



1 "Cancel", with respect to a certificate of title, means to  
2 make the certificate ineffective.

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

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

14 "Dealer" means a person, including a manufacturer, in the  
15 business of selling vessels.

16 "Department" means the department of land and natural  
17 resources.

18 "Documented vessel" means a vessel covered by a certificate  
19 of documentation issued pursuant to title 46 United States Code  
20 section 12105, as amended. "Documented vessel" does not include  
21 a foreign 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 that 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  
11 department's files or, if the files indicate more than one  
12 owner, the owner indicated first.

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, regardless of  
7 whether any obligation to be secured is outstanding;
- 8 (2) That is a consignor under article 9 of chapter 490; 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(e).

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

15 "Security interest" means an interest in a vessel that  
16 secures payment or performance of an obligation if the interest  
17 is created by contract or arises under section 490:2-401,  
18 490:2-505, 490:2-711(3), or 490:2A-508(e). "Security interest"  
19 includes any interest of a consignor in a vessel in a  
20 transaction that is subject to article 9 of chapter 490.

21 "Security interest" does not include the special property



1 interest of a buyer of a vessel on identification of that vessel  
2 to a contract for sale under section 490:2-501, but a buyer also  
3 may acquire a security interest by complying with article 9 of  
4 chapter 490. Except as otherwise provided in section 490:2-505,  
5 the right of a seller or lessor of a vessel under article 2 or  
6 2A of chapter 490 to retain or acquire possession of the vessel  
7 is not a security interest, but a seller or lessor also may  
8 acquire a security interest by complying with article 9 of  
9 chapter 490. The retention or reservation of title by a seller  
10 of a vessel notwithstanding shipment or delivery to the buyer  
11 under section 490:2-401 is limited in effect to a reservation of  
12 a security interest. Whether a transaction in the form of a  
13 lease creates a security interest shall be determined by section  
14 490:1-203.

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

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

20 "State" means a state of the United States, the District of  
21 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 shall 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 part III of chapter 286 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; a  
12 foreign government; or a political subdivision of the  
13 United States, a state, or a foreign government; 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.



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

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

8 "Buyer in ordinary course of business" means a person that  
9 buys goods in good faith, without knowledge that the sale  
10 violates the rights of another person in the goods, and in the  
11 ordinary course from a person, other than a pawnbroker, in the  
12 business of selling goods of that kind. A person buys goods in  
13 the ordinary course if the sale to the person comports with the  
14 usual or customary practices in the kind of business in which  
15 the seller is engaged or with the seller's own usual or  
16 customary practices. A person that sells oil, gas, or other  
17 minerals at the wellhead or minehead is a person in the business  
18 of selling goods of that kind. A buyer in ordinary course of  
19 business may buy for cash, by exchange of other property, or on  
20 secured or unsecured credit, and may acquire goods or documents  
21 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 "Consumer goods" means goods that are used or bought for  
8 use primarily for personal, family, or household purposes.

9 "Debtor" means:

- 10 (1) A person having an interest, other than a security  
11 interest or other lien, in the collateral, whether or  
12 not the person is an obligor;
- 13 (2) A seller of accounts, chattel paper, payment  
14 intangibles, or promissory notes; or
- 15 (3) A consignee.

16 "Knowledge" means actual knowledge.

17 "Lease" means a transfer of the right to possession and use  
18 of goods for a term in return for consideration, but a sale,  
19 including a sale on approval or a sale or return, or retention  
20 or creation of a security interest is not a lease. Unless the



1 context clearly indicates otherwise, the term includes a  
2 sublease.

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

6 "Notice" shall have the same meaning as in section  
7 490:1-202.

8 "Sale" shall have the same meaning as in section  
9 490:2-106(1).

10 "Security agreement" means an agreement that creates or  
11 provides for a security interest.

12 "Seller" means a person who sells or contracts to sell  
13 goods.

14 "Send" in connection with a writing, record, or notice  
15 means:

- 16 (1) To deposit in the mail or deliver for transmission by  
17 any other usual means of communication with postage or  
18 cost of transmission provided for and properly  
19 addressed and, in the case of an instrument, to an  
20 address specified thereon or otherwise agreed, or if



1           there be none to any address reasonable under the  
2           circumstances; or

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

6           "Value" shall have the same meaning as in section  
7 490:1-204.

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

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

16          §   -4 **Supplemental principles of law and equity.** Unless  
17          displaced by any provision of this chapter, the principles of  
18          law and equity shall supplement the provisions of this chapter.

19          §   -5 **Law governing vessel covered by certificate of**  
20          **title.** (a) The local law of the jurisdiction under whose  
21          certificate of title a vessel is covered governs all issues



1 relating to the certificate from the time the vessel becomes  
2 covered by the certificate until the vessel becomes covered by  
3 another certificate or becomes a documented vessel, even if no  
4 other relationship exists between the jurisdiction and the  
5 vessel or its owner.

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

12 § -6 Certificate of title required. (a) Beginning  
13 July 1, 2018, and except as otherwise provided in subsections  
14 (c) and (d):

15 (1) The owner of a vessel that does not have a valid  
16 certificate of number pursuant to section 200-31 or a  
17 valid certificate of title pursuant to this chapter  
18 shall comply with subsection (b); and

19 (2) The owner of a vessel that has a valid certificate of  
20 number pursuant to section 200-31, but does not have a  
21 valid certificate of title pursuant to this chapter,



1           may comply with subsection (b) before the expiration  
2           date of the vessel's certificate of number and shall  
3           comply with subsection (b) after the expiration date  
4           of the vessel's certificate of number.

5           (b) The owner of a vessel for which this State is the  
6           state of principal use shall deliver to the department an  
7           application for a certificate of title for the vessel, with the  
8           applicable fee, no later than twenty days after the later of:

- 9           (1) The date of a transfer of ownership; or
- 10          (2) The date this State becomes the state of principal  
11          use.

12          (c) An application for a certificate of title is not  
13          required for:

- 14          (1) A documented vessel;
- 15          (2) A foreign documented vessel;
- 16          (3) A barge;
- 17          (4) A vessel before delivery if the vessel is under  
18          construction or completed pursuant to contract; or
- 19          (5) A vessel held by a dealer for sale or lease.

20          (d) The department shall not issue, transfer, or renew a  
21          certificate of title for a vessel issued pursuant to the



1 requirements of title 46 United States Code section 12301, as  
2 amended, unless the department has created a certificate of  
3 title for the vessel or an application for a certificate for the  
4 vessel and the applicable fee has been delivered to the  
5 department.

6 § -7 Application for certificate of title. (a) Except  
7 as otherwise provided in sections -10, -15, -19,  
8 -20, -21, and -22, only an owner may apply for a  
9 certificate of title.

10 (b) An application for a certificate of title shall be  
11 signed by the applicant and contain:

12 (1) The applicant's name, date of birth, driver's license  
13 or civil identification number, the street address of  
14 the applicant's principal residence, and, if  
15 different, the applicant's mailing address;

16 (2) The name and mailing address of each other owner of  
17 the vessel;

18 (3) The hull identification number for the vessel or, if  
19 none, an application for the issuance of a hull  
20 identification number for the vessel;



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



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



1 -20, -21, or -22, an application for a certificate of  
2 title shall be accompanied by:

3 (1) A certificate of title signed by the owner shown on  
4 the certificate and that:

5 (A) Identifies the applicant as the owner of the  
6 vessel; or

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

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

10 (A) If the vessel was a documented vessel, a record  
11 issued by the United States Coast Guard that  
12 shows the vessel is no longer a documented vessel  
13 and identifies the applicant as the owner;

14 (B) If the vessel was a foreign documented vessel, a  
15 record issued by the foreign country that shows  
16 the vessel is no longer a foreign documented  
17 vessel and identifies the applicant as the owner;  
18 or

19 (C) In all other cases, a certificate of origin, bill  
20 of sale, or other record that identifies the



1 applicant as the owner to the satisfaction of the  
2 department.

3 The application shall also be accompanied by payment of any  
4 applicable titling fees, as set by the department.

5 (e) A record submitted in connection with an application  
6 shall be deemed part of the application. The department shall  
7 maintain the record in its files.

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

13 **§ -8 Creation and cancellation of certificate of title.**

14 (a) Unless an application for a certificate of title is  
15 rejected under subsection (c) or (d), the department shall  
16 create a certificate for the vessel in accordance with  
17 subsection (b) no later than sixty days after delivery to it of  
18 an application that complies with section -7.

19 (b) If the department creates electronic certificates of  
20 title, the department shall create an electronic certificate  
21 unless in the application the secured party of record or, if



1 none, the owner of record, requests that the department create a  
2 written certificate.

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

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

7 (2) The application does not contain documentation  
8 sufficient for the department to determine whether the  
9 applicant is entitled to a certificate;

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

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

15 (d) The department shall reject an application for a  
16 certificate of title for a vessel that is a documented vessel or  
17 a foreign documented vessel.

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

20 (1) Could have rejected the application for the  
21 certificate pursuant to subsection (c);



- 1 (2) Is required to cancel the certificate under another
- 2 provision of this chapter; or
- 3 (3) Receives satisfactory evidence that the vessel is a
- 4 documented vessel or a foreign documented vessel.

5 § -9 Content of certificate of title. (a) A  
6 certificate of title shall contain:

- 7 (1) The date the certificate was created;
- 8 (2) The name of the owner of record and, if not all owners
- 9 are listed, an indication that there are additional
- 10 owners indicated in the department's files;
- 11 (3) The mailing address of the owner of record;
- 12 (4) The hull identification number;
- 13 (5) The information regarding description of the vessel
- 14 listed in section -7(b)(5);
- 15 (6) Except as otherwise provided in section -15(b), the
- 16 name and mailing address of the secured party of
- 17 record, if any, and if not all secured parties are
- 18 listed, an indication that there are other security
- 19 interests indicated in the department's files; and
- 20 (7) All title brands indicated in the department's files
- 21 covering the vessel, including brands indicated on a



1 certificate created by a governmental agency of  
2 another jurisdiction and delivered to the department.

3 (b) This chapter shall not preclude the department from  
4 noting on a certificate of title the name and mailing address of  
5 a secured party that is not a secured party of record.

6 (c) For each title brand indicated on a certificate of  
7 title, the certificate shall identify the jurisdiction under  
8 whose law the title brand was created or the jurisdiction that  
9 created the certificate on which the title brand was indicated.  
10 If the meaning of a title brand is not easily ascertainable or  
11 cannot be accommodated on the certificate, the certificate may  
12 state: "Previously branded in (insert the jurisdiction under  
13 whose law the title brand was created or whose certificate of  
14 title previously indicated the title brand)".

15 (d) If the department's files indicate that a vessel was  
16 previously registered or titled in a foreign country, the  
17 department shall indicate on the certificate of title that the  
18 vessel was registered or titled in that country.

19 (e) A written certificate of title shall contain a form  
20 that all owners indicated on the certificate may sign to  
21 evidence consent to a transfer of an ownership interest to



1 another person. The form shall include a certification, signed  
2 under penalty of unsworn falsification to authorities, pursuant  
3 to section 710-1063, that the statements made are true and  
4 correct to the best of each owner's knowledge, information, and  
5 belief.

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

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

17 (1) Deliver to the department an application for a new  
18 certificate that complies with section -7 and  
19 includes the title brand designation "Hull Damaged";  
20 or



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

4           (b) No later than twenty days after delivery to the  
5 department of the application under subsection (a)(1) or the  
6 certificate of title under subsection (a)(2), the department  
7 shall create a new certificate that indicates that the vessel is  
8 branded "Hull Damaged".

9           (c) Before an insurer transfers an ownership interest in a  
10 hull damaged vessel that is covered by a certificate of title  
11 created by the department, the insurer shall deliver to the  
12 department an application for a new certificate that complies  
13 with section       -6 and includes the title brand designation  
14 "Hull Damaged". No later than twenty days after delivery of the  
15 application to the department, the department shall create a new  
16 certificate that indicates that the vessel is branded "Hull  
17 Damaged".

18           (d) An owner of record that fails to comply with  
19 subsection (a), a person that solicits or colludes in a failure  
20 by an owner of record to comply with subsection (a), or an



1 insurer that fails to comply with subsection (c) shall be  
2 subject to an administrative penalty of \$1,000.

3       § -11 Maintenance of and access to files. (a) For each  
4 record relating to a certificate of title submitted to the  
5 department, the department shall:

6       (1) Ascertain or assign the hull identification number for  
7           the vessel;

8       (2) Maintain the hull identification number and all the  
9           information submitted with the application pursuant to  
10          section -7(b) to which the record relates,  
11          including the date and time the record was delivered  
12          to the department;

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

15       (4) Index the department's files as required by subsection  
16          (b).

17       (b) The department shall maintain in its files the  
18          information contained in all certificates of title created under  
19          this chapter. The information in the department's files shall  
20          be searchable by the hull identification number of the vessel,



1 the vessel number, the name of the owner of record, and any  
2 other method used by the department.

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

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

14 (e) The department shall allow public inspection of its  
15 files as provided by chapter 92F; provided that the department  
16 shall not publicly disclose an individual's home address, home  
17 telephone number, date of birth, citizenship status, or driver's  
18 license or civil identification number, or the name of an  
19 applicant whose application was not granted.

20 § -12 Action required on creation of certificate of  
21 title. (a) On creation of a written certificate of title, the



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

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

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



1 the date and time of destruction or other cancellation. If a  
2 written certificate being canceled is not destroyed, the  
3 department shall indicate on the face of the certificate that it  
4 has been canceled.

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

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

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



1 department of an application for a certificate of title that  
2 identifies the secured party and otherwise complies with section

3 -7. The security interest is perfected on receipt by the  
4 department of the application and the applicable fee or  
5 attachment of the security interest under section 490:9-203,  
6 whichever occurs later.

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 received by the department is a security interest, the  
10 application shall be deemed to sufficiently identify the person  
11 as a secured party. Identification on the application for a  
12 certificate of a person as owner, lessor, consignor, or bailor  
13 shall not be by itself a factor in determining whether the  
14 person's interest is a 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 receipt by 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 shall be signed by an owner of  
20 the vessel or by the secured party and shall include:

21 (1) The name of the owner of record;



1           (2) The name and mailing address of the secured party;  
2           (3) The hull identification number for the vessel; and  
3           (4) If the department has created a written certificate of  
4           title for the vessel, the certificate.

5           (d) A security interest perfected under subsection (c) is  
6 perfected on receipt by the department of the application and  
7 all applicable fees or attachment of the security interest under  
8 section 490:9-203, whichever occurs later.

9           (e) On receipt of an application that complies with  
10 subsection (c) and payment of all applicable fees, the  
11 department shall create a new certificate of title pursuant to  
12 section       -8 and deliver the new certificate or a record  
13 evidencing an electronic certificate pursuant to section  
14       -12(a). The department shall maintain in its files the date  
15 and time of receipt of the application by the department.

16           (f) If a secured party assigns a perfected security  
17 interest in a vessel, the receipt by the department of a  
18 statement providing the name of the assignee as secured party  
19 shall not be required to continue the perfected status of the  
20 security interest against creditors of and transferees from the  
21 original debtor. A purchaser of a vessel subject to a security



1 interest that obtains a release from the secured party indicated  
2 in the department's files or on the certificate takes free of  
3 the security interest and of the rights of a transferee unless  
4 the transfer is indicated in the department's files or on the  
5 certificate.

6 (g) This section shall not apply to a security interest:

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

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

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

17 (h) This subsection shall only apply if a certificate of  
18 documentation for a documented vessel is deleted or canceled.

19 If a security interest in the vessel was valid immediately  
20 before deletion or cancellation against a third party as a  
21 result of compliance with title 46 United States Code section



1 31321, as amended, the security interest is and remains  
2 perfected until four months after cancellation of the  
3 certificate or the time the security interest becomes perfected  
4 under this chapter, whichever occurs earlier.

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

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

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

17 § -16 Termination statement. (a) A secured party  
18 indicated in the department's files as having a security  
19 interest in a vessel shall deliver a termination statement to  
20 the department and, on the debtor's request, to the debtor, by  
21 the earlier of:



- 1           (1) Twenty days after the secured party receives a signed  
2           demand from an owner for a termination statement;  
3           there is no obligation secured by the vessel subject  
4           to the security interest; and no commitment to make an  
5           advance, incur an obligation, or otherwise give value  
6           secured by the vessel; or
- 7           (2) If the vessel holds consumer goods, thirty days after  
8           there is no obligation secured by the vessel and no  
9           commitment to make an advance, incur an obligation, or  
10          otherwise give value secured by the vessel.
- 11          (b) If a written certificate of title has been created and  
12          delivered to a secured party and a termination statement is  
13          required under subsection (a), the secured party, no later than  
14          the date required by subsection (a), shall deliver the  
15          certificate to the debtor or to the department with the  
16          statement. If the certificate is lost, stolen, mutilated,  
17          destroyed, or is otherwise unavailable or illegible, the secured  
18          party shall deliver with the statement, no later than the date  
19          required by subsection (a), an application for a replacement  
20          certificate in accordance with section        -22.



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

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

15 § -17 **Transfer of ownership.** (a) On voluntary transfer  
16 of an ownership interest in a vessel covered by a certificate of  
17 title, the following rules shall apply:

18 (1) If the certificate is a written certificate of title  
19 and the transferor's interest is noted on the  
20 certificate, the transferor shall promptly sign the  
21 certificate and deliver it to the transferee. If the



1 transferor does not have possession of the  
2 certificate, the person in possession of the  
3 certificate shall have the duty to facilitate the  
4 transferor's compliance with this paragraph. A  
5 secured party shall not have a duty to facilitate the  
6 transferor's compliance with this paragraph if the  
7 proposed transfer is prohibited by the security  
8 agreement;

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

13 (3) The transferee shall have a right enforceable by  
14 specific performance to require the transferor to  
15 comply with paragraph (1) or (2).

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

18 (c) A failure to comply with subsection (a) or to apply  
19 for a new certificate of title shall not render a transfer of  
20 ownership of a vessel ineffective between the parties. Except  
21 as otherwise provided in section -18, -19, -23(a), or



1 -24, a transfer of ownership without compliance with  
2 subsection (a) shall not be effective against another person  
3 claiming an interest in the vessel.

4 (d) A transferor that complies with subsection (a) shall  
5 not be liable as owner of the vessel for an event occurring  
6 after the transfer, regardless of whether the transferee applies  
7 for a new certificate of title.

8 § -18 Effect of missing or incorrect information.

9 Except as otherwise provided in section 490:9-337, a certificate  
10 of title or other record required or authorized by this chapter  
11 shall be effective even if it contains incorrect information or  
12 does not contain required information.

13 § -19 Transfer of ownership by secured party's transfer

14 statement. (a) As used in this section, "secured party's  
15 transfer statement" means a record signed by the secured party  
16 of record stating:

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

19 (2) The secured party of record is exercising or has  
20 exercised post-default remedies with respect to the  
21 vessel;



- 1           (3) By reason of the exercise, the secured party of record  
2           has the right to transfer the ownership interest of an  
3           owner, and the name of the owner;
- 4           (4) The name and last-known mailing address of the owner  
5           of record and the secured party of record;
- 6           (5) The name of the transferee;
- 7           (6) Other information required by section     -7(b); and
- 8           (7) One of the following:
- 9           (A) The certificate of title is an electronic  
10           certificate;
- 11           (B) The secured party does not have possession of the  
12           written certificate of title created in the name  
13           of the owner of record; or
- 14           (C) The secured party is delivering the written  
15           certificate of title to the department with the  
16           secured party's transfer statement.
- 17           (b) Unless the department rejects a secured party's  
18 transfer statement for a reason stated in section     -8(c), no  
19 later than twenty days after delivery to the department of the  
20 statement and payment of fees and taxes payable under the law of  
21 this State other than this chapter in connection with the



1 statement or the acquisition or use of the vessel, the  
2 department shall:

3 (1) Accept the statement;

4 (2) Amend the department's files to reflect the transfer;  
5 and

6 (3) If the name of the owner whose ownership interest is  
7 being transferred is indicated on the certificate of  
8 title:

9 (A) Cancel the certificate even if the certificate  
10 has not been delivered to the department;

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

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

15 (c) An application under subsection (a) or the creation of  
16 a certificate of title under subsection (b) shall not be by  
17 itself a disposition of the vessel and shall not by itself  
18 relieve the secured party of its duties under article 9 of  
19 chapter 490.

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



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

3 (1) Because of death, divorce, or other family law  
4 proceeding; merger; consolidation; dissolution; or  
5 bankruptcy;

6 (2) Through the exercise of the rights of a lien creditor  
7 or a person having a lien created by statute or rule  
8 of law; or

9 (3) Through other legal process.

10 "Transfer by law statement" means a record signed by a  
11 transferee stating that by operation of law the transferee has  
12 acquired or has the right to acquire an ownership interest in a  
13 vessel.

14 (b) A transfer by law statement shall contain:

15 (1) The name and last known mailing address of the owner  
16 of record and the transferee and the other information  
17 required by section -7(b);

18 (2) Documentation sufficient to establish the transferee's  
19 ownership interest or right to acquire the ownership  
20 interest;

21 (3) A statement that:



- 1 (A) The certificate of title is an electronic
- 2 certificate of title;
- 3 (B) The transferee does not have possession of the
- 4 written certificate of title created in the name
- 5 of the owner of record; or
- 6 (C) The transferee is delivering the written
- 7 certificate to the department with the transfer
- 8 by law statement; and
- 9 (4) Except for a transfer described in paragraph (1) of
- 10 the definition of "by operation of law", evidence that
- 11 notification of the transfer and the intent to file
- 12 the transfer by law statement has been sent to all
- 13 persons indicated in the department's files as having
- 14 an interest, including a security interest, in the
- 15 vessel.
- 16 (c) Unless the department rejects a transfer by law
- 17 statement for a reason stated in section -8(c) or because the
- 18 statement does not include documentation satisfactory to the
- 19 department as to the transferee's ownership interest or right to
- 20 acquire the ownership interest, no later than twenty days after
- 21 delivery to the department of the statement and payment of fees



1 and taxes payable under the law of this State other than this  
2 chapter in connection with the statement or with the acquisition  
3 or use of the vessel, the department shall:

- 4 (1) Accept the statement;
- 5 (2) Amend the department's files to reflect the transfer;
- 6 and
- 7 (3) If the name of the owner whose ownership interest is  
8 being transferred is indicated on the certificate of  
9 title:
  - 10 (A) Cancel the certificate even if the certificate  
11 has not been delivered to the department;
  - 12 (B) Create a new certificate indicating the  
13 transferee as owner;
  - 14 (C) Indicate on the new certificate any security  
15 interest indicated on the canceled certificate,  
16 unless a court order provides otherwise; and
  - 17 (D) Deliver the new certificate or a record  
18 evidencing an electronic certificate.

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



1           §   -21 Application for transfer of ownership or  
2 termination of security interest without certificate of title.

3 (a) Except as otherwise provided in section   -19 or   -20,  
4 if the department receives, unaccompanied by a signed  
5 certificate of title, an application for a new certificate that  
6 includes an indication of a transfer of ownership or a  
7 termination statement, the department may create a new  
8 certificate under this section only if:

- 9           (1) All other requirements under sections   -7 and   -8  
10           are met;
- 11           (2) The applicant provides an affidavit stating facts  
12           showing the applicant is entitled to a transfer of  
13           ownership or termination statement;
- 14           (3) The applicant provides the department with  
15           satisfactory evidence that notification of the  
16           application has been sent to the owner of record and  
17           all persons indicated in the department's files as  
18           having an interest, including a security interest, in  
19           the vessel, at least forty-five days have passed since  
20           the notification was sent, and the department has not  
21           received an objection from any of those persons; and



1           (4) The applicant submits any other information required  
2           by the department as evidence of the applicant's  
3           ownership or right to terminate the security interest,  
4           and the department has no credible information  
5           indicating theft, fraud, or an undisclosed or  
6           unsatisfied security interest, lien, or other claim to  
7           an interest in the vessel.

8           (b) The department may indicate in a certificate of title  
9           created under subsection (a) that the certificate was created  
10          without submission of a signed certificate or termination  
11          statement. Unless credible information indicating theft, fraud,  
12          or an undisclosed or unsatisfied security interest, lien, or  
13          other claim to an interest in the vessel is delivered to the  
14          department no later than one year after creation of the  
15          certificate, on request in a form and manner required by the  
16          department, the department shall remove the indication from the  
17          certificate.

18          § -22 Replacement certificate of title. (a) If a  
19          written certificate of title is lost, stolen, mutilated,  
20          destroyed, or otherwise becomes unavailable or illegible, the  
21          secured party of record or, if no secured party is indicated in



1 the department's files, the owner of record may apply for and,  
2 by furnishing information satisfactory to the department, obtain  
3 a replacement certificate in the name of the owner of record.

4 (b) An applicant for a replacement certificate of title  
5 shall sign the application, and, except as otherwise permitted  
6 by the department, the application shall comply with section  
7 -7. The application shall include the existing certificate  
8 unless the certificate is lost, stolen, mutilated, destroyed, or  
9 otherwise unavailable.

10 (c) A replacement certificate of title created by the  
11 department shall comply with section -9 and indicate on the  
12 face of the certificate that it is a replacement certificate.

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

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

19 **§ -23 Rights of purchaser other than secured party. (a)**

20 A buyer in ordinary course of business has the protections  
21 afforded by sections 490:2-403(2) and 490:9-320(a) even if an



1 existing certificate of title was not signed and delivered to  
2 the buyer or a new certificate listing the buyer as owner of  
3 record was not created.

4 (b) Except as otherwise provided in sections -17 and  
5 -24, the rights of a purchaser of a vessel that is not a  
6 buyer in ordinary course of business or a lien creditor are  
7 governed by chapter 490.

8 § -24 **Rights of secured party.** (a) Subject to  
9 subsection (b), the effect of perfection and nonperfection of a  
10 security interest and the priority of a perfected or unperfected  
11 security interest with respect to the rights of a purchaser or  
12 creditor, including a lien creditor, shall be governed by  
13 chapter 490.

14 (b) If, while a security interest in a vessel is perfected  
15 by any method under this chapter, the department creates a  
16 certificate of title that does not indicate that the vessel is  
17 subject to the security interest or contain a statement that it  
18 may be subject to security interests not indicated on the  
19 certificate:

20 (1) A buyer of the vessel, other than a person in the  
21 business of selling or leasing vessels of that kind,



1 takes free of the security interest if the buyer,  
2 acting in good faith and without knowledge of the  
3 security interest, gives value and receives possession  
4 of the vessel; and

5 (2) The security interest is subordinate to a conflicting  
6 security interest in the vessel that is perfected  
7 under section -15 after creation of the certificate  
8 and without the conflicting secured party's knowledge  
9 of the security interest.

10 § -25 Duties and operation of department. (a) The  
11 department shall retain the evidence used to establish the  
12 accuracy of the information in its files relating to the current  
13 ownership of a vessel and the information on the certificate of  
14 title.

15 (b) The department shall retain in its files all  
16 information regarding a security interest in a vessel for at  
17 least ten years after the department receives a termination  
18 statement regarding the security interest. The information  
19 shall be accessible by the hull identification number for the  
20 vessel and any other methods provided by the department.



1           (c) If a person submits a record to the department, or  
2 submits information that is accepted by the department, and  
3 requests an acknowledgment of the filing or submission, the  
4 department shall send to the person an acknowledgment showing  
5 the hull identification number of the vessel to which the record  
6 or submission relates, the information in the filed record or  
7 submission, and the date and time the record was received or the  
8 submission accepted. A request under this section shall contain  
9 the hull identification number and be delivered by means  
10 authorized by the department.

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

14           (1) Whether the department's files indicate, as of a date  
15 and time specified by the department, but not a date  
16 earlier than three days before the department received  
17 the request, any certificate of title, security  
18 interest, termination statement, or title brand that  
19 relates to a vessel:

20           (A) Identified by a hull identification number  
21 designated in the request;



- 1 (B) Identified by a vessel number designated in the  
2 request; or
- 3 (C) Owned by a person designated in the request; and
- 4 (2) With respect to the vessel:
- 5 (A) The name and address of any owner as indicated in  
6 the department's files or on the certificate of  
7 title;
- 8 (B) The name and address of any secured party as  
9 indicated in the department's files or on the  
10 certificate, and the effective date of the  
11 information;
- 12 (C) A copy of any termination statement indicated in  
13 the department's files and the effective date of  
14 the termination statement; and
- 15 (D) A copy of any certificate of origin, secured  
16 party transfer statement, transfer by law  
17 statement under section -20, and other  
18 evidence of previous or current transfers of  
19 ownership.
- 20 (e) In responding to a request under this section, the  
21 department may provide the requested information in any medium.



1 On request, the department shall send the requested information  
2 in a record that is self-authenticating under section 626-1,  
3 rule 902.

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

8 § -27 **Relation to the Electronic Signatures in Global**  
9 **and National Commerce Act.** This chapter modifies, limits, and  
10 supersedes the federal Electronic Signatures in Global and  
11 National Commerce Act, title 15 United States Code section 7001  
12 et seq., but does not modify, limit, or supersede section 101(c)  
13 of that Act, title 15 United States Code section 7001(c), or  
14 authorize electronic delivery of any of the notices described in  
15 section 103(b) of that Act, title 15 United States Code section  
16 7003(b).

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



1 on or after the effective date of this chapter, remain valid on  
2 and after the effective date of this chapter.

3 (b) This chapter shall not affect an action or proceeding  
4 commenced before the effective date of this chapter.

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

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

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

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

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

20 § -29 Rules. The department may adopt rules in  
21 accordance with chapter 91 to effectuate this chapter."



1 SECTION 2. This Act shall take effect on July 1, 2018.



**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 what information is required to be included in an application for a certificate of title; how to deal with transfer of vessel ownership and title; rights of a secured party; and rights of a purchaser other than a secured party. (SD1)

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