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# A BILL FOR AN ACT

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RELATING TO THE UNIFORM CERTIFICATE OF TITLE FOR VESSELS ACT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4                               **"CHAPTER**

5                               **UNIFORM CERTIFICATE OF TITLE FOR VESSELS ACT**

6       § -1 **Short title.** This chapter may be cited as the  
7 Uniform Certificate of Title for Vessels Act.

8       § -2 **Definitions.** (a) As used in this chapter:

9       "Barge" means a vessel that is not self propelled or fitted  
10 for propulsion by sail, paddle, oar, or similar device.

11       "Builder's certificate" means a certificate of the facts of  
12 build of a vessel described in title 46 Code of Federal  
13 Regulations section 67.99, as amended.

14       "Buyer" means a person that buys or contracts to buy a  
15 vessel.

16       "Cancel", with respect to a certificate of title, means to  
17 make the certificate ineffective.



1 "Certificate of origin" means a record created by a  
2 manufacturer or importer as the manufacturer's or importer's  
3 proof of identity of a vessel. The term includes a  
4 manufacturer's certificate or statement of origin and an  
5 importer's certificate or statement of origin. The term does  
6 not include a builder's certificate.

7 "Certificate of title" means a record, created by the  
8 department under this chapter or by a governmental agency of  
9 another jurisdiction under the law of that jurisdiction, that is  
10 designated as a certificate of title by the department or agency  
11 and is evidence of ownership of a vessel.

12 "Dealer" means a person, including a manufacturer, in the  
13 business of selling vessels.

14 "Department" means the department of land and natural  
15 resources.

16 "Documented vessel" means a vessel covered by a certificate  
17 of documentation issued pursuant to title 46 United States Code  
18 section 12105, as amended. The term does not include a foreign-  
19 documented vessel.



1 "Electronic" means relating to technology having  
2 electrical, digital, magnetic, wireless, optical,  
3 electromagnetic, or similar capabilities.

4 "Electronic certificate of title" means a certificate of  
5 title consisting of information that is stored solely in an  
6 electronic medium and is retrievable in perceivable form.

7 "Foreign-documented vessel" means a vessel the ownership of  
8 which is recorded in a registry maintained by a country other  
9 than the United States which identifies each person that has an  
10 ownership interest in a vessel and includes a unique  
11 alphanumeric designation for the vessel.

12 "Good faith" means honesty in fact and the observance of  
13 reasonable commercial standards of fair dealing.

14 "Hull damaged" means compromised with respect to the  
15 integrity of a vessel's hull by a collision, allision, lightning  
16 strike, fire, explosion, running aground, or similar occurrence,  
17 or the sinking of a vessel in a manner that creates a  
18 significant risk to the integrity of the vessel's hull.

19 "Hull identification number" means the alphanumeric  
20 designation assigned to a vessel pursuant to title 33 Code of  
21 Federal Regulations part 181, as amended.



1 "Lien creditor", with respect to a vessel, means:

2 (1) A creditor that has acquired a lien on the vessel by  
3 attachment, levy, or the like;

4 (2) An assignee for benefit of creditors from the time of  
5 assignment;

6 (3) A trustee in bankruptcy from the date of the filing of  
7 the petition; or

8 (4) A receiver in equity from the time of appointment.

9 "Owner" means a person that has legal title to a vessel.

10 "Owner of record" means the owner indicated in the files of  
11 the department or, if the files indicate more than one owner,  
12 the one first indicated.

13 "Person" means an individual, corporation, business trust,  
14 estate, trust, statutory trust, partnership, limited liability  
15 company, association, joint venture, public corporation,  
16 government or governmental subdivision, agency, or  
17 instrumentality, or any other legal or commercial entity.

18 "Purchase" means to take by sale, lease, mortgage, pledge,  
19 consensual lien, security interest, gift, or any other voluntary  
20 transaction that creates an interest in a vessel.

21 "Purchaser" means a person that takes by purchase.



1 "Record" means information that is inscribed on a tangible  
2 medium or that is stored in an electronic or other medium and is  
3 retrievable in perceivable form.

4 "Secured party", with respect to a vessel, means a person:

- 5 (1) In whose favor a security interest is created or  
6 provided for under a security agreement, whether or  
7 not any obligation to be secured is outstanding;  
8 (2) That is a consignor under chapter 490, article 9; or  
9 (3) That holds a security interest arising under section  
10 490:2-401, 490:2-505, 490:2-711(3), or 490:2A-508.

11 "Secured party of record" means the secured party whose  
12 name is indicated as the name of the secured party in the files  
13 of the department or, if the files indicate more than one  
14 secured party, the one first indicated.

15 "Security interest" means an interest in a vessel which  
16 secures payment or performance of an obligation if the interest  
17 is created by contract or arises under section 490:2-401, 490:2-  
18 505, 490:2-711(3), or 490:2A-508(5). The term includes any  
19 interest of a consignor in a vessel in a transaction that is  
20 subject to chapter 490, article 9. The term does not include  
21 the special property interest of a buyer of a vessel on



1 identification of that vessel to a contract for sale under  
2 section 490:2-501, but a buyer also may acquire a security  
3 interest by complying with chapter 490, article 9. Except as  
4 otherwise provided in section 490:2-505, the right of a seller  
5 or lessor of a vessel under chapter 490, article 2 or 2A to  
6 retain or acquire possession of the vessel is not a security  
7 interest, but a seller or lessor also may acquire a security  
8 interest by complying with chapter 490, article 9. The  
9 retention or reservation of title by a seller of a vessel  
10 notwithstanding shipment or delivery to the buyer under section  
11 490:2-401 is limited in effect to a reservation of a security  
12 interest. Whether a transaction in the form of a lease creates  
13 a security interest is determined by section 490:1-203.

14 "Sign" means, with present intent to authenticate or adopt  
15 a record, to:

- 16 (1) Make or adopt a tangible symbol; or
- 17 (2) Attach to or logically associate with the record an  
18 electronic symbol, sound, or process.

19 "State" means a state of the United States, the District of  
20 Columbia, Puerto Rico, the United States Virgin Islands, or any



1 territory or insular possession subject to the jurisdiction of  
2 the United States.

3 "State of principal use" means the state on whose waters a  
4 vessel is or will be used, operated, navigated, or employed more  
5 than on the waters of any other state during a calendar year.

6 "Title brand" means a designation of previous damage, use,  
7 or condition that must be indicated on a certificate of title.

8 "Transfer of ownership" means a voluntary or involuntary  
9 conveyance of an interest in a vessel.

10 "Vessel" means any watercraft used or capable of being used  
11 as a means of transportation on water, except:

12 (1) An amphibious vehicle for which a certificate of title  
13 is issued pursuant to chapter 286, part III or a  
14 similar statute of another state;

15 (2) A watercraft less than eight feet in length and  
16 propelled solely by sail, paddle, oar, or an engine of  
17 less than ten horsepower;

18 (3) A watercraft that operates only on a permanently  
19 fixed, manufactured course and the movement of which  
20 is restricted to or guided by means of a mechanical



1 device to which the watercraft is attached or by which  
2 the watercraft is controlled;

3 (4) A stationary floating structure that:

4 (A) Does not have and is not designed to have a mode  
5 of propulsion of its own;

6 (B) Is dependent for utilities upon a continuous  
7 utility hookup to a source originating on shore;  
8 and

9 (C) Has a permanent, continuous hookup to a shoreside  
10 sewage system;

11 (5) A watercraft owned by the United States, a state, or a  
12 foreign government or a political subdivision of any  
13 of them; and

14 (6) A watercraft used solely as a lifeboat on another  
15 watercraft.

16 "Vessel number" means the alphanumeric designation for a  
17 vessel issued pursuant to title 46 United States Code section  
18 12301, as amended.

19 "Written certificate of title" means a certificate of title  
20 consisting of information inscribed on a tangible medium.





(b) The following definitions and terms also apply to this chapter:

"Agreement", as distinguished from "contract", means the bargain of the parties in fact, as found in their language or inferred from other circumstances, including course of performance, course of dealing, or usage of trade as provided in section 490:1-303.

"Buyer in ordinary course of business" means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer



1 that takes possession of the goods or has a right to recover the  
2 goods from the seller under article 2 may be a buyer in ordinary  
3 course of business. "Buyer in the ordinary course of business"  
4 does not include a person that acquires goods in a transfer in  
5 bulk or as security for or in total or partial satisfaction of a  
6 money debt.

7 "Conspicuous", with reference to a term, means so written,  
8 displayed, or presented that a reasonable person against which  
9 it is to operate ought to have noticed it. Whether a term is  
10 "conspicuous" or not is a decision for the court. Conspicuous  
11 terms include the following:

12 (1) A heading in capitals equal to or greater in size than  
13 the surrounding text, or in contrasting type, font, or  
14 color to the surrounding text of the same or lesser  
15 size; and

16 (2) Language in the body of a record or display in larger  
17 type than the surrounding text, or in contrasting  
18 type, font, or color to the surrounding text of the  
19 same size, or set off from surrounding text of the  
20 same size by symbols or other marks that call  
21 attention to the language.



1 "Consumer goods" means goods that are used or bought for  
2 use primarily for personal, family, or household purposes.

3 "Debtor" means:

4 (1) A person having an interest, other than a security  
5 interest or other lien, in the collateral, whether or  
6 not the person is an obligor;

7 (2) A seller of accounts, chattel paper, payment  
8 intangibles, or promissory notes; or

9 (3) A consignee.

10 "Knowledge" means actual knowledge.

11 "Lease" means a transfer of the right to possession and use  
12 of goods for a term in return for consideration, but a sale,  
13 including a sale on approval or a sale or return, or retention  
14 or creation of a security interest is not a lease. Unless the  
15 context clearly indicates otherwise, the term includes a  
16 sublease.

17 "Lessor" means a person who transfers the right to  
18 possession and use of goods under a lease. Unless the context  
19 clearly indicates otherwise, the term includes a sublessor.

20 "Notice" shall have the same meaning as that term is  
21 defined in section 490:1-202.



1 "Representative" means a person empowered to act for  
2 another, including an agent, an officer of a corporation or  
3 association, and a trustee, executor, or administrator of an  
4 estate.

5 "Sale" shall have the same meaning as that term is defined  
6 in section 490:2-106(1).

7 "Security agreement" means an agreement that creates or  
8 provides for a security interest.

9 "Seller" means a person who sells or contracts to sell  
10 goods.

11 "Send" in connection with a writing, record, or notice  
12 means:

13 (1) To deposit in the mail or deliver for transmission by  
14 any other usual means of communication with postage or  
15 cost of transmission provided for and properly  
16 addressed and, in the case of an instrument, to an  
17 address specified thereon or otherwise agreed, or if  
18 there be none to any address reasonable under the  
19 circumstances; or



1           (2) In any other way to cause to be received any record or  
2           notice within the time it would have arrived if  
3           properly sent.

4           "Value" shall have the same meaning as that term is defined  
5 in section 490:1-204.

6           (c) The definitions in subsections (a) and (b) do not  
7 apply to any state or federal law governing licensing,  
8 numbering, or registration if the same term is used in that law.

9           § -3 **Applicability.** Subject to section -28, this  
10 chapter applies to any transaction, certificate of title, or  
11 record relating to a vessel, even if the transaction,  
12 certificate of title, or record was entered into or created  
13 before the effective date of this chapter.

14          § -4 **Supplemental principles of law and equity.** Unless  
15 displaced by a provision of this chapter, the principles of law  
16 and equity supplement its provisions.

17          § -5 **Law governing vessel covered by certificate of**  
18 **title.** (a) The local law of the jurisdiction under whose  
19 certificate of title a vessel is covered governs all issues  
20 relating to the certificate from the time the vessel becomes  
21 covered by the certificate until the vessel becomes covered by



1 another certificate or becomes a documented vessel, even if no  
2 other relationship exists between the jurisdiction and the  
3 vessel or its owner.

4 (b) A vessel becomes covered by a certificate of title  
5 when an application for the certificate and the applicable fee  
6 are delivered to the department in accordance with this chapter  
7 or to the governmental agency that creates a certificate in  
8 another jurisdiction in accordance with the law of that  
9 jurisdiction.

10 § -6 Certificate of title required. (a) Except as  
11 otherwise provided in subsections (b) and (c), the owner of a  
12 vessel for which this State is the state of principal use shall  
13 deliver to the department an application for a certificate of  
14 title for the vessel, with the applicable fee, not later than  
15 twenty days after the later of:

- 16 (1) The date of a transfer of ownership; or  
17 (2) The date this State becomes the state of principal  
18 use.

19 (b) An application for a certificate of title is not  
20 required for:

- 21 (1) A documented vessel;



(2) A foreign-documented vessel;

(3) A barge;

(4) A vessel before delivery if the vessel is under construction or completed pursuant to contract; or

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

(c) The department may not issue, transfer, or renew a certificate of number for a vessel issued pursuant to the requirements of title 46 United States Code section 12301, as amended, unless the department 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 department.

**§ -7 Application for certificate of title.** (a) Except as otherwise provided in sections -10, -15, -19, -20, -21, and -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;



- 1           (2) The name and mailing address of each other owner of  
2           the vessel;
- 3           (3) The hull identification number for the vessel or, if  
4           none, an application for the issuance of a hull  
5           identification number for the vessel;
- 6           (4) The vessel number for the vessel or, if none issued by  
7           the department, an application for a vessel number;
- 8           (5) A description of the vessel as required by the  
9           department, which must include:
- 10           (A) The official number for the vessel, if any,  
11           assigned by the United States Coast Guard or the  
12           vessel registration number assigned by  
13           department;
- 14           (B) The name of the manufacturer, builder, or maker;
- 15           (C) The model year or the year in which the  
16           manufacture or build of the vessel was completed;
- 17           (D) The overall length of the vessel;
- 18           (E) The vessel type;
- 19           (F) The hull material;
- 20           (G) The propulsion type;
- 21           (H) The engine drive type, if any; and





- 1 (I) The fuel type, if any;
- 2 (6) An indication of all security interests in the vessel
- 3 known to the applicant and the name and mailing
- 4 address of each secured party;
- 5 (7) A statement that the vessel is not a documented
- 6 vessel, a foreign-documented vessel, or a barge;
- 7 (8) Any title brand known to the applicant and, if known,
- 8 the jurisdiction under whose law the title brand was
- 9 created;
- 10 (9) If the applicant knows that the vessel is hull
- 11 damaged, a statement that the vessel is hull damaged;
- 12 (10) If the application is made in connection with a
- 13 transfer of ownership, the transferor's name, street
- 14 address, and, if different, mailing address, the sales
- 15 price, if any, and the date of the transfer; and
- 16 (11) If the vessel previously was registered or titled in
- 17 another jurisdiction, a statement identifying each
- 18 jurisdiction known to the applicant in which the
- 19 vessel was registered or titled.
- 20 (c) In addition to the information required by subsection
- 21 (b), an application for a certificate of title may contain an



1 electronic communication address of the owner, transferor, or  
2 secured party.

3 (d) Except as otherwise provided in section -19,  
4 -20, -21, or -22, an application for a certificate of  
5 title must be accompanied by:

6 (1) A certificate of title signed by the owner shown on  
7 the certificate and which:

8 (A) Identifies the applicant as the owner of the  
9 vessel; or

10 (B) Is accompanied by a record that identifies the  
11 applicant as the owner; or

12 (2) If there is no certificate of title:

13 (A) If the vessel was a documented vessel, a record  
14 issued by the United States Coast Guard which  
15 shows the vessel is no longer a documented vessel  
16 and identifies the applicant as the owner;

17 (B) If the vessel was a foreign-documented vessel, a  
18 record issued by the foreign country which shows  
19 the vessel is no longer a foreign-documented  
20 vessel and identifies the applicant as the owner;  
21 or



1 (C) In all other cases, a certificate of origin, bill  
2 of sale, or other record that to the satisfaction  
3 of the department identifies the applicant as the  
4 owner.

5 (3) Payment of any applicable titling fees, as set by the  
6 department.

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

10 (f) The department may require that an application for a  
11 certificate of title be accompanied by payment or evidence of  
12 payment of all fees and taxes payable by the applicant under law  
13 of this State other than this chapter in connection with the  
14 application or the acquisition or use of the vessel.

15 **§ -8 Creation and cancellation of certificate of title.**

16 (a) Unless an application for a certificate of title is  
17 rejected under subsection (c) or (d), the department shall  
18 create a certificate for the vessel in accordance with  
19 subsection (b) not later than sixty days after delivery to it of  
20 an application that complies with section -7.



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

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

9 (1) The application does not comply with section -7;

10 (2) The application does not contain documentation  
11 sufficient for the department to determine whether the  
12 applicant is entitled to a certificate;

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

16 (4) The application does not comply with the law of this  
17 State other than this chapter.

18 (d) The department shall reject an application for a  
19 certificate of title for a vessel that is a documented vessel or  
20 a foreign-documented vessel.



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

- (1) Could have rejected the application for the certificate under subsection (c);
- (2) Is required to cancel the certificate under another provision of this chapter; or
- (3) Receives satisfactory evidence that the vessel is a documented vessel or a foreign-documented vessel.

§ -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 department;
- (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



1 interests indicated in the files of the department;

2 and

3 (7) All title brands indicated in the files of the  
4 department covering the vessel, including brands  
5 indicated on a certificate created by a governmental  
6 agency of another jurisdiction and delivered to the  
7 department.

8 (b) This chapter does not preclude the department from  
9 noting on a certificate of title the name and mailing address of  
10 a secured party that is not a secured party of record.

11 (c) For each title brand indicated on a certificate of  
12 title, the certificate must identify the jurisdiction under  
13 whose law the title brand was created or the jurisdiction that  
14 created the certificate on which the title brand was indicated.  
15 If the meaning of a title brand is not easily ascertainable or  
16 cannot be accommodated on the certificate, the certificate may  
17 state: "Previously branded in (insert the jurisdiction under  
18 whose law the title brand was created or whose certificate of  
19 title previously indicated the title brand)".

20 (d) If the files of the department indicate that a vessel  
21 previously was registered or titled in a foreign country, the



1 department shall indicate on the certificate of title that the  
2 vessel was registered or titled in that country.

3 (e) A written certificate of title must contain a form  
4 that all owners indicated on the certificate may sign to  
5 evidence consent to a transfer of an ownership interest to  
6 another person. The form must include a certification, signed  
7 under penalty of unsworn falsification to authorities, pursuant  
8 to section 710-1063, that the statements made are true and  
9 correct to the best of each owner's knowledge, information, and  
10 belief.

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

14 **§ -10 Title brand.** (a) Unless subsection (c) applies,  
15 at or before the time the owner of record transfers an ownership  
16 interest in a hull-damaged vessel that is covered by a  
17 certificate of title created by the department, if the damage  
18 occurred while that person was an owner of the vessel and the  
19 person has notice of the damage at the time of the transfer, the  
20 owner shall:



1           (1) Deliver to the department an application for a new  
2           certificate that complies with section     -7 and  
3           includes the title brand designation "Hull Damaged";  
4           or  
5           (2) Indicate on the certificate in the place designated  
6           for that purpose that the vessel is hull damaged and  
7           deliver the certificate to the transferee.  
8           (b) Not later than twenty days after delivery to the  
9           department of the application under subsection (a)(1) or the  
10          certificate of title under subsection (a)(2), the department  
11          shall create a new certificate that indicates that the vessel is  
12          branded "Hull Damaged".  
13          (c) Before an insurer transfers an ownership interest in a  
14          hull-damaged vessel that is covered by a certificate of title  
15          created by the department, the insurer shall deliver to the  
16          department an application for a new certificate that complies  
17          with section     -6 and includes the title brand designation  
18          "Hull Damaged". Not later than twenty days after delivery of  
19          the application to the department, the department shall create a  
20          new certificate that indicates that the vessel is branded "Hull  
21          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 subject to an administrative penalty of \$1,000.

**§ -11 Maintenance of and access to files.** (a) For each record relating to a certificate of title submitted to the department, the department 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 department;

(3) Maintain the files for public inspection subject to subsection (e); and

(4) Index the files of the department as required by subsection (b).

(b) The department shall maintain in its files the information contained in all certificates of title created under



1 this chapter. The information in the files of the department  
2 must be searchable by the hull identification number of the  
3 vessel, the vessel number, the name of the owner of record, and  
4 any other method used by the department.

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

11 (d) Upon request, for safety, security, or law-enforcement  
12 purposes, the department shall provide to federal, state, or  
13 local government the information in its files relating to any  
14 vessel for which the department has issued a certificate of  
15 title.

16 (e) Except as otherwise provided by the law of this State  
17 other than this chapter, the information required under section  
18 -9 is a government record.

19 **§ -12 Action required on creation of certificate of**  
20 **title.** (a) On creation of a written certificate of title, the  
21 department promptly shall send the certificate to the secured



1 party of record or, if none, to the owner of record, at the  
2 address indicated for that person in the files of the  
3 department. On creation of an electronic certificate of title,  
4 the department promptly shall send a record evidencing the  
5 certificate to the owner of record and, if there is one, to the  
6 secured party of record, at the address indicated for that  
7 person in the files of the department. The department may send  
8 the record to the person's mailing address or, if indicated in  
9 the files of the department, an electronic address.

10 (b) If the department creates a written certificate of  
11 title, any electronic certificate of title for the vessel is  
12 canceled and replaced by the written certificate. The  
13 department shall maintain in the files of the department the  
14 date and time of cancellation.

15 (c) Before the department creates an electronic  
16 certificate of title, any written certificate for the vessel  
17 must be surrendered to the department. If the department  
18 creates an electronic certificate, the department shall destroy  
19 or otherwise cancel the written certificate for the vessel which  
20 has been surrendered to the department and maintain in the files  
21 of the department the date and time of destruction or other



1 cancellation. If a written certificate being canceled is not  
2 destroyed, the department shall indicate on the face of the  
3 certificate that it has been canceled.

4       §   -13   **Effect of certificate of title.** A certificate of  
5 title is prima facie evidence of the accuracy of the information  
6 in the record that constitutes the certificate.

7       §   -14   **Effect of possession of certificate of title;**  
8 **judicial process.** Possession of a certificate of title does not  
9 by itself provide a right to obtain possession of a vessel.  
10 Garnishment, attachment, levy, replevin, or other judicial  
11 process against the certificate is not effective to determine  
12 possessory rights to the vessel. This chapter does not prohibit  
13 enforcement under law of this State other than this chapter of a  
14 security interest in, levy on, or foreclosure of a statutory or  
15 common-law lien on a vessel. Absence of an indication of a  
16 statutory or common-law lien on a certificate does not  
17 invalidate the lien.

18       §   -15   **Perfection of security interest.** (a) Except as  
19 otherwise provided in this section or section   -28, a security  
20 interest in a vessel may be perfected only by delivery to the



1 department of an application for a certificate of title that  
2 identifies the secured party and otherwise complies with  
3 section -7. The security interest is perfected on the later  
4 of delivery to the department of the application and the  
5 applicable fee or attachment of the security interest under  
6 section 490:9-203.

7 (b) If the interest of a person named as owner, lessor,  
8 consignor, or bailor in an application for a certificate of  
9 title delivered to the department is a security interest, the  
10 application sufficiently identifies the person as a secured  
11 party. Identification on the application for a certificate of a  
12 person as owner, lessor, consignor, or bailor is not by itself a  
13 factor in determining whether the person's interest is a  
14 security interest.

15 (c) If the department has created a certificate of title  
16 for a vessel, a security interest in the vessel may be perfected  
17 by delivery to the department of an application, on a form the  
18 department may require, to have the security interest added to  
19 the certificate. The application must be signed by an owner of  
20 the vessel or by the secured party and must include:

21 (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 department 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 department of the application and all applicable fees or attachment of the security interest under section 490:9-203.

(e) On delivery of an application that complies with subsection (c) and payment of all applicable fees, the department 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 department shall maintain in the files of the department the date and time of delivery of the application to the department.

(f) If a secured party assigns a perfected security interest in a vessel, the receipt by the department 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



1 debtor. A purchaser of a vessel subject to a security interest  
2 which obtains a release from the secured party indicated in the  
3 files of the department or on the certificate takes free of the  
4 security interest and of the rights of a transferee unless the  
5 transfer is indicated in the files of the department or on the  
6 certificate.

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

8 (1) Created in a vessel by a person during any period in  
9 which the vessel is inventory held for sale or lease  
10 by the person or is leased by the person as lessor if  
11 the person is in the business of selling vessels;

12 (2) In a barge for which no application for a certificate  
13 of title has been delivered to the department; or

14 (3) In a vessel before delivery if the vessel is under  
15 construction, or completed, pursuant to contract and  
16 for which no application for a certificate has been  
17 delivered to the department.

18 (h) This subsection applies if a certificate of  
19 documentation for a documented vessel is deleted or canceled.  
20 If a security interest in the vessel was valid immediately  
21 before deletion or cancellation against a third party as a



1 result of compliance with title 46 United States Code section  
2 31321, as amended, the security interest is and remains  
3 perfected until the earlier of four months after cancellation of  
4 the certificate or the time the security interest becomes  
5 perfected under this chapter.

6 (i) A security interest in a vessel arising under section  
7 490:2-401, 490:2-505, 490:2-711(3), or 490:2A-508 is perfected  
8 when it attaches but becomes unperfected when the debtor obtains  
9 possession of the vessel, unless before the debtor obtains  
10 possession the security interest is perfected pursuant to  
11 subsection (a) or (c).

12 (j) A security interest in a vessel as proceeds of other  
13 collateral is perfected to the extent provided in section 490:9-  
14 315.

15 (k) A security interest in a vessel perfected under the  
16 law of another jurisdiction is perfected to the extent provided  
17 in section 490:9-316(d).

18 § -16 Termination statement. (a) A secured party  
19 indicated in the files of the department as having a security  
20 interest in a vessel shall deliver a termination statement to





1 the department and, on the debtor's request, to the debtor, by  
2 the earlier of:

3 (1) Twenty days after the secured party receives a signed  
4 demand from an owner for a termination statement and  
5 there is no obligation secured by the vessel subject  
6 to the security interest and no commitment to make an  
7 advance, incur an obligation, or otherwise give value  
8 secured by the vessel; or

9 (2) If the vessel is consumer goods, thirty days after  
10 there is no obligation secured by the vessel and no  
11 commitment to make an advance, incur an obligation, or  
12 otherwise give value secured by the vessel.

13 (b) If a written certificate of title has been created and  
14 delivered to a secured party and a termination statement is  
15 required under subsection (a), the secured party, not later than  
16 the date required by subsection (a), shall deliver the  
17 certificate to the debtor or to the department with the  
18 statement. If the certificate is lost, stolen, mutilated,  
19 destroyed, or is otherwise unavailable or illegible, the secured  
20 party shall deliver with the statement, not later than the date



1 required by subsection (a), an application for a replacement  
2 certificate meeting the requirements of section -22.

3 (c) On delivery to the department of a termination  
4 statement authorized by the secured party, the security interest  
5 to which the statement relates ceases to be perfected. If the  
6 security interest to which the statement relates was indicated  
7 on the certificate of title, the department shall create a new  
8 certificate and deliver the new certificate or a record  
9 evidencing an electronic certificate. The department shall  
10 maintain in its files the date and time of delivery to the  
11 department of the statement.

12 (d) A secured party that fails to comply with this section  
13 is liable for any loss that the secured party had reason to know  
14 might result from its failure to comply and which could not  
15 reasonably have been prevented and for the cost of an  
16 application for a certificate of title under section -7 or  
17 -22.

18 § -17 **Transfer of ownership.** (a) On voluntary transfer  
19 of an ownership interest in a vessel covered by a certificate of  
20 title, the following rules apply:



1           (1) If the certificate is a written certificate of title  
2           and the transferor's interest is noted on the  
3           certificate, the transferor promptly shall sign the  
4           certificate and deliver it to the transferee. If the  
5           transferor does not have possession of the  
6           certificate, the person in possession of the  
7           certificate has a duty to facilitate the transferor's  
8           compliance with this paragraph. A secured party does  
9           not have a duty to facilitate the transferor's  
10          compliance with this paragraph if the proposed  
11          transfer is prohibited by the security agreement;

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

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

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



1 (c) A failure to comply with subsection (a) or to apply  
2 for a new certificate of title does not render a transfer of  
3 ownership of a vessel ineffective between the parties. Except  
4 as otherwise provided in section -18, -19, -23(a), or  
5 -24, a transfer of ownership without compliance with  
6 subsection (a) is not effective against another person claiming  
7 an interest in the vessel.

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

12 **§ -18 Effect of missing or incorrect information.**

13 Except as otherwise provided in section 490:9-337, a certificate  
14 of title or other record required or authorized by this chapter  
15 is effective even if it contains incorrect information or does  
16 not contain required information.

17 **§ -19 Transfer of ownership by secured party's transfer**

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



- 1 (1) That there has been a default on an obligation secured
- 2 by the vessel;
- 3 (2) The secured party of record is exercising or has
- 4 exercised post-default remedies with respect to the
- 5 vessel;
- 6 (3) By reason of the exercise, the secured party of record
- 7 has the right to transfer the ownership interest of an
- 8 owner, and the name of the owner;
- 9 (4) The name and last-known mailing address of the owner
- 10 of record and the secured party of record;
- 11 (5) The name of the transferee;
- 12 (6) Other information required by section -7(b); and
- 13 (7) One of the following:
- 14 (A) The certificate of title is an electronic
- 15 certificate;
- 16 (B) The secured party does not have possession of the
- 17 written certificate of title created in the name
- 18 of the owner of record; or
- 19 (C) The secured party is delivering the written
- 20 certificate of title to the department with the
- 21 secured party's transfer statement.



(b) Unless the department rejects a secured party's transfer statement for a reason stated in section -8(c), not later than twenty days after delivery to the department of the statement and payment of fees and taxes payable under the law of this State other than this chapter in connection with the statement or the acquisition or use of the vessel, the department shall:

(1) Accept the statement;

(2) Amend the files of the department 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 department;

(B) Create a new certificate indicating the transferee as owner; and

(C) Deliver the new certificate or a record evidencing an electronic certificate.

(c) A transfer statement under subsection (a) or the creation of a certificate of title under subsection (b) is not



1 by itself a disposition of the vessel and does not by itself  
2 relieve the secured party of its duties under chapter 490,  
3 article 9.

4       **§ -20 Transfer by operation of law.** (a) As used in  
5 this section:

6       (1) "By operation of law" means pursuant to a law or  
7       judicial order affecting ownership of a vessel:

8       (A) Because of death, divorce, or other family law  
9       proceeding, merger, consolidation, dissolution,  
10       or bankruptcy;

11       (B) Through the exercise of the rights of a lien  
12       creditor or a person having a lien created by  
13       statute or rule of law; or

14       (C) Through other legal process; and

15       (2) "Transfer-by-law statement" means a record signed by a  
16       transferee stating that by operation of law the  
17       transferee has acquired or has the right to acquire an  
18       ownership interest in a vessel.

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



- 1 (1) The name and last known mailing address of the owner  
2 of record and the transferee and the other information  
3 required by section -7(b);
- 4 (2) Documentation sufficient to establish the transferee's  
5 ownership interest or right to acquire the ownership  
6 interest;
- 7 (3) A statement that:
- 8 (A) The certificate of title is an electronic  
9 certificate of title;
- 10 (B) The transferee does not have possession of the  
11 written certificate of title created in the name  
12 of the owner of record; or
- 13 (C) The transferee is delivering the written  
14 certificate to the department with the transfer-  
15 by-law statement; and
- 16 (4) Except for a transfer described in subsection  
17 (a)(1)(A), evidence that notification of the transfer  
18 and the intent to file the transfer-by-law statement  
19 has been sent to all persons indicated in the files of  
20 the department as having an interest, including a  
21 security interest, in the vessel.





(c) Unless the department rejects a transfer-by-law statement for a reason stated in section -8(c) or because the statement does not include documentation satisfactory to the department as to the transferee's ownership interest or right to acquire the ownership interest, not later than twenty days after delivery to the department of the statement and payment of fees and taxes payable under the law of this State other than this chapter in connection with the statement or with the acquisition or use of the vessel, the department shall:

(1) Accept the statement;

(2) Amend the files of the department 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 department;

(B) Create a new certificate indicating the transferee as owner;



(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.

(d) This section does not apply to a transfer of an interest in a vessel by a secured party under chapter 490, article 9, part 6.

§ -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 department 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 department 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;



1           (3) The applicant provides the department with  
2           satisfactory evidence that notification of the  
3           application has been sent to the owner of record and  
4           all persons indicated in the files of the department  
5           as having an interest, including a security interest,  
6           in the vessel, at least forty-five days have passed  
7           since the notification was sent, and the department  
8           has not received an objection from any of those  
9           persons; and

10          (4) The applicant submits any other information required  
11          by the department as evidence of the applicant's  
12          ownership or right to terminate the security interest,  
13          and the department has no credible information  
14          indicating theft, fraud, or an undisclosed or  
15          unsatisfied security interest, lien, or other claim to  
16          an interest in the vessel.

17          (b) The department may indicate in a certificate of title  
18          created under subsection (a) that the certificate was created  
19          without submission of a signed certificate or termination  
20          statement. Unless credible information indicating theft, fraud,  
21          or an undisclosed or unsatisfied security interest, lien, or



1 other claim to an interest in the vessel is delivered to the  
2 department not later than one year after creation of the  
3 certificate, on request in a form and manner required by the  
4 department, the department shall remove the indication from the  
5 certificate.

6       §   -22 Replacement certificate of title. (a) If a  
7 written certificate of title is lost, stolen, mutilated,  
8 destroyed, or otherwise becomes unavailable or illegible, the  
9 secured party of record or, if no secured party is indicated in  
10 the files of the department, the owner of record may apply for  
11 and, by furnishing information satisfactory to the department,  
12 obtain a replacement certificate in the name of the owner of  
13 record.

14       (b) An applicant for a replacement certificate of title  
15 must sign the application, and, except as otherwise permitted by  
16 the department, the application must comply with section -7.  
17 The application must include the existing certificate unless the  
18 certificate is lost, stolen, mutilated, destroyed, or otherwise  
19 unavailable.



(c) A replacement certificate of title created by the department 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 promptly shall destroy the original certificate of title.

(e) The department may set and charge fees for a replacement certificate of title.

**§ -23 Rights of purchaser other than secured party. (a)**  
A buyer in ordinary course of business has the protections afforded by sections 490:2-403(2) and 490:9-320(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 chapter 490.

**§ -24 Rights of secured party. (a)** Subject to subsection (b), the effect of perfection and nonperfection of a



1 security interest and the priority of a perfected or unperfected  
2 security interest with respect to the rights of a purchaser or  
3 creditor, including a lien creditor, is governed by chapter 490.

4 (b) If, while a security interest in a vessel is perfected  
5 by any method under this chapter, the department creates a  
6 certificate of title that does not indicate that the vessel is  
7 subject to the security interest or contain a statement that it  
8 may be subject to security interests not indicated on the  
9 certificate:

10 (1) A buyer of the vessel, other than a person in the  
11 business of selling or leasing vessels of that kind,  
12 takes free of the security interest if the buyer,  
13 acting in good faith and without knowledge of the  
14 security interest, gives value and receives possession  
15 of the vessel; and

16 (2) The security interest is subordinate to a conflicting  
17 security interest in the vessel that is perfected  
18 under section -15 after creation of the certificate  
19 and without the conflicting secured party's knowledge  
20 of the security interest.



1           §   -25   Duties and operation of department.   (a)   The  
2   department shall retain the evidence used to establish the  
3   accuracy of the information in its files relating to the current  
4   ownership of a vessel and the information on the certificate of  
5   title.

6           (b)   The department shall retain in its files all  
7   information regarding a security interest in a vessel for at  
8   least ten years after the department receives a termination  
9   statement regarding the security interest.   The information must  
10   be accessible by the hull identification number for the vessel  
11   and any other methods provided by the department.

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



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

4 (1) Whether the files of the department indicate, as of a  
5 date and time specified by the department, but not a  
6 date earlier than three days before the department  
7 received the request, any certificate of title,  
8 security interest, termination statement, or title  
9 brand that relates to a vessel:

10 (A) Identified by a hull identification number  
11 designated in the request;

12 (B) Identified by a vessel number designated in the  
13 request; or

14 (C) Owned by a person designated in the request;

15 (2) With respect to the vessel:

16 (A) The name and address of any owner as indicated in  
17 the files of the department or on the certificate  
18 of title;

19 (B) The name and address of any secured party as  
20 indicated in the files of the department or on





1 the certificate, and the effective date of the  
2 information;

3 (C) A copy of any termination statement indicated in  
4 the files of the department and the effective  
5 date of the termination statement; and

6 (D) A copy of any certificate of origin, secured  
7 party transfer statement, transfer by law  
8 statement under section -20, and other  
9 evidence of previous or current transfers of  
10 ownership.

11 (e) In responding to a request under this section, the  
12 department may provide the requested information in any medium.  
13 On request, the department shall send the requested information  
14 in a record that is self-authenticating under rule 902 of the  
15 Hawaii Evidence Code, chapter 626.

16 § -26 Uniformity of application and construction. In  
17 applying and construing this uniform act, consideration must be  
18 given to the need to promote uniformity of the law with respect  
19 to its subject matter among states that enact it.

20 § -27 Relation to electronic signatures in global and  
21 national commerce act. This chapter modifies, limits, and



1 supersedes the federal Electronic Signatures in Global and  
2 National Commerce Act (15 U.S.C. 7001 et seq.) but does not  
3 modify, limit, or supersede section 101(c) of the Electronic  
4 Signatures in Global and National Commerce Act (15 U.S.C.  
5 7001(c)), or authorize electronic delivery of any of the notices  
6 described in section 103(b) of the Electronic Signatures in  
7 Global and National Commerce Act (15 U.S.C. 7003(b)).

8       **§ -28 Savings clause.** (a) The rights, duties, and  
9 interests flowing from a transaction, certificate of title, or  
10 record relating to a vessel which was validly entered into or  
11 created before the effective date of this chapter and would be  
12 subject to this chapter if it had been entered into or created  
13 on or after the effective date of this chapter, remain valid on  
14 and after the effective date of this chapter.

15       (b) This chapter does not affect an action or proceeding  
16 commenced before the effective date of this chapter.

17       (c) Except as otherwise provided in subsection (d), a  
18 security interest that is enforceable immediately before the  
19 effective date of this chapter and would have priority over the  
20 rights of a person that becomes a lien creditor at that time is  
21 a perfected security interest under this chapter.



1 (d) A security interest perfected immediately before the  
2 effective date of this chapter remains perfected until the  
3 earlier of:

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

6 (2) Three years after the effective date of this chapter.

7 (e) This chapter does not affect the priority of a  
8 security interest in a vessel if immediately before the  
9 effective date of this chapter the security interest is  
10 enforceable and perfected, and that priority is established.

11 § -29 Rules. The department may adopt rules in  
12 accordance with chapter 91 to effectuate this chapter."

13 SECTION 2. This Act shall take effect on July 1, 2050.



**Report Title:**

Uniform Certificate of Title for Vessels Act; Vessel Titling

**Description:**

Requires certain vessel owners to apply for a certificate of title within twenty days of becoming an owner or within twenty days of establishing principal use of the vessel in waters of the State. Establishes the information required in an application for a certificate of title, process for a transfer of vessel ownership and title, rights of a secured party, and rights of a purchaser other than a secured party. (HB2596 HD1)

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