORMATION. Except as otherwise provided in [UCC Section 9-337], 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.

SECTION 19. TRANSFER OF OWNERSHIP 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 there has been a default on an obligation secured by the vessel;
- (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 ownership interest of an owner, and the name of the owner;
- (4) the name and last-known mailing address of the owner of record and the secured party of record;
- (5) the name of the transferee;
- (6) other information required by Section 7(b); and
- (7) that:

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

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

(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 in Section 8(c), not later than 20 days after delivery to the office of the statement and payment of all fees and taxes payable under the law of this state other than this [act] in connection with the statement or with the acquisition or use of the vessel, the office shall:

(1) accept the statement;

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

(3) if the name of the owner whose ownership interest is being transferred is indicated on the certificate of title:

(A) cancel the certificate even if the certificate has not been delivered to the office;

(B) create a new certificate indicating as owner the name of the transferee; and

(C) deliver the new certificate or a record evidencing an electronic certificate pursuant to Section 12(a).

(c) An application under subsection (a) or 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 [UCC Article 9].

SECTION 20. 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 an ownership interest in a vessel.

(b) A transfer-by-law statement must contain:

(1) the name and last known mailing address of the owner of record and the transferee and the other information required by Section 7(b);

(2) documentation sufficient to establish the transferee’s ownership interest or right to acquire the ownership interest;

(3) a statement that:

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

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

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

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

(c) Unless the office rejects a transfer-by-law statement for a reason set forth in Section 8(c) or because the statement does not include documentation satisfactory to the office as to the transferee's ownership interest or right to acquire the ownership interest, not later than 20 days after delivery to the office of the a transfer-by-law statement and payment of all fees and taxes payable under the law of this state other than this [act] in connection with the statement or with the acquisition or use of the vessel, the office shall:

- (1) accept the statement;
- (2) amend the files of the office to reflect the transfer; and
- (3) if the name of the owner whose ownership interest is being transferred is

indicated on the certificate of title:

- (A) cancel the certificate even if the certificate has not been delivered to the office;
- (B) create a new certificate indicating as owner the name of the transferee;
- (C) indicate on the new certificate any security interest indicated on the canceled certificate, unless a court order provides otherwise; and
- (D) deliver the new certificate or a record evidencing an electronic certificate pursuant to Section 12(a).

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

**SECTION 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 office 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 office 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 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, not fewer than 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 as evidence of the applicant's ownership or right to terminate the security interest, and the office has no credible information indicating theft, fraud, or an 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 under subsection (a) that the certificate was created without submission of a signed certificate or termination statement. Unless credible information indicating theft, fraud, or an undisclosed or unsatisfied security interest, lien, or other claim to an interest in the vessel has been delivered to the office not later than one year after creation of the certificate, on request in a form and manner specified by the

office, the office shall remove the indication from the certificate.

[(c) Unless the office determines that the value of the vessel is less than [\$5,000], before the office creates a certificate of title under subsection (a), the office may require the applicant to post a bond or provide an equivalent source of indemnity or security. The bond, indemnity, or other security may not exceed twice the value of the vessel as determined by the office. The bond, indemnity, or other security 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 including incidental or consequential damages, resulting from creation or amendment of the certificate.]

[(d) Unless the office receives a claim for indemnity not later than one year after creation of a certificate of title under subsection (a), on request in a form and manner specified by the office, the office shall release any bond, indemnity, or other security.]

SECTION 22. 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 no secured party is 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 in the name of the owner of record.

(b) An applicant for a replacement certificate of title shall sign the application, and, except as otherwise permitted by the office, the application must comply with Section 7. The application must include the existing certificate unless the certificate is lost, stolen, mutilated, destroyed, or otherwise unavailable.

(c) A replacement certificate of title created by the office must comply with Section 9 and indicate on the face of the certificate that it is a replacement certificate.

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

SECTION 23. RIGHTS OF PURCHASER OTHER THAN SECURED PARTY.

(a) A buyer in ordinary course of business has the protections afforded by [UCC Sections 2-403(2) and 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 which is not a buyer in ordinary course of business or a lien creditor are governed by [the UCC].

SECTION 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, is governed by [the UCC].

(b) If, while a security interest in a vessel is perfected by any method under this [act], the office creates a certificate of title 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:

(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; and

(2) the security interest is subordinate to a conflicting security interest in the vessel that is perfected under Section 15 after creation of the certificate and without the conflicting secured party's knowledge of the security interest.

SECTION 25. DUTIES AND OPERATION OF 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 a vessel and the 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.

(c) If a person submits a record to the office, or submits information that is accepted by the office, and requests an acknowledgment of the filing or submission, the office shall send to the person an acknowledgment showing the hull identification number of the vessel to which the record or submission relates, the information in the filed record or submission, and the date and time the record was received or the submission accepted. A request under this section must contain the hull identification number and be delivered by means authorized by the office.

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

(1) whether the files of the office indicate, as of a date and time specified by the office, but not a date earlier than three days before the office received the request, any certificate of title, security interest, termination statement, or title brand that relates to a vessel:

- (A) identified by a hull identification number designated in the request;
- (B) identified by a vessel number designated in the request; or
- (C) owned by a person designated in the request;

(2) with respect to the vessel:

(A) the name and address of any owner as indicated in the files of the office or on the certificate of title;

(B) the name and address of any secured party as indicated in the files of the office or on the certificate, and the effective date of the information; and

(C) a copy of any termination statement indicated in the files of the office and the effective date of 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, and other evidence of previous or current transfers of ownership.

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

***Legislative Note:** the bracketed terms in subsection (e) should be replaced with the terms appropriate to the enacting jurisdiction.*

SECTION 26. 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 27. RELATION TO 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. Section 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 28. SAVINGS CLAUSE.

(a) A transaction, certificate of title, or record relating to a vessel 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, remain valid on and after [the effective date of this act].

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

(c) Except as otherwise provided in subsection (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].

(d) A security interest perfected immediately before [the effective date of this act] remains perfected until the earlier of:

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

(2) three years after [the effective date of 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.

SECTION 29. REPEALS. The following acts and parts of acts are repealed:

[add legislative note]

SECTION 30. EFFECTIVE DATE. This [act] takes effect