

D R A F T
FOR DISCUSSION ONLY

UNIFORM CERTIFICATE OF TITLE ACT FOR VESSELS

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

For Drafting Committee Telephonic Meeting on
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ON UNIFORM STATE LAWS

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June 10, 2009

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

SECTION 2. DEFINITIONS.

(a) In this [act]:

(w) “Principally used” means used or to be used most during a calendar year.

(x) “Used” in the phrase “principally used” means to operate, navigate, or employ.

(y) “Waters of this state” means any waters within the territorial limits of this state.

Reporter's Note

These three definitions will be used to delineate the scope of this Act. In particular, they will be used to identify which state's titling law applies to a particular vessel. Paragraph (w) is derived from 33 C.F.R. § 173.11(h). Paragraph (x) is derived from 33 C.F.R. § 173.11(i). These definitions were selected to harmonize this Act with applicable federal regulations. Paragraph (y) is derived from Cal. Vehicle Code § 9840(e), Ky. Rev. Stat. § 235.010(6), Okla. Stat. § 4002(33), S.C. Code § 50-21-10(28), Tex. Parks & Wild. Code § 31.003(5), and Utah Code §§ 41-1a-102(69), 73-18-2(16). It seems sufficient unless the Committee concludes more specific language is needed to cover coastal waters or boundary waters. *Cf.* Idaho Code § 67-7003(23) (“‘Waters of this state’ means any waters in the state of Idaho over which the state has jurisdiction”); Md. Code § 8-701(t) (“‘Waters of the State’ means any water within the jurisdiction of the State, the marginal sea adjacent to the State, and the high seas when navigated as part of a ride or journey to or from the shore of the State”); Mass. Gen. Laws Ch. 90B, § 1 (“‘Waters of the commonwealth’, – all coastal and inland waters . . .”); Minn. Stat. § 86B.820(15) (“‘Waters of this state’ means waters capable of substantial public use and waters to which the public has access, that are within the territorial limits of this state, including boundary waters”); Or. Rev. Stat. §§ 830.005(13) (“‘Waters of this state’ means all waters within the territorial limits of this state, the marginal sea adjacent to this state and the high seas when navigated as part of a journey or ride to or from the shore of this state”); Pa. Con. Stat. tit. 30, § 102 (“‘Waters of this Commonwealth’ includes all inland, tidal and boundary waters, whether navigable or nonnavigable, under the jurisdiction of the Commonwealth. The term includes ice that forms on these waters”); S.D. Cod. Laws §§ 32-3A-2(12) (“‘Waters of this state,’ any public waters within the territorial limits of this state and all waters which form a common boundary between this state and Minnesota, North Dakota, Montana, Wyoming, Iowa, or Nebraska”); Wis. Stat. § 30.50(14) (“‘Waters of this state’ means any waters within the territorial limits of this state, including the Wisconsin portion of boundary waters”).

1 **SECTION 2. DEFINITIONS.**

2 (a) In this [act]:

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

5 (1) A seaplane [on the water] [or other vehicle capable of sustained flight].

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

8 [(3) Watercraft less than [xx] feet in length.]

9 [(4) Watercraft powered solely by [sail], paddle[,] or oars.]

10 [(5) Watercraft less than [xx] feet in length and powered solely by [sail],
11 paddle[,] or oars.]

12 (6) Inflatable watercraft.

13 (7) A surfboard.

14 (8) Watercraft designed to operate only on a permanently fixed course and the
15 movement of which is restricted to or guided on by means of a mechanical device
16 to which the watercraft is attached or by which the watercraft is controlled, or by
17 means of a mechanical device attached to the watercraft itself.

18 (9) A floating structure which is designed and built to be used as a stationary
19 waterborne residential dwelling, which (A) does not have and is not designed to
20 have a mode of power of its own, (B) is dependent for utilities upon a continuous
21 utility linkage to a source originating on shore, and (C) has a permanent, continuous
22 hookup to a shoreside sewage system.

23 (10) Watercraft whose owner is a State or subdivision thereof, which is used
24 principally for governmental purposes, and which is clearly identifiable as such.

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

26
27
28 **Reporter’s Note**
29

30 Subparagraph (1) is derived from most state vessel titling statutes. The first bracketed language
31 frequently appears in those statutes but its purpose is unclear. The second bracketed language is

1 offered as a way to distinguish a seaplane that can no longer fly and which is really used for surface
2 transportation.

3
4 Subparagraph (2) is derived from D.C. Mun. Laws, tit. 19, § 1099. Its purpose here is to
5 exclude from the scope of this Act vessels that qualify as motor vehicles for the purposes of a state's
6 motor vehicle titling law.

7
8 Subparagraphs (3), (4) and (5) are derived from numerous state statutes that limit the type of
9 watercraft for which a certificate of title is required. Several states do not title watercraft less than
10 a designated length, ranging from 8-26 feet. Several do not title non-motor-powered watercraft.
11 And some do not title non-motor-powered watercraft of less than a designated length. These
12 paragraphs are bracketed because, if the Committee chooses to include these exceptions, not all of
13 the exceptions would be needed. In particular, subparagraph (5) is a more narrow alternative to
14 paragraphs (3) or (4).

15
16 Several of the existing state statutes that exclude watercraft of the type mentioned in
17 subparagraphs (3), (4), or (5) do so by listing the type of excluded watercraft (*e.g.*, "canoe" or
18 "kayak"). *See* Idaho Code § 67-7040; Iowa Code § 462A.77(1); Minn. Stat. § 86B.825. Because those
19 terms are undefined, the approach taken here is to identify the excluded watercraft not by undefined
20 type, but by method of propulsion. The term "sail" is bracketed because more states currently
21 exclude human-powered watercraft than exclude sail-powered watercraft.

22
23 Subparagraph (6) is derived from Iowa Code § 462A.77(1) and S.D. Cod. Laws §§ 32-3A-2(5).

24
25 Subparagraph (7) is derived from S.C. Code § 50-23-30.

26
27 Subparagraphs (8) and (9) are derived from Cal. Vehicle Code § 9873. Subparagraph (8) is
28 apparently designed to exclude watercraft used in fixed rides at theme parks. Subparagraph (9) is
29 designed to exclude floating residences that are fixed to the shore. Subparagraph (9) is arguably not
30 necessary, since the residence would not seem to satisfy the flush part of the definition. While the
31 residence floats, it does not appear to be "used or capable of being used as a means of transportation
32 on water."

33
34 Subparagraph (10) is derived from 33 C.F.R. § 173.11(c). The purposes of a certificate of title
35 act would not seem applicable to government-owned and operated vessels that are readily
36 identifiable as such.

37
38 Subparagraph (11) is derived from 33 C.F.R. § 173.11(d).