

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1221
Committee Substitute Favorable 5/24/89

Short Title: Boat Title Act.

(Public)

Sponsors:

Referred to:

April 12, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE TITLING OF BOATS AND OTHER WATERCRAFT
3 AND TO ALLOW FOR THE TITLING OF COMMERCIAL FISHING VESSELS.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 75A of the General Statutes is amended by adding a new
6 Article to read:

7 **“ARTICLE 4.**
8 **“WATERCRAFT TITLING ACT.**

9 **“§ 75A-32. Short title.**

10 This act shall be known as the Watercraft Titling Act.

11 **“§ 75A-33. Definitions.**

12 As used in this Article, unless the context clearly requires a different meaning:

- 13 (1) ‘Commission’ means the North Carolina Wildlife Resources
14 Commission.
15 (2) ‘Dealer’ means any person whom the Department of Revenue finds to
16 be in the regular business of selling watercraft, and who has held,
17 during the calendar year, five or more watercraft for resale.
18 (3) ‘Watercraft’ means every description of watercraft, other than a
19 seaplane on the water, used or capable of being used as a means of
20 transportation on water, and which is (i) 15 feet or more in overall
21 length measured along the centerline, has a gross weight of 400
22 pounds, and is powered by a motor in excess of 25 horsepower or (ii)
23 any sail-powered vessel longer than 18 feet measured along the

1 centerline. The term does not include a vessel which has a valid
2 marine document issued by the United States Coast Guard. The term
3 does not include a commercial fishing vessel as defined in G.S. 75A-
4 5.1(b); provided, however, that an owner of a commercial fishing
5 vessel may voluntarily obtain a certificate of title pursuant to the
6 provisions of G.S. 75A-34(d).

7 **"§ 75A-34. Who must or may apply for certificate of title; authority of employees**
8 **of Commission.**

9 (a) Any owner, except a dealer, of any watercraft acquired after January 1, 1990,
10 or in which an interest is transferred after that date, shall apply to the Commission for a
11 certificate of title in the name of the owner within 30 days of the acquisition or transfer.

12 (b) Any owner, except a dealer, of a watercraft which is subject to a lien, shall
13 apply on or before February 15, 1990, for a certificate of title.

14 (c) Any owner who renews the certificate of number for his watercraft shall
15 apply for a certificate of title at the time of renewal.

16 (d) Any owner of a vessel not required to be titled under this Article and not
17 titled elsewhere, may apply to the Commission for a certificate of title. The
18 Commission shall issue a certificate of title upon reasonable evidence of ownership,
19 which may be established by affidavits, bills of sale, or other similar documents.

20 (e) Employees of the Commission are vested with the power to administer oaths
21 and to take acknowledgements and affidavits incidental to the administration and
22 enforcement of this section. They shall receive no compensation for these services.

23 **"§ 75A-35. Form and contents of application.**

24 (a) Every application for a certificate of title shall be made by the owner or his
25 duly authorized attorney-in-fact, and shall contain the name, residence, and mailing
26 address of the owner, a statement of the applicant's title and of all liens or encumbrances
27 upon the watercraft in the order of their priority, and the names and addresses of all
28 persons having any interest in the watercraft and the nature of the interest.

29 (b) Every application for a certificate shall contain a brief description of the
30 watercraft to be registered, including the name of the manufacturer, State identification
31 number, hull identification number, length, type, and principal material of construction,
32 model year, date of purchase, identification of the motor (including manufacturer's
33 name and serial number, except on motors of 25 horsepower or less), and the name and
34 address of the person from whom the watercraft was purchased.

35 The application shall be made on forms prescribed and furnished by the Commission
36 and shall contain other information as may be required by the Commission.

37 **"§ 75A-36. Notice by owner of change of address.**

38 Whenever any person, after applying for or obtaining the certificate of title of a
39 watercraft, moves from the address shown in the application or upon the certificate of
40 title, that person shall, within 30 days, notify the Commission in writing of his change
41 of address.

42 A fee of seven dollars (\$7.00) shall be imposed upon anyone failing to comply with
43 this section within the time prescribed.

44 **"§ 75A-37. Certificate of title prerequisite to issuance of certificate of number.**

1 The Commission shall neither issue nor renew a certificate of number to any
2 watercraft required to be titled in this State unless the Commission has issued a
3 certificate of title to the owner.

4 **"§ 75A-38. Certificate of title required; certificate as evidence; duration; transfer**
5 **of title.**

6 (a) Except for amphibious vessels which have a valid title issued by the Division
7 of Motor Vehicles, or a watercraft owned by a bona fide dealer, no person shall operate
8 a watercraft subject to titling under this Article unless the owner has applied to the
9 Commission for a certificate of title for that watercraft.

10 (b) A certificate of title is **prima facie** evidence of the ownership of a watercraft.
11 A certificate of title shall be in force for the life of the watercraft so long as the
12 certificate is owned or held by the legal holder.

13 (c) To sell, assign, or transfer a watercraft title in this State, the certificate of title
14 must be delivered to the purchaser or transferee with an assignment on the certificate
15 showing title in the purchaser or transferee. To purchase or otherwise acquire a
16 watercraft required to be titled in this State, any purchaser or transferee other than a
17 licensed dealer must obtain a certificate of title for it in his name.

18 **"§ 75A-39. Commission's records; fees.**

19 (a) The Commission shall maintain a record of any title it issues.

20 (b) The Commission shall charge a fee of ten dollars (\$10.00) for issue of each
21 certificate of title, and seven dollars (\$7.00) for each transfer of title, duplicate title, or
22 recording of a supplemental lien.

23 **"§ 75A-40. Acquisition of watercraft by dealer.**

24 (a) Any dealer who acquires a watercraft for resale shall be exempt from the
25 titling requirement in this Article.

26 (b) Any dealer transferring a watercraft required to be titled under this Article
27 shall assign the title to the new owner, or in the case of a new watercraft, shall assign
28 the manufacturer's or importer's certificate. The dealer shall forward all fees and
29 applications to the Commission, within 15 days of sale.

30 **"§ 75A-41. Transfer to or from dealer; manufacturer's or importer's certificate.**

31 (a) No dealer shall purchase or acquire a new watercraft without obtaining from
32 the seller a manufacturer's or importer's certificate.

33 (b) No manufacturer, importer, dealer, or other person shall sell or otherwise
34 dispose of a new watercraft to a dealer for purposes of display and resale, without
35 delivering to the dealer a manufacturer's or importer's certificate.

36 (c) The manufacturer's or importer's certificate shall be a uniform or standardized
37 form prescribed by the Commission, and shall contain:

- 38 (1) A description of the watercraft including its trade name, if any, year,
39 series or model, body type, motor type, size, and manufacturer's serial
40 numbers for both the boat and the motor;
41 (2) Certification of date of transfer of watercraft and name and address of
42 transferee;
43 (3) Certification that the transfer was a transfer of watercraft in ordinary
44 trade and commerce;

1 (4) The signature and address of a representative of the transferor.

2 (d) On the reverse side of each manufacturer's or importer's certificate shall
3 appear an assignment form, including the name and address of the transferee, a
4 certification that the watercraft is new, and a warranty that the title at the time of
5 delivery is subject only to liens and encumbrances as set forth and described in full in
6 the assignment.

7 **"§ 75A-42. Dealer's records.**

8 Every dealer shall maintain a record for six years of any watercraft he bought, sold,
9 exchanged, or received for sale or exchange. This record shall be available for
10 inspection by Commission representatives during reasonable business hours.

11 **"§ 75A-43. Duplicate certificate of title.**

12 The Commission may issue a duplicate certificate of title plainly marked 'duplicate'
13 across its face upon application by the person entitled to hold the certificate if the
14 Commission is satisfied that the original certificate has been lost, stolen, mutilated,
15 destroyed, or has become illegible. Mutilated or illegible certificates shall be returned
16 to the Commission with the application for a duplicate. If a duplicate certificate of title
17 has been issued and the lost or stolen original is recovered, the original shall be
18 promptly surrendered to the Commission for cancellation.

19 **"§ 75A-44. Certificate to show security interests.**

20 The Commission, after receiving an application for a certificate of title to a
21 watercraft, shall, upon issuing the certificate of title to the owner, show upon the face of
22 the certificate of title all security interests in the order of their priority as shown in the
23 application.

24 **"§ 75A-45. Security interests subsequently created.**

25 Security interests, other than a security interest in inventory held for sale to be
26 perfected only as provided in G.S. 25-9-301 to G.S. 25-9-408, created in watercraft by
27 the voluntary act of the owner after the original issue of title to the owner must be
28 shown on the certificate of title. In such cases, the owner shall file an application with
29 the Commission on a blank furnished for that purpose, setting forth the security interests
30 and other information as the Commission requires. The Commission, if satisfied that it
31 is proper that the same be recorded and upon surrender of the certificate of title covering
32 the watercraft, shall thereupon issue a new certificate of title showing their security
33 interests in the order of the priority according to the date of the filing of the application.
34 For the purpose of recording the subsequent security interest, the Commission may
35 require any secured party to deliver the certificate of title to the Commission. The
36 newly issued certificate shall be sent or delivered to the secured party from whom the
37 prior certificate was obtained.

38 **"§ 75A-46. Certificate as notice of security interest.**

39 A certificate of title, when issued by the Commission showing a security interest,
40 shall be deemed adequate notice to the State, creditors, and purchasers that a security
41 interest in the watercraft exists and the recording or filing of the creation or reservation
42 of a security interest in the county or city wherein the purchaser or debtor resides or
43 elsewhere is not necessary and shall not be required. Watercraft, other than those that
44 are inventory held for sale, for which a certificate of title has been issued under this

1 Article shall be exempt from the provisions of G.S. 25-9-302, 25-9-304, 25-9-307, 25-9-
2 309, 25-9-312, 25-9-318, and 25-9-401 to 25-9-408.

3 **"§ 75A-47. Security interest may be filed within 30 days after purchase.**

4 If application for the recordation of a security interest to be placed upon a watercraft
5 is filed in the principal office of the Commission within 30 days from the date of the
6 applicant's purchase of the watercraft, it shall be valid to all persons, including the State,
7 as if the recordation had been done on the day the security interest was acquired.

8 **"§ 75A-48. Priority of security interests shown on certificates.**

9 The security interests, except security interests in watercraft which are inventory
10 held for sale and which are perfected under G.S. 25-9-301 to 25-9-408, shown upon the
11 certificates of title issued by the Commission pursuant to applications for certificates
12 shall have priority over any other liens or security interests against the watercraft
13 however created and recorded, except for a mechanics lien for repairs in an amount of
14 up to one hundred fifty dollars (\$150.00), provided that the mechanic furnishes the
15 holder of any recorded lien who may request it with an itemized sworn statement of the
16 work done and materials supplied for which the lien is claimed.

17 **"§ 75A-49. Legal holder of certificate of title subject to security interest.**

18 The certificate of title of a watercraft shall be delivered to the person holding the
19 security interest having first priority upon the watercraft and retained by that person
20 until the entire amount of the security interest is fully paid by the owner of the
21 watercraft. The certificate of title shall then be delivered to the secured party next in
22 order of priority and so on, or, if none, then to the owner of the watercraft.

23 **"§ 75A-50. Release of security interest shown on certificate of title.**

24 An owner, upon securing the release of any security interest upon a watercraft
25 shown upon the certificate of title issued for the watercraft, may exhibit the documents
26 evidencing the release, signed by the person or persons making the release, and the
27 certificate of title to the Commission. When it is impossible to secure the release from
28 the secured party, the owner may exhibit to the Commission any available evidence
29 showing that the debt secured has been satisfied, together with a statement by the owner
30 under oath that the debt has been paid. When the Commission is satisfied as to the
31 genuineness and regularity of the satisfied debt, the Commission shall issue to the
32 owner either a new certificate of title in proper form or an endorsement or rider showing
33 the release of the security interest which the Commission shall attach to the outstanding
34 certificate of title.

35 **"§ 75A-51. Surrender of certificate required when security interest paid.**

36 It is unlawful and constitutes a misdemeanor for a secured party who holds a
37 certificate of title as provided in this Article to refuse or fail to surrender the certificate
38 of title to the person legally entitled to it within 10 days after his security interest has
39 been paid and satisfied.

40 **"§ 75A-52. Levy of execution, etc.**

41 A levy made by virtue of an execution or other proper court order, upon a watercraft
42 for which a certificate of title has been issued by the Commission, shall constitute a lien,
43 subsequent to security interests previously recorded by the Commission and subsequent
44 to security interests in inventory held for sale and perfected as otherwise permitted by

1 law, if and when the officer making the levy reports to the Commission at its principal
2 office, on forms provided by the Commission, that the levy has been made and that the
3 watercraft levied upon has been seized by and is in the custody of the officer. Should
4 the lien thereafter be satisfied or should the watercraft levied upon and seized thereafter
5 be released by the officer, he shall immediately report that fact to the Commission at its
6 principal office. Any owner who, after a levy and seizure by an officer and before the
7 officer reports the levy and seizure to the Commission, fraudulently assigns or transfers
8 his title to or interest in the watercraft, or causes the certificate of title to be assigned or
9 transferred, or causes a security interest to be shown upon such certificate of title, is
10 guilty of a misdemeanor.

11 **"§ 75A-53. Possession of certificate of title issued to another unlawful.**

12 It is unlawful and constitutes a misdemeanor for any person in this State to have in
13 his possession a certificate of title issued by the Commission to a person other than the
14 holder thereof, unless and until the certificate of title has been duly assigned to the
15 holder as provided in this Article. This section shall not apply to secured parties who
16 legally hold such certificates of title as provided in this Chapter.

17 **"§ 75A-54. Registration prima facie evidence of ownership; rebuttal.**

18 Issuance of registration under the provisions of this Chapter shall be **prima facie**
19 evidence of ownership of a watercraft and entitlement to a certificate of title under the
20 provisions of this Article, but the registration and certificate of title shall be subject to
21 rebuttal."

22 Sec. 2. This act shall become effective January 1, 1990.