
A BILL FOR AN ACT

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



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

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

(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.

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

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

§ -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



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 provided in subsections (c) and (d), beginning July 1, 2018:

12 (1) The owner of a vessel that does not have a valid
13 certificate of number pursuant to section 200-31 or a
14 valid certificate of title pursuant to this chapter
15 shall comply with subsection (b).

16 (2) The owner of a vessel that has a valid certificate of
17 number pursuant to section 200-31 but does not have a
18 valid certificate of title pursuant to this chapter
19 may comply with subsection (b) before the expiration
20 date of the vessel's certificate of number and shall



1 comply with subsection (b) after the expiration date
2 of the vessel's certification of number.

3 (b) The owner of a vessel for which this State is the
4 state of principal use shall deliver to the department an
5 application for a certificate of title for the vessel, with the
6 applicable fee, not later than twenty days after the later of:

7 (1) The date of a transfer of ownership; or

8 (2) The date this State becomes the state of principal
9 use.

10 (c) An application for a certificate of title is not
11 required for:

12 (1) A documented vessel;

13 (2) A foreign-documented vessel;

14 (3) A barge;

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

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

18 (d) The department may not issue, transfer, or renew a
19 certificate of number for a vessel issued pursuant to the
20 requirements of title 46 United States Code section 12301, as
21 amended, unless the department has created a certificate of



1 title for the vessel or an application for a certificate for the
2 vessel and the applicable fee have been delivered to the
3 department.

4 § -7 Application for certificate of title. (a) Except
5 as otherwise provided in sections -10, -15, -19,
6 -20, -21, and -22, only an owner may apply for a
7 certificate of title.

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

10 (1) The applicant's name, the street address of the
11 applicant's principal residence, and, if different,
12 the applicant's mailing address;

13 (2) The name and mailing address of each other owner of
14 the vessel;

15 (3) The hull identification number for the vessel or, if
16 none, an application for the issuance of a hull
17 identification number for the vessel;

18 (4) The vessel number for the vessel or, if none issued by
19 the department, an application for a vessel number;

20 (5) A description of the vessel as required by the
21 department, which must include:



- 1 (A) The official number for the vessel, if any,
2 assigned by the United States Coast Guard or the
3 vessel registration number assigned by
4 department;
- 5 (B) The name of the manufacturer, builder, or maker;
- 6 (C) The model year or the year in which the
7 manufacture or build of the vessel was completed;
- 8 (D) The overall length of the vessel;
- 9 (E) The vessel type;
- 10 (F) The hull material;
- 11 (G) The propulsion type;
- 12 (H) The engine drive type, if any; and
- 13 (I) The fuel type, if any;
- 14 (6) An indication of all security interests in the vessel
15 known to the applicant and the name and mailing
16 address of each secured party;
- 17 (7) A statement that the vessel is not a documented
18 vessel, a foreign-documented vessel, or a barge;
- 19 (8) Any title brand known to the applicant and, if known,
20 the jurisdiction under whose law the title brand was
21 created;



(9) If the applicant knows that the vessel is hull damaged, a statement that the vessel is hull damaged;

(10) 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

(11) If the vessel previously was 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 an electronic communication address 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



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

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

4 (A) If the vessel was a documented vessel, a record
5 issued by the United States Coast Guard which
6 shows the vessel is no longer a documented vessel
7 and identifies the applicant as the owner;

8 (B) If the vessel was a foreign-documented vessel, a
9 record issued by the foreign country which shows
10 the vessel is no longer a foreign-documented
11 vessel and identifies the applicant as the owner;
12 or

13 (C) In all other cases, a certificate of origin, bill
14 of sale, or other record that to the satisfaction
15 of the department identifies the applicant as the
16 owner.

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

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



(f) The department 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 chapter in connection with the application or the acquisition or use of the vessel.

§ -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 department shall create a certificate for the vessel in accordance with subsection (b) not later than sixty days after delivery to it of an application that complies with section -7.

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

(c) Except as otherwise provided in subsection (d), the department 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 department 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 chapter.

(d) The department shall reject an application for a certificate of title for a vessel that is a documented vessel or 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 (1) The date the certificate was created;
- 2 (2) The name of the owner of record and, if not all owners
- 3 are listed, an indication that there are additional
- 4 owners indicated in the files of the department;
- 5 (3) The mailing address of the owner of record;
- 6 (4) The hull identification number;
- 7 (5) The information listed in section -7(b)(6);
- 8 (6) Except as otherwise provided in section -15(b), the
- 9 name and mailing address of the secured party of
- 10 record, if any, and if not all secured parties are
- 11 listed, an indication that there are other security
- 12 interests indicated in the files of the department;
- 13 and
- 14 (7) All title brands indicated in the files of the
- 15 department covering the vessel, including brands
- 16 indicated on a certificate created by a governmental
- 17 agency of another jurisdiction and delivered to the
- 18 department.

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



1 (c) For each title brand indicated on a certificate of
2 title, the certificate must identify the jurisdiction under
3 whose law the title brand was created or the jurisdiction that
4 created the certificate on which the title brand was indicated.
5 If the meaning of a title brand is not easily ascertainable or
6 cannot be accommodated on the certificate, the certificate may
7 state: "Previously branded in (insert the jurisdiction under
8 whose law the title brand was created or whose certificate of
9 title previously indicated the title brand)".

10 (d) If the files of the department indicate that a vessel
11 previously was registered or titled in a foreign country, the
12 department shall indicate on the certificate of title that the
13 vessel was registered or titled in that country.

14 (e) A written certificate of title must contain a form
15 that all owners indicated on the certificate may sign to
16 evidence consent to a transfer of an ownership interest to
17 another person. The form must include a certification, signed
18 under penalty of unsworn falsification to authorities, pursuant
19 to section 710-1063, that the statements made are true and
20 correct to the best of each owner's knowledge, information, and
21 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.

§ -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 department, if the damage occurred while that person was an owner of the vessel and the person has notice of the damage at the time of the transfer, the owner shall:

(1) Deliver to the department 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 twenty days after delivery to the department of the application under subsection (a)(1) or the certificate of title under subsection (a)(2), the department



1 shall create a new certificate that indicates that the vessel is
2 branded "Hull Damaged".

3 (c) Before an insurer transfers an ownership interest in a
4 hull-damaged vessel that is covered by a certificate of title
5 created by the department, the insurer shall deliver to the
6 department an application for a new certificate that complies
7 with section -6 and includes the title brand designation
8 "Hull Damaged". Not later than twenty days after delivery of
9 the application to the department, the department shall create a
10 new certificate that indicates that the vessel is branded "Hull
11 Damaged".

12 (d) An owner of record that fails to comply with
13 subsection (a), a person that solicits or colludes in a failure
14 by an owner of record to comply with subsection (a), or an
15 insurer that fails to comply with subsection (c) is subject to
16 an administrative penalty of \$1,000.

17 § -11 Maintenance of and access to files. (a) For each
18 record relating to a certificate of title submitted to the
19 department, the department shall:

20 (1) Ascertain or assign the hull identification number for
21 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 this chapter. The information in the files of the department must be searchable by the hull identification number of the vessel, the vessel number, the name of the owner of record, and any other method used by the department.

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



1 (d) Upon request, for safety, security, or law-enforcement
2 purposes, the department shall provide to federal, state, or
3 local government the information in its files relating to any
4 vessel for which the department has issued a certificate of
5 title.

6 (e) Except as otherwise provided by the law of this State
7 other than this chapter, the information required under section
8 -9 is a government record.

9 § -12 Action required on creation of certificate of
10 title. (a) On creation of a written certificate of title, the
11 department promptly shall send the certificate to the secured
12 party of record or, if none, to the owner of record, at the
13 address indicated for that person in the files of the
14 department. On creation of an electronic certificate of title,
15 the department promptly shall send a record evidencing the
16 certificate to the owner of record and, if there is one, to the
17 secured party of record, at the address indicated for that
18 person in the files of the department. The department may send
19 the record to the person's mailing address or, if indicated in
20 the files of the department, an electronic address.



1 (b) If the department creates a written certificate of
2 title, any electronic certificate of title for the vessel is
3 canceled and replaced by the written certificate. The
4 department shall maintain in the files of the department the
5 date and time of cancellation.

6 (c) Before the department creates an electronic
7 certificate of title, any written certificate for the vessel
8 must be surrendered to the department. If the department
9 creates an electronic certificate, the department shall destroy
10 or otherwise cancel the written certificate for the vessel which
11 has been surrendered to the department and maintain in the files
12 of the department the date and time of destruction or other
13 cancellation. If a written certificate being canceled is not
14 destroyed, the department shall indicate on the face of the
15 certificate that it has been canceled.

16 § -13 Effect of certificate of title. A certificate of
17 title is prima facie evidence of the accuracy of the information
18 in the record that constitutes the certificate.

19 § -14 Effect of possession of certificate of title;
20 judicial process. Possession of a certificate of title does not
21 by itself provide a right to obtain possession of a vessel.



1 Garnishment, attachment, levy, replevin, or other judicial
2 process against the certificate is not effective to determine
3 possessory rights to the vessel. This chapter does not prohibit
4 enforcement under law of this State other than this chapter of a
5 security interest in, levy on, or foreclosure of a statutory or
6 common-law lien on a vessel. Absence of an indication of a
7 statutory or common-law lien on a certificate does not
8 invalidate the lien.

9 § -15 **Perfection of security interest.** (a) Except as
10 otherwise provided in this section or section -28, a security
11 interest in a vessel may be perfected only by delivery to the
12 department of an application for a certificate of title that
13 identifies the secured party and otherwise complies with
14 section -7. The security interest is perfected on the later
15 of delivery to the department of the application and the
16 applicable fee or attachment of the security interest under
17 section 490:9-203.

18 (b) If the interest of a person named as owner, lessor,
19 consignor, or bailor in an application for a certificate of
20 title delivered to the department is a security interest, the
21 application sufficiently identifies the person as a secured



1 party. Identification on the application for a certificate of a
2 person as owner, lessor, consignor, or bailor is not by itself a
3 factor in determining whether the person's interest is a
4 security interest.

5 (c) If the department has created a certificate of title
6 for a vessel, a security interest in the vessel may be perfected
7 by delivery to the department of an application, on a form the
8 department may require, to have the security interest added to
9 the certificate. The application must be signed by an owner of
10 the vessel or by the secured party and must include:

- 11 (1) The name of the owner of record;
12 (2) The name and mailing address of the secured party;
13 (3) The hull identification number for the vessel; and
14 (4) if the department has created a written certificate of
15 title for the vessel, the certificate.

16 (d) A security interest perfected under subsection (c) is
17 perfected on the later of delivery to the department of the
18 application and all applicable fees or attachment of the
19 security interest under section 490:9-203.

20 (e) On delivery of an application that complies with
21 subsection (c) and payment of all applicable fees, the



1 department shall create a new certificate of title pursuant to
2 section -8 and deliver the new certificate or a record
3 evidencing an electronic certificate pursuant to
4 section -12(a). The department shall maintain in the files
5 of the department the date and time of delivery of the
6 application to the department.

7 (f) If a secured party assigns a perfected security
8 interest in a vessel, the receipt by the department of a
9 statement providing the name of the assignee as secured party is
10 not required to continue the perfected status of the security
11 interest against creditors of and transferees from the original
12 debtor. A purchaser of a vessel subject to a security interest
13 which obtains a release from the secured party indicated in the
14 files of the department or on the certificate takes free of the
15 security interest and of the rights of a transferee unless the
16 transfer is indicated in the files of the department or on the
17 certificate.

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

19 (1) Created in a vessel by a person during any period in
20 which the vessel is inventory held for sale or lease



1 by the person or is leased by the person as lessor if
2 the person is in the business of selling vessels;

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

5 (3) In a vessel before delivery if the vessel is under
6 construction, or completed, pursuant to contract and
7 for which no application for a certificate has been
8 delivered to the department.

9 (h) This subsection applies if a certificate of
10 documentation for a documented vessel is deleted or canceled.

11 If a security interest in the vessel was valid immediately
12 before deletion or cancellation against a third party as a
13 result of compliance with title 46 United States Code section
14 31321, as amended, the security interest is and remains
15 perfected until the earlier of four months after cancellation of
16 the certificate or the time the security interest becomes
17 perfected under this chapter.

18 (i) A security interest in a vessel arising under section
19 490:2-401, 490:2-505, 490:2-711(3), or 490:2A-508 is perfected
20 when it attaches but becomes unperfected when the debtor obtains
21 possession of the vessel, unless before the debtor obtains



1 possession the security interest is perfected pursuant to
2 subsection (a) or (c).

3 (j) A security interest in a vessel as proceeds of other
4 collateral is perfected to the extent provided in section 490:9-
5 315.

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

9 § -16 Termination statement. (a) A secured party
10 indicated in the files of the department as having a security
11 interest in a vessel shall deliver a termination statement to
12 the department and, on the debtor's request, to the debtor, by
13 the earlier of:

14 (1) Twenty days after the secured party receives a signed
15 demand from an owner for a termination statement and
16 there is no obligation secured by the vessel subject
17 to the security interest and no commitment to make an
18 advance, incur an obligation, or otherwise give value
19 secured by the vessel; or

20 (2) If the vessel is consumer goods, thirty days after
21 there is no obligation secured by the vessel and no



1 commitment to make an advance, incur an obligation, or
2 otherwise give value secured by the vessel.

3 (b) If a written certificate of title has been created and
4 delivered to a secured party and a termination statement is
5 required under subsection (a), the secured party, not later than
6 the date required by subsection (a), shall deliver the
7 certificate to the debtor or to the department with the
8 statement. If the certificate is lost, stolen, mutilated,
9 destroyed, or is otherwise unavailable or illegible, the secured
10 party shall deliver with the statement, not later than the date
11 required by subsection (a), an application for a replacement
12 certificate meeting the requirements of section -22.

13 (c) On delivery to the department of a termination
14 statement authorized by the secured party, the security interest
15 to which the statement relates ceases to be perfected. If the
16 security interest to which the statement relates was indicated
17 on the certificate of title, the department shall create a new
18 certificate and deliver the new certificate or a record
19 evidencing an electronic certificate. The department shall
20 maintain in its files the date and time of delivery to the
21 department of the statement.



1 (d) A secured party that fails to comply with this section
2 is liable for any loss that the secured party had reason to know
3 might result from its failure to comply and which could not
4 reasonably have been prevented and for the cost of an
5 application for a certificate of title under section -7 or
6 -22.

7 § -17 **Transfer of ownership.** (a) On voluntary transfer
8 of an ownership interest in a vessel covered by a certificate of
9 title, the following rules apply:

10 (1) If the certificate is a written certificate of title
11 and the transferor's interest is noted on the
12 certificate, the transferor promptly shall sign the
13 certificate and deliver it to the transferee. If the
14 transferor does not have possession of the
15 certificate, the person in possession of the
16 certificate has a duty to facilitate the transferor's
17 compliance with this paragraph. A secured party does
18 not have a duty to facilitate the transferor's
19 compliance with this paragraph if the proposed
20 transfer is prohibited by the security agreement;



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

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

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

10 (c) A failure to comply with subsection (a) or to apply
11 for a new certificate of title does not render a transfer of
12 ownership of a vessel ineffective between the parties. Except
13 as otherwise provided in section -18, -19, -23(a), or
14 -24, a transfer of ownership without compliance with
15 subsection (a) is not effective against another person claiming
16 an interest in the vessel.

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



1 § -18 Effect of missing or incorrect information.

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

6 § -19 Transfer of ownership by secured party's transfer

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

10 (1) That there has been a default on an obligation secured
11 by the vessel;

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

15 (3) By reason of the exercise, the secured party of record
16 has the right to transfer the ownership interest of an
17 owner, and the name of the owner;

18 (4) The name and last-known mailing address of the owner
19 of record and the secured party of record;

20 (5) The name of the transferee;

21 (6) Other information required by section -7(b); and



1 (7) One of the following:

2 (A) The certificate of title is an electronic
3 certificate;

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

7 (C) The secured party is delivering the written
8 certificate of title to the department with the
9 secured party's transfer statement.

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

17 (1) Accept the statement;

18 (2) Amend the files of the department to reflect the
19 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 by itself a disposition of the vessel and does not by itself relieve the secured party of its duties under chapter 490, article 9.

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

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

(A) Because of death, divorce, or 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; and

(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 department 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 department as having an interest, including a 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



1 termination statement, the department may create a new
2 certificate under this section only if:

3 (1) All other requirements under sections -7 and -8
4 are met;

5 (2) The applicant provides an affidavit stating facts
6 showing the applicant is entitled to a transfer of
7 ownership or termination statement;

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

17 (4) The applicant submits any other information required
18 by the department as evidence of the applicant's
19 ownership or right to terminate the security interest,
20 and the department has no credible information
21 indicating theft, fraud, or an undisclosed or



1 unsatisfied security interest, lien, or other claim to
2 an interest in the vessel.

3 (b) The department may indicate in a certificate of title
4 created under subsection (a) that the certificate was created
5 without submission of a signed certificate or termination
6 statement. Unless credible information indicating theft, fraud,
7 or an undisclosed or unsatisfied security interest, lien, or
8 other claim to an interest in the vessel is delivered to the
9 department not later than one year after creation of the
10 certificate, on request in a form and manner required by the
11 department, the department shall remove the indication from the
12 certificate.

13 § -22 Replacement certificate of title. (a) If a
14 written certificate of title is lost, stolen, mutilated,
15 destroyed, or otherwise becomes unavailable or illegible, the
16 secured party of record or, if no secured party is indicated in
17 the files of the department, the owner of record may apply for
18 and, by furnishing information satisfactory to the department,
19 obtain a replacement certificate in the name of the owner of
20 record.



(b) An applicant for a replacement certificate of title must sign the application, and, except as otherwise permitted by the department, 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 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 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 chapter 490.

(b) If, while a security interest in a vessel is perfected by any method under this chapter, the department 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.

§ -25 Duties and operation of department. (a) The department 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 department shall retain in its files all information regarding a security interest in a vessel for at least ten years after the department receives a termination statement regarding the security interest. The information must be accessible by the hull identification number for the vessel and any other methods provided by the department.

(c) If a person submits a record to the department, or submits information that is accepted by the department, and requests an acknowledgment of the filing or submission, the department shall send to the person an acknowledgment showing the hull identification number of the vessel to which the record



1 or submission relates, the information in the filed record or
2 submission, and the date and time the record was received or the
3 submission accepted. A request under this section must contain
4 the hull identification number and be delivered by means
5 authorized by the department.

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

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

15 (A) Identified by a hull identification number
16 designated in the request;

17 (B) Identified by a vessel number designated in the
18 request; or

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

20 (2) With respect to the vessel:



1 (A) The name and address of any owner as indicated in
2 the files of the department or on the certificate
3 of title;

4 (B) The name and address of any secured party as
5 indicated in the files of the department or on
6 the certificate, and the effective date of the
7 information;

8 (C) A copy of any termination statement indicated in
9 the files of the department and the effective
10 date of the termination statement; and

11 (D) A copy of any certificate of origin, secured
12 party transfer statement, transfer by law
13 statement under section -20, and other
14 evidence of previous or current transfers of
15 ownership.

16 (e) In responding to a request under this section, the
17 department may provide the requested information in any medium.
18 On request, the department shall send the requested information
19 in a record that is self-authenticating under rule 902 of the
20 Hawaii Evidence Code, chapter 626.



1 § -26 Uniformity of application and construction. In
2 applying and construing this uniform act, consideration must be
3 given to the need to promote uniformity of the law with respect
4 to its subject matter among states that enact it.

5 § -27 Relation to electronic signatures in global and
6 national commerce act. This chapter modifies, limits, and
7 supersedes the federal Electronic Signatures in Global and
8 National Commerce Act (15 U.S.C. 7001 et seq.) but does not
9 modify, limit, or supersede section 101(c) of the Electronic
10 Signatures in Global and National Commerce Act (15 U.S.C.
11 7001(c)), or authorize electronic delivery of any of the notices
12 described in section 103(b) of the Electronic Signatures in
13 Global and National Commerce Act (15 U.S.C. 7003(b)).

14 § -28 Savings clause. (a) The rights, duties, and
15 interests flowing from a transaction, certificate of title, or
16 record relating to a vessel which was validly entered into or
17 created before the effective date of this chapter and would be
18 subject to this chapter if it had been entered into or created
19 on or after the effective date of this chapter, remain valid on
20 and after the effective date of this chapter.



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

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

8 (d) A security interest perfected immediately before the
9 effective date of this chapter remains perfected until the
10 earlier of:

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

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

14 (e) This chapter does not affect the priority of a
15 security interest in a vessel if immediately before the
16 effective date of this chapter the security interest is
17 enforceable and perfected, and that priority is established.

18 § -29 Rules. The department may adopt rules in
19 accordance with chapter 91 to effectuate this chapter."

20 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 HD2)

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