

Uniform Certificate of Title for Watercraft Act

This Act requires a vessel owner, within 20 days of becoming an owner or within 20 days of when the vessel becomes used principally on the waters of the state, to apply for a certificate of title. However, no application is required for a federally documented vessel, a foreign documented vessel, a barge, a vessel under construction, or a vessel owned by a dealer.

In general, the act covers all vessels at least 16 feet in length and all vessels propelled by an engine of at least 10 horsepower. Exceptions exist for seaplanes, amphibious vehicles for which a certificate of title is issued pursuant to a motor vehicle titling act, watercraft that operate only on a permanently fixed, manufactured course, certain houseboats, lifeboats used on another vessel, and watercraft owned by the United States, a state, or a foreign government.

Submitted as:

Virginia

[SB 1117](#)

Status: Became law in April 2013

Suggested State Legislation

(Title, enacting clause, etc.)

- 1 Section 1. *[Definitions.]*
2 As used in this Act:
3 A. "Abandoned watercraft" means a watercraft that is left unattended on private property for
4 more than 10 days without the consent of the property's owner, regardless of whether it was
5 brought onto the private property with the consent of the owner or person in control of the
6 private property.
7 B. "Barge" means a watercraft that is not self-propelled or fitted for propulsion by sail, paddle,
8 oar, or similar device.
9 C. "Buyer" means a person that buys or contracts to buy a watercraft.
10 D. "Certificate of origin" means a record created by a manufacturer or importer as the
11 manufacturer's or importer's proof of identity of a watercraft. The term includes a
12 manufacturer's certificate or statement of origin and an importer's certificate or statement of
13 origin. The term does not include a builder's certificate.
14 E. "Certificate of title" means a record, created by the Department of Motor Vehicles under this
15 article or by a governmental agency of another jurisdiction under the law of that jurisdiction
16 that is designated as a certificate of title by the Department or agency and is evidence of
17 ownership of a watercraft.
18 F. "Documented vessel" means a watercraft covered by a certificate of documentation. The term
19 does not include a foreign-documented vessel.
20 G. "Electronic certificate of title" means a certificate of title consisting of information that is
21 stored solely in an electronic medium and is retrievable in perceivable form.
22 H. "Foreign-documented vessel" means a watercraft whose ownership is recorded in a registry
23 maintained by a country other than the United States that identifies each person that has an
24 ownership interest in a watercraft and includes a unique alphanumeric designation for the
25 watercraft.
26 I. "Lien creditor," with respect to a watercraft, means:
27 1. A creditor that has acquired a lien on the watercraft by attachment, levy, or the like;

- 1 2. An assignee for benefit of creditors from the time of assignment;
2 3. A trustee in bankruptcy from the date of the filing of the petition; or
3 4. A receiver in equity from the time of appointment.
- 4 J. "Secured party of record" means the secured party whose name is indicated as the name of
5 the secured party in the files of the Department or, if the files indicate more than one secured
6 party, the one first indicated.
- 7 K. "Watercraft" means any vessel used or capable of being used as a means of transportation on
8 water, except:
9 1. A seaplane;
10 2. An amphibious vehicle for which a certificate of title is issued pursuant to [insert
11 citation];
12 3. Vessels less than 16 feet in length and propelled solely by sail, paddle, oar, or an engine
13 of less than 10 horsepower;
14 4. Vessels that operate only on a permanently fixed, manufactured course and whose
15 movement is restricted to or guided by means of a mechanical device to which the vessel
16 is attached or by which the vessel is controlled;
17 5. A stationary floating structure that:
18 a. Does not have and is not designed to have a mode of propulsion of its own;
19 b. Is dependent for utilities upon a continuous utility hookup to a source originating
20 on shore; and
21 c. Has a permanent, continuous hookup to a shoreside sewage system;
22 d. Vessels owned by the United States, a state, or a foreign government or a political
23 subdivision of any of them;
24 e. A vessel used solely as a lifeboat on another vessel; and
25 f. Vessels measuring between 16 feet and 18 feet in length that are propelled solely by
26 sail, paddle, or oar owned or purchased prior to [insert enactment date].
27

28 Section 2. [*Law governing watercraft covered by certificate of title.*]

29 A. The law of the state or other jurisdiction under whose certificate of title a watercraft is
30 covered governs all issues relating to the certificate from the time the watercraft becomes covered by
31 the certificate until the watercraft becomes covered by another certificate or becomes a documented
32 watercraft, even if no other relationship exists between the jurisdiction and the watercraft or its
33 owner.

34 B. A watercraft becomes covered by a certificate of title when an application for the
35 certificate and the applicable fee are delivered to the Department of Motor Vehicles in accordance
36 with this article or to the governmental agency that creates a certificate in another jurisdiction in
37 accordance with the law of that jurisdiction.
38

39 Section 3. [*Certificate of title required.*]

40 A. No person shall operate a watercraft subject to titling under this chapter unless the owner
41 has applied to the Department of Motor Vehicles for a certificate of title for the watercraft or has
42 been issued a valid temporary registration certificate as provided for in [insert citation]. The owner
43 of a watercraft for which [insert state] is the state of principal use shall deliver to the Department an
44 application for a certificate of title for the watercraft, with the applicable fee, not later than 20 days
45 after the later of:

- 46 1. The date of a transfer of ownership; or
47 2. The date [the state] becomes the state of principal use.

48 B. An application for a certificate of title is not required for:

- 1 1. A documented vessel;
- 2 2. A foreign-documented vessel;
- 3 3. A barge;
- 4 4. A watercraft before delivery if the watercraft is under construction or completed
- 5 pursuant to contract; or
- 6 5. A watercraft held by a dealer for sale or lease.

7 C. A dealer transferring a watercraft required to be titled under this article shall assign the
8 title to the new owner or, in the case of a new watercraft, assign the certificate of origin. The dealer
9 shall forward all fees and applications to the Department of Motor Vehicles within 20 days of sale.
10 Each dealer shall maintain a record for six years of any watercraft he bought, sold, exchanged, or
11 received for sale or exchange. This record shall be available for inspection by Department
12 representatives during reasonable business hours.

13 D. No dealer shall purchase or acquire a new watercraft without obtaining from the seller a
14 certificate of origin. No manufacturer, importer, dealer, or other person shall sell or otherwise
15 dispose of a new watercraft to a dealer for purposes of display and resale without delivering to the
16 dealer a certificate of origin. The certificate of origin shall be a uniform or standardized form
17 prescribed by the Department of Motor Vehicles and shall contain:

- 18 1. On the front, a description of the watercraft including its trade name, if any, year,
19 series or model, body type, and manufacturer's serial number; certification of date of
20 transfer of watercraft and name and address of transferee; certification that this was
21 the transfer of watercraft in ordinary trade and commerce; and the signature and
22 address of a representative of the transferor; and
- 23 2. On the reverse side, an assignment form, including the name and address of the
24 transferee, a certification that the watercraft is new, and a warranty that the title at the
25 time of delivery is subject only to such liens and encumbrances as set forth and
26 described in full in the assignment.

27 E. The Department of Motor Vehicles shall not issue, transfer, or renew pursuant to [insert
28 citation], a certificate of number for a watercraft unless the Department has created a certificate of
29 title for the watercraft or an application for a certificate for the watercraft and the applicable fee have
30 been delivered to the Department. Any owner of a watercraft that was not previously required to be
31 titled and whose certificate of number expires after [insert date], shall apply for a certificate of title
32 at the time of renewal of the certificate of number.

33
34 Section 4. [*Application for certificate of title.*]

35 A. An application for a certificate of title shall be signed by the applicant and contain:

- 36 1. The applicant's name, the street address of the applicant's principal residence, and,
37 if different, the applicant's mailing address;
- 38 2. The name and mailing address of each other owner of the watercraft at the time of
39 application;
- 40 3. The motor vehicle driver's license number, social security number, or taxpayer
41 identification number of each owner;
- 42 4. The hull identification number for the watercraft or, if none, an application for the
43 issuance of a hull identification number for the watercraft;
- 44 5. The registration number for the watercraft or, if none issued by the Department, an
45 application for a registration number;
- 46 6. A description of the watercraft as required by the Department, which shall include:
 - 47 a. The official number for the watercraft, if any, assigned by the U.S. Coast
48 Guard;
 - 49 b. The name of the manufacturer, builder, or maker;

- c. The model year or the year in which the manufacture or build of the watercraft was completed;
 - d. The overall length of the watercraft;
 - e. The watercraft type;
 - f. The hull material;
 - g. The propulsion type;
 - h. The engine drive type, if any;
 - i. The motor identification, including manufacturer's name and serial number, except on motors of 25 horsepower or less; and
 - j. The fuel type, if any;
7. An indication of all security interests in the watercraft known to the applicant and the name and mailing address of each secured party;
 8. A statement that the watercraft is not a documented vessel or a foreign-documented vessel;
 9. Any title brand known to the applicant and, if known, the jurisdiction under whose law the title brand was created;
 10. If the applicant knows that the watercraft is hull damaged, a statement that the watercraft is hull damaged;
 11. If the application is made in connection with a transfer of ownership, the transferor's name, street address and, if different, mailing address, the sales price, if any, and the date of the transfer; and
 12. If the watercraft previously was registered or titled in another jurisdiction, a statement identifying each jurisdiction known to the applicant in which the watercraft was registered or titled.

B. In addition to the information required by subsection A, an application for a certificate of title may contain an electronic communication address of the owner, transferor, or secured party.

C. Except as otherwise provided in [insert citation], an application for a certificate of title shall be accompanied by:

1. A certificate of title that is signed by the owner shown on the certificate and that:
 - a. Identifies the applicant as the owner of the watercraft; or
 - b. Is accompanied by a record that identifies the applicant as the owner; or
2. If there is no certificate of title:
 - a. If the watercraft was a documented vessel, a record issued by the U.S. Coast Guard that shows that the watercraft is no longer a documented vessel and identifies the applicant as the owner;
 - b. If the watercraft was a foreign-documented vessel, a record issued by the foreign country that shows that the watercraft is no longer a foreign-documented vessel and identifies the applicant as the owner; or
 - c. In all other cases, a certificate of origin, bill of sale, or other record that to the satisfaction of the Department of Motor Vehicles identifies the applicant as the owner. Issuance of registration under the provisions of [insert citation] is prima facie evidence of ownership of a watercraft and entitlement to a certificate of title under the provisions of this article.

D. A record submitted in connection with an application is part of the application. The Department shall maintain the record in its files.

E. The Department of Motor Vehicles shall 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 the Commonwealth other than this article in connection with the application or the

1 acquisition or use of the watercraft. The Department shall charge \$7 for issue of each certificate of
2 title, transfer of title, or for the recording of a supplemental lien. The Department shall charge \$2 for
3 the issuance of each duplicate title or for changes to a previously issued certificate of title that are
4 made necessary by a change of the motor on the watercraft. Any watercraft purchased and used by a
5 nonprofit volunteer rescue squad shall be exempt from the fees imposed under this section.

6 F. The application shall be on forms prescribed and furnished by the Department and shall
7 contain any other information required by the Director.

8 G. Whenever any person, after applying for or obtaining the certificate of title of a watercraft,
9 moves from the address shown in the application or upon the certificate of title, he shall, within 30
10 days, notify the Department in writing of his change of address. A fee of \$7 shall be imposed upon
11 anyone failing to comply with this subsection within the time prescribed.

12
13 Section 5. [*Creation and cancellation of certificate of title.*]

14 A. Unless an application for a certificate of title is rejected, the Department of Motor
15 Vehicles shall create a certificate for the watercraft not later than 20 days after delivery to it of an
16 application that complies with [insert citation].

17 B. If the Department creates electronic certificates of title, the Department shall create an
18 electronic certificate unless in the application the secured party of record or, if none, the owner of
19 record, requests that the Department create a written certificate.

20 C. Except as otherwise provided, the Department shall reject an application for a certificate
21 of title only if:

- 22 1. The application does not comply with [insert citation];
- 23 2. The application does not contain documentation sufficient for the Department to
24 determine whether the applicant is entitled to a certificate;
- 25 3. There is a reasonable basis for concluding that the application is fraudulent or
26 issuance of a certificate would facilitate a fraudulent or illegal act; or
- 27 4. The application does not comply with the law of the Commonwealth other than this
28 article.

29 D. The Department of Motor Vehicles shall reject an application for a certificate of title for a
30 watercraft that is a documented vessel or a foreign-documented vessel.

31 E. The Department shall cancel a certificate of title created by it only if the Department:

- 32 1. Could have rejected the application for the certificate under subsection C;
- 33 2. Is required to cancel the certificate under another provision of this article; or
- 34 3. Receives satisfactory evidence that the watercraft is a documented vessel or a
35 foreign-documented vessel.

36 F. The Department of Motor Vehicles shall provide an opportunity for an informal fact-
37 finding proceeding at which the owner and any other interested party may present evidence in
38 support of or opposition to cancellation of a certificate of title. The Department shall serve all
39 owners and secured parties indicated in the files of the Department with notice of the opportunity for
40 an informal fact-finding proceeding. Service shall be made personally or by mail through the U.S.
41 Postal Service, properly addressed, postage paid, return receipt requested. Service by mail is
42 complete on deposit with the U.S. Postal Service. The Department by rule may authorize service by
43 electronic transmission if a copy is sent on the same day by first-class mail or by a commercial
44 delivery company. If not later than 30 days after the notice was served, the Department receives a
45 request for an informal fact-finding proceeding from an interested party, the Department shall hold
46 the proceeding not later than 20 days after receiving the request.

47
48 Section 6. [*Content of certificate of title.*]

49 A. A certificate of title shall contain:

- 1 1. The date the certificate was created;
- 2 2. The name of the owner of record and, if not all owners are listed, an indication that
- 3 there are additional owners indicated in the files of the Department;
- 4 3. The mailing address of the owner of record;
- 5 4. The hull identification number;
- 6 5. The information listed in [insert citation];
- 7 6. Except as otherwise provided in [insert citation], the name and mailing address of
- 8 the secured party of record, if any, and if not all secured parties are listed, an
- 9 indication that there are other security interests indicated in the files of the
- 10 Department; and
- 11 7. All title brands indicated in the files of the Department covering the watercraft,
- 12 including brands indicated on a certificate created by a governmental agency of
- 13 another jurisdiction and delivered to the Department.

14 B. The Department of Motor Vehicles may note on a certificate of title the name and mailing
15 address of a secured party that is not a secured party of record.

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

22 D. If the files of the Department indicate that a watercraft previously was registered or titled
23 in a foreign country, the Department shall indicate on the certificate of title that the watercraft was
24 registered or titled in that country.

25 E. A written certificate of title shall contain a form that all owners indicated on the certificate
26 may sign to evidence consent to a transfer of an ownership interest to another person. The form shall
27 include a certification, signed under penalty of perjury, that the statements made are true and correct
28 to the best of each owner's knowledge, information, and belief.

29 F. A written certificate of title shall contain a form for the owner of record to indicate, in
30 connection with a transfer of an ownership interest, that the watercraft is hull damaged.

31
32 Section 7. [*Title brand.*]

33 A. Unless subsection C applies, at or before the time the owner of record transfers an
34 ownership interest in a hull-damaged watercraft that is covered by a certificate of title created by the
35 Department of Motor Vehicles, if the damage occurred while that person was an owner of the
36 watercraft and the person has notice of the damage at the time of the transfer, the owner shall:

- 37 1. Deliver to the Department an application for a new certificate that complies with
- 38 [insert citation] and includes the title brand designation "Hull Damaged"; or
- 39 2. Indicate on the certificate in the place designated for that purpose that the
- 40 watercraft is hull damaged and deliver the certificate to the transferee.

41 B. Not later than 20 days after delivery to the Department of the application under
42 subdivision A 1 or the certificate of title under subdivision A 2, the Department shall create a new
43 certificate that indicates that the watercraft is branded "Hull Damaged."

44 C. Before an insurer transfers an ownership interest in a hull-damaged watercraft that is
45 covered by a certificate of title created by the Department, the insurer shall deliver to the Department
46 an application for a new certificate that complies with [insert citation] and includes the title brand
47 designation "Hull Damaged." Not later than 20 days after delivery of the application to the

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

3 D. An owner of record that fails to comply with subsection A, a person that solicits or
4 colludes in a failure by an owner of record to comply with subsection A, or an insurer that fails to
5 comply with subsection C is subject to a civil penalty of \$1,000.

6
7 Section 8. [*Maintenance of and access to files.*]

8 A. For each record relating to a certificate of title submitted to the Department of Motor
9 Vehicles, the Department shall:

- 10 1. Ascertain or assign the hull identification number for the watercraft;
- 11 2. Maintain the hull identification number and all the information submitted with the
12 application pursuant to [insert citation] to which the record relates, including the date
13 and time the record was delivered to the Department;
- 14 3. Maintain the files for public inspection subject to subsection E; and
- 15 4. Index the files of the Department as required by subsection B.

16 B. The Department shall maintain in its files the information contained in all certificates of
17 title created under this article. The information in the files of the Department shall be searchable by
18 the hull identification number of the watercraft, the registration number, the name of the owner of
19 record, and any other method used by the Department.

20 C. The Department shall maintain in its files, for each watercraft for which it has created a
21 certificate of title, all title brands known to the Department, the name of each secured party known to
22 the Department, the name of each person known to the Department to be claiming an ownership
23 interest, and all stolen-property reports the Department has received.

24 D. Upon request, for safety, security, or law-enforcement purposes, the Department shall
25 provide to federal, state, or local government the information in its files relating to any watercraft for
26 which the Department has issued a certificate of title.

27 E. Except as otherwise provided by law, the information required under is a public record.

28
29 Section 9. [*Action required on creation of certificate of title.*]

30 A. On creation of a written certificate of title, the Department of Motor Vehicles promptly
31 shall send the certificate to the secured party of record or, if none, to the owner of record at the
32 address indicated for that person in the files of the Department. On creation of an electronic
33 certificate of title, the Department promptly shall send a record evidencing the certificate to the
34 owner of record and, if there is one, to the secured party of record at the address indicated for that
35 person in the files of the Department. The Department shall send the record to the person's mailing
36 address or, if indicated in the files of the Department, an electronic address.

37 B. If the Department creates a written certificate of title, any electronic certificate of title for
38 the watercraft is canceled and replaced by the written certificate. The Department shall maintain in
39 the files of the Department the date and time of cancellation.

40 C. Before the Department creates an electronic certificate of title, any written certificate for
41 the watercraft shall be surrendered to the Department. If the Department creates an electronic
42 certificate, the Department shall destroy or otherwise cancel the written certificate for the watercraft
43 that has been surrendered to the Department and maintain in the files of the Department the date and
44 time of destruction or other cancellation. If a written certificate being canceled is not destroyed, the
45 Department shall indicate on the face of the certificate that it has been canceled.

46
47 Section 10. [*Effect of certificate of title.*]

48 A certificate of title is prima facie evidence of the accuracy of the information in the record
49 that constitutes the certificate.

1 Section 11. [*Effect of possession of certificate of title; judicial process; levy; penalty.*]

2 A. Possession of a certificate of title does not by itself provide a right to obtain possession of
3 a watercraft. Garnishment, attachment, levy, replevin, or other judicial process against the certificate
4 is not effective to determine possessory rights to the watercraft. This article does not prohibit
5 enforcement under [state law] other than this article of a security interest in, levy on, or foreclosure
6 of a statutory or common-law lien on a watercraft. Absence of an indication of a statutory or
7 common-law lien on a certificate does not invalidate the lien.

8 B. A levy made by virtue of an execution, fieri facias, or other proper court order, upon a
9 watercraft for which a certificate of title has been issued by the Department of Motor Vehicles, shall
10 constitute a lien, when the officer making the levy reports to the Department at its principal office,
11 on forms provided by the Department, that the levy has been made and that the vessel levied upon is
12 in the custody of the officer. Should the lien thereafter be satisfied or should the vessel levied upon
13 and seized thereafter be released by the officer, he shall immediately report that fact to the
14 Department at its principal office. Any owner who, after such levy and seizure by an officer and
15 before the report is made by the officer to the Department, fraudulently assigns or transfers his title
16 to or interest in the watercraft, or causes the certificate of title to be assigned or transferred, or causes
17 a security interest to be shown upon such certificate of title, is guilty of a Class 1 misdemeanor.
18

19 Section 12. [*Perfection of security interest.*]

20 A. Except as otherwise provided in [insert citation], a security interest in a watercraft shall be
21 perfected only by delivery to the Department of Motor Vehicles of an application for a certificate of
22 title that identifies the secured party and otherwise complies with [insert citation]. The security
23 interest is perfected on the later of delivery to the Department of the application and the applicable
24 fee or attachment of the security interest under [insert citation].

25 B. If the interest of a person named as owner, lessor, consignor, or bailor in an application for
26 a certificate of title delivered to the Department is a security interest, the application sufficiently
27 identifies the person as a secured party. Identification on the application for a certificate of a person
28 as owner, lessor, consignor, or bailor is not by itself a factor in determining whether the person's
29 interest is a security interest.

30 C. If the Department has created a certificate of title for a watercraft, a security interest in the
31 watercraft shall be perfected by delivery to the Department of an application, on a form the
32 Department shall require, to have the security interest added to the certificate. The application shall
33 be signed by an owner of the watercraft or by the secured party and shall include:

- 34 1. The name of the owner of record;
- 35 2. The name and mailing address of the secured party;
- 36 3. The hull identification number for the watercraft; and
- 37 4. If the Department has created a written certificate of title for the watercraft, the
38 certificate.

39 D. A security interest perfected under subsection C is perfected on the later of delivery to the
40 Department of the application and all applicable fees or attachment of the security interest under
41 [insert citation].

42 E. On delivery of an application that complies with subsection C and payment of all
43 applicable fees, the Department shall create a new certificate of title pursuant to [insert citation] and
44 deliver the new certificate or a record evidencing an electronic certificate pursuant to [insert
45 citation]. The Department shall maintain in the files of the Department the date and time of delivery
46 of the application to the Department.

47 F. If a secured party assigns a perfected security interest in a watercraft, the receipt by the
48 Department of a statement providing the name of the assignee as secured party is not required to

1 continue the perfected status of the security interest against creditors of and transferees from the
2 original debtor. A purchaser of a watercraft subject to a security interest that obtains a release from
3 the secured party indicated in the files of the Department or on the certificate takes free of the
4 security interest and of the rights of a transferee unless the transfer is indicated in the files of the
5 Department or on the certificate.

6 G. This section does not apply to a security interest:

- 7 1. In a watercraft by a person during any period in which the watercraft is inventory
8 held for sale or lease by the person or is leased by the person as lessor if the person is
9 in the business of selling watercraft;
- 10 2. In a barge for which no application for a certificate of title has been delivered to the
11 Department; or
- 12 3. In a watercraft before delivery if the watercraft is under construction, or completed,
13 pursuant to contract and for which no application for a certificate has been delivered
14 to the Department.

15 H. This subsection applies if a certificate of documentation for a documented vessel is
16 deleted or canceled. If a security interest in the watercraft was valid immediately before deletion or
17 cancellation against a third party as a result of compliance with [insert citation], the security interest
18 is and remains perfected until the earlier of four months after cancellation of the certificate or the
19 time the security interest becomes perfected under this article.

20 I. A security interest in a watercraft arising under [insert citations] is perfected when it
21 attaches but becomes unperfected when the debtor obtains possession of the watercraft, unless before
22 the debtor obtains possession the security interest is perfected pursuant to subsection A or C.

23 J. A security interest in a watercraft as proceeds of other collateral is perfected to the extent
24 provided in [insert citation].

25 K. A security interest in a watercraft perfected under the law of another jurisdiction is
26 perfected to the extent provided in [insert citation].

27
28 Section 13. [*Termination statement; delivery of certificate of title; penalty.*]

29 A. A secured party indicated in the files of the Department of Motor Vehicles as having a
30 security interest in a watercraft shall deliver a termination statement to the Department and, on the
31 debtor's request, to the debtor by the earlier of:

- 32 1. Twenty days after the secured party receives a signed demand from an owner for a
33 termination statement and there is no obligation secured by the watercraft subject to
34 the security interest and no commitment to make an advance, incur an obligation, or
35 otherwise give value secured by the watercraft; or
- 36 2. If the watercraft is consumer goods, 30 days after there is no obligation secured by
37 the watercraft and no commitment to make an advance, incur an obligation, or
38 otherwise give value secured by the watercraft.

39 B. If a written certificate of title has been created and delivered to a secured party and a
40 termination statement is required under subsection A, the secured party, not later than the date
41 required by subsection A, shall deliver the certificate to the debtor or to the Department with the
42 statement. An owner, upon securing the release of any security interest upon a vessel shown upon
43 the certificate of title issued for the watercraft, may exhibit the documents evidencing the release,
44 signed by the person or persons making such release, and the certificate of title to the Department. If
45 the certificate is lost, stolen, mutilated, destroyed, or is otherwise unavailable or illegible, the
46 secured party shall deliver with the statement, not later than the date required by subsection A, an
47 application for a replacement certificate meeting the requirements of [insert citation].

48 C. On delivery to the Department of a termination statement authorized by the secured party,
49 the security interest to which the statement relates ceases to be perfected. If the security interest to

1 which the statement relates was indicated on the certificate of title, the Department shall create a
2 new certificate and deliver the new certificate or a record evidencing an electronic certificate. The
3 Department shall maintain in its files the date and time of delivery to the Department of the
4 statement.

5 D. A secured party that fails to deliver a required termination statement is liable for any loss
6 that the secured party had reason to know might result from its failure to comply and that could not
7 reasonably have been prevented and for the cost of an application for a certificate of title under
8 [insert citation].

9 E. It shall constitute a Class 1 misdemeanor for a secured party who holds a certificate of title
10 to refuse or fail to surrender the certificate to the owner or his agent within 10 days after the security
11 interest has been paid and satisfied.

12
13 Section 14. [*Transfer of ownership.*]

14 A. On voluntary transfer of an ownership interest in a watercraft covered by a certificate of
15 title, the following rules apply:

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

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

26 3. The transferee has a right enforceable by specific performance to require the
27 transferor comply with subdivision 1 or 2.

28 B. The creation of a certificate of title identifying the transferee as owner of record satisfies
29 subsection A.

30 C. A failure to comply with subsection A or to apply for a new certificate of title does not
31 render a transfer of ownership of a watercraft ineffective between the parties. Except as otherwise
32 provided in [insert citations], a transfer of ownership without compliance with subsection A is not
33 effective against another person claiming an interest in the watercraft.

34 D. A transferor that complies with subsection A is not liable as owner of the watercraft for an
35 event occurring after the transfer, regardless of whether the transferee applies for a new certificate of
36 title.

37
38 Section 15. [*Effect of missing or incorrect information.*]

39 Except as otherwise provided in [insert citation], a certificate of title or other record required
40 or authorized by this article is effective even if it contains incorrect information or does not contain
41 required information.

42
43 Section 16. [*Transfer of ownership by secured party's transfer statement.*]

44 A. For the purpose of this section, "secured party's transfer statement" means a record signed
45 by the secured party of record stating:

46 1. A default on an obligation secured by the watercraft has occurred;

47 2. The secured party of record is exercising or has exercised post-default remedies
48 with respect to the watercraft;

- 1 3. By reason of the exercise, the secured party of record has the right to transfer the
- 2 ownership interest of an owner, and the name of the owner;
- 3 4. The name and last-known mailing address of the owner of record and the secured
- 4 party of record;
- 5 5. The name of the transferee;
- 6 6. All other information required by [insert citation]; and
- 7 7. One of the following:
 - 8 a. The certificate of title is an electronic certificate;
 - 9 b. The secured party does not have possession of the written certificate of title
 - 10 created in the name of the owner of record; or
 - 11 c. The secured party is delivering the written certificate of title to the
 - 12 Department with the secured party's transfer statement.

13 B. Unless the Department of Motor Vehicles rejects a secured party's transfer statement for a
14 reason stated in [insert citation], not later than 20 days after delivery to the Department of the
15 statement and payment of fees and taxes payable under the law of the Commonwealth other than this
16 article in connection with the statement or the acquisition or use of the watercraft, the Department
17 shall:

- 18 1. Accept the statement;
- 19 2. Amend the files of the Department to reflect the transfer; and
- 20 3. If the name of the owner whose ownership interest is being transferred is indicated
21 on the certificate of title:
 - 22 a. Cancel the certificate even if the certificate has not been delivered to the
 - 23 Department;
 - 24 b. Create a new certificate indicating the transferee as owner; and
 - 25 c. Deliver the new certificate or a record evidencing an electronic certificate.

26 C. An application under subsection A or the creation of a certificate of title under subsection
27 B is not by itself a disposition of the watercraft and does not by itself relieve the secured party of its
28 duties under [insert citation].

29
30 Section 17. [*Transfer by operation of law.*]

31 A. As used in this section, unless the context requires a different meaning: "By operation of
32 law" means pursuant to a law or judicial order affecting ownership of a watercraft:

- 33 1. Because of death, such as in the case of a legatee, distributee, or surviving joint
- 34 owner;
- 35 2. Because of divorce or other family law proceeding;
- 36 3. Because of any written agreement ratified or incorporated in a decree or order of a
- 37 court of record;
- 38 4. Because of merger, consolidation, dissolution, insolvency, or bankruptcy;
- 39 5. Because of an execution sale;
- 40 6. Through the exercise of the rights of a lien creditor or a person having a lien
- 41 created by statute or rule of law, including a lien provided for in [insert citation]; or
- 42 7. Through other legal process.

43 "Transfer-by-law statement" means a record signed by a transferee stating that by operation
44 of law the transferee has acquired or has the right to acquire an ownership interest in a
45 watercraft.

46 B. A transfer-by-law statement shall contain:

- 47 1. The name and last-known mailing address of the owner of record and the transferee
- 48 and the other information required by [insert citation];

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 of Motor Vehicles with the transfer-by-law statement;
4. Except for a transfer described in subdivision 1 of the definition of "by operation of law," 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 watercraft; and
5. If the owner is dead and no fiduciary has qualified for his estate, an estate statement to the effect that no qualification for the estate has been made, that no qualification is expected, and that the decedent's debts have been paid or that the proceeds from the sale of the watercraft will be applied against his debts. The estate statement shall contain the name, residence at the time of death, and date of death of the decedent and the names of any other persons having an interest in the watercraft for which the transfer of title is sought. If these persons are of legal age, they shall signify in writing their consent to the transfer.

C. Unless the Department rejects a transfer-by-law statement for a reason stated in [insert citation] or because the statement does not include documentation or an estate statement satisfactory to the Department as to the transferee's ownership interest or right to acquire the ownership interest, not later than 20 days after delivery to the Department of the transfer-by-law statement and payment of fees and taxes payable under [state law] other than this article in connection with the statement or with the acquisition or use of the watercraft, 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 watercraft by a secured party under [insert citation].

Section 18. [*Application for transfer of ownership or termination of security interest without certificate of title.*]

A. Except as otherwise provided in [insert citation], if the Department of Motor Vehicles receives, unaccompanied by a signed certificate of title, an application for a new certificate that includes an indication of a transfer of ownership or a termination statement, the Department shall create a new certificate under this section only if:

1. All other requirements under [insert citation] are met;
2. The applicant provides an affidavit stating facts showing the applicant is entitled to a transfer of ownership or termination statement;

1 3. The applicant provides the Department with satisfactory evidence that notification
2 of the application has been sent to the owner of record and all persons indicated in the
3 files of the Department as having an interest, including a security interest, in the
4 watercraft, at least 45 days have passed since the notification was sent, and the
5 Department has not received an objection from any of those persons; and

6 4. The applicant submits any other information required by the Department as
7 evidence of the applicant's ownership or right to terminate the security interest, and
8 the Department has no credible information indicating theft, fraud, or an undisclosed
9 or unsatisfied security interest, lien, or other claim to an interest in the watercraft.

10 B. The Department shall indicate in a certificate of title created under subsection A that the
11 certificate was created without submission of a signed certificate or termination statement. Unless
12 credible information indicating theft, fraud, or an undisclosed or unsatisfied security interest, lien, or
13 other claim to an interest in the watercraft is delivered to the Department not later than one year after
14 creation of the certificate, on request in a form and manner required by the Department, the
15 Department shall remove the indication from the certificate.

16 C. Unless the Department determines that the value of a watercraft is less than \$5,000, before
17 the Department creates a certificate of title under subsection A, the Department shall require the
18 applicant to post a bond or provide an equivalent source of indemnity or security. The bond,
19 indemnity, or other security shall not exceed twice the value of the watercraft as determined by the
20 Department. The bond, indemnity, or other security shall be in a form required by the Department
21 and provide for indemnification of any owner, purchaser, or other claimant for any expense, loss,
22 delay, or damage, including reasonable attorney fees and costs, but not including incidental or
23 consequential damages, resulting from creation or amendment of the certificate.

24 D. Unless the Department receives a claim for indemnity not later than one year after
25 creation of a certificate of title under subsection A, on request in a form and manner required by the
26 Department, the Department shall release any bond, indemnity, or other security.

27
28 Section 19. [*Replacement certificate of title.*]

29 A. If a written certificate of title is lost, stolen, mutilated, destroyed, or otherwise becomes
30 unavailable or illegible, the secured party of record or, if no secured party is indicated in the files of
31 the Department of Motor Vehicles, the owner of record may apply for and, by furnishing
32 information satisfactory to the Department, obtain a replacement certificate in the name of the owner
33 of record.

34 B. An applicant for a replacement certificate of title shall sign the application and, except as
35 otherwise permitted by the Department, the application shall comply with [insert citation]. The
36 application shall include the existing certificate unless the certificate is lost, stolen, mutilated,
37 destroyed, or otherwise unavailable.

38 C. A replacement certificate of title created by the Department shall comply with [insert
39 citation] and indicate on the face of the certificate that it is a replacement certificate.

40 D. If a person receiving a replacement certificate of title subsequently obtains possession of
41 the original written certificate, the person promptly shall destroy the original certificate of title.

42
43 Section 20. [*Rights of purchaser other than secured party.*]

44 A. A buyer in ordinary course of business has the protections afforded by [insert citation]
45 even if an existing certificate of title was not signed and delivered to the buyer or a new certificate
46 listing the buyer as owner of record was not created.

47 B. Except as otherwise provided in [insert citation], the rights of a purchaser of a watercraft
48 that is not a buyer in ordinary course of business or a lien creditor are governed by the Uniform
49 Commercial Code.

1
2 Section 21. [*Rights of secured party.*]

3 A. Subject to subsection B or C, the effect of perfection and non-perfection of a security
4 interest and the priority of a perfected or unperfected security interest with respect to the rights of a
5 purchaser or creditor, including a lien creditor, is governed by [insert citation].

6 B. A security interest perfected under this article has priority over any statutory lien on the
7 watercraft, except for a mechanics lien for repairs to the extent of \$150 given by [insert citation] if
8 the requirements are met, provided the mechanic furnishes the holder of any such recorded lien who
9 requests it with an itemized sworn statement of the work done and materials supplied for which the
10 lien is claimed.

11 C. If, while a security interest in a watercraft is perfected by any method under this article,
12 the Department of Motor Vehicles creates a certificate of title that does not indicate that the
13 watercraft is subject to the security interest or contain a statement that it may be subject to security
14 interests not indicated on the certificate:

- 15 1. A buyer of the watercraft, other than a person in the business of selling or leasing
16 watercraft of that kind, takes free of the security interest if the buyer, acting in good
17 faith and without knowledge of the security interest, gives value and receives
18 possession of the watercraft; and
19 2. The security interest is subordinate to a conflicting security interest in the
20 watercraft that is perfected under [insert citation] after creation of the certificate and
21 without the conflicting secured party's knowledge of the security interest.
22

23 Section 22. [*Acquiring title to an abandoned watercraft.*]

24 A. Any watercraft abandoned for a period exceeding 60 days is subject to the provisions of
25 this section.

26 B. A landowner, his lessee, or his agent may acquire title to any watercraft abandoned on his
27 land or the water immediately adjacent to his land. Acquisition of title, under the provisions of this
28 section, divests any other person of any interest in the watercraft.

29 C. If a watercraft has a registration number assigned by [the state] or any other state, or if
30 there are other means of identifying the owner, the person desiring to acquire title shall make a good
31 faith effort to secure the last-known address of all owners and lien holders. He shall notify each
32 owner and lien holder by registered letter that if ownership is not claimed and the watercraft not
33 removed within 30 days, he will apply for title to the watercraft in his name.

34 D. The person desiring to acquire title also shall place a notice, to appear for three
35 consecutive issues, in a newspaper of general circulation in the county or city where the watercraft is
36 located. The notice shall describe the watercraft, its location, and any identifying number or
37 numbers. The notice shall state that if the watercraft is not claimed and removed within 30 days after
38 the first day the notice was published, the person who has placed the notice shall apply to the
39 Department of Motor Vehicles for title to the watercraft.

40 E. At the end of the 30-day period, the person seeking to acquire the watercraft shall apply to
41 the Department for title. The application shall be accompanied by the following: (i) an affidavit
42 stating that to the best of the applicant's knowledge the watercraft has been abandoned for a period
43 of at least 60 days; (ii) proof that the registered letter required by the Department was mailed at least
44 30 days prior to application or a detailed explanation of the steps taken to identify the owner and lien
45 holder; and (iii) proof that a notice was printed in a newspaper as required in subsection D.

46 F. Upon receipt by the Department of all items required by subsection E, and after all fees
47 and taxes due have been paid, the Department shall then issue title to the watercraft to the applicant.

1 G. All costs incurred in obtaining title to a watercraft under this section shall be borne by the
2 applicant.
3

4 Section 23. [*Duties and operation of the Department.*]

5 A. The Department of Motor Vehicles shall retain the evidence used to establish the accuracy
6 of the information in its files relating to the current ownership of a watercraft and the information on
7 the certificate of title.

8 B. The Department shall retain in its files all information regarding a security interest in a
9 watercraft for at least 10 years after the Department receives a termination statement regarding the
10 security interest. The information shall be accessible by the hull identification number for the
11 watercraft and any other methods provided by the Department.

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

18 D. The Department shall send or otherwise make available in a record the following
19 information to any person that requests it and pays the applicable fee:

20 1. Whether the files of the Department indicate, as of a date and time specified by the
21 Department, but not a date earlier than three days before the Department received the request,
22 any certificate of title, security interest, termination statement, or title brand that relates to a
23 watercraft:

- 24 a. Identified by a hull identification number designated in the request;
- 25 b. Identified by a registration number designated in the request; or
- 26 c. Owned by a person designated in the request;

27 2. With respect to the watercraft:

- 28 a. The name and address of any owner as indicated in the files of the
29 Department or on the certificate of title;
- 30 b. The name and address of any secured party as indicated in the files of the
31 Department or on the certificate, and the effective date of the information; and
- 32 c. A copy of any termination statement indicated in the files of the Department
33 and the effective date of the termination statement; and

34 3. With respect to the watercraft, a copy of any certificate of origin, secured party
35 transfer statement, transfer by law statement under [insert citation], and other
36 evidence of previous or current transfers of ownership.

37 E. In responding to a request under this section, the Department shall provide the requested
38 information in any medium. On request, the Department shall send the requested information in a
39 record that is self-authenticating.

40 F. Employees of the Department are authorized to administer oaths and take
41 acknowledgments and affidavits incidental to the administration and enforcement of this article.
42 They shall receive no compensation for these services.
43

44 Section 24. [*Relationship to Electronic Signatures in Global and National Commerce Act*]

45 This article modifies, limits, and supersedes the federal Electronic Signatures in Global and
46 National Commerce Act, 15 U.S.C. § 7001, et seq., but does not modify, limit, or supersede § 101(c)
47 of that Act (15 U.S.C. § 7001(c)), or authorize electronic delivery of any of the notices described in
48 § 103(b) of that Act (15 U.S.C. § 7003(b)).
49

1 Section 25. [*Savings clause*] Insert savings clause.