

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1221
Committee Substitute Favorable 5/24/89
Committee Substitute #2 Favorable 6/24/89

Short Title: Boat Title Act.

(Public)

Sponsors:

Referred to:

April 12, 1989

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

The General Assembly of North Carolina enacts:

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

“ARTICLE 4.
“WATERCRAFT TITLING ACT.

“§ 75A-32. Short title.

This act shall be known as the Watercraft Titling Act.

“§ 75A-33. Definitions.

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

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

1 any sail-powered vessel longer than 18 feet measured along the
2 centerline. The term does not include a vessel which has a valid
3 marine document issued by the United States Coast Guard. The term
4 does not include a commercial fishing vessel as defined in G.S. 75A-
5 5.1(b); provided, however, that an owner of a commercial fishing
6 vessel may voluntarily obtain a certificate of title pursuant to the
7 provisions of G.S. 75A-34(d).

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

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

13 (b) Any owner, except a dealer, of a watercraft which is subject to a lien, shall
14 apply on or before July 31, 1990, for a certificate of title.

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

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

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

24 **"§ 75A-35. Form and contents of application.**

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

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

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

38 **"§ 75A-36. Notice by owner of change of address.**

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

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

1 **"§ 75A-37. Certificate of title prerequisite to issuance of certificate of number.**

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

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

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

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

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

19 **"§ 75A-39. Commission's records; fees.**

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

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

24 **"§ 75A-40. Acquisition of watercraft by dealer.**

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

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

31 **"§ 75A-41. Transfer to or from dealer; manufacturer's or importer's certificate.**

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

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

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

39 (1) A description of the watercraft including its trade name, if any, year,
40 series or model, body type, motor type, size, and manufacturer's serial
41 numbers for both the boat and the motor;

42 (2) Certification of date of transfer of watercraft and name and address of
43 transferee;

1 (3) Certification that the transfer was a transfer of watercraft in ordinary
2 trade and commerce;

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

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

9 **"§ 75A-42. Dealer's records.**

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

13 **"§ 75A-43. Duplicate certificate of title.**

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

21 **"§ 75A-44. Certificate to show security interests.**

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

26 **"§ 75A-45. Security interests subsequently created.**

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

40 **"§ 75A-46. Certificate as notice of security interest.**

41 A certificate of title, when issued by the Commission showing a security interest,
42 shall be deemed adequate notice to the State, creditors, and purchasers that a security
43 interest in the watercraft exists and the recording or filing of the creation or reservation
44 of a security interest in the county or city wherein the purchaser or debtor resides or

1 elsewhere is not necessary and shall not be required. Watercraft, other than those that
2 are inventory held for sale, for which a certificate of title has been issued under this
3 Article shall be exempt from the provisions of G.S. 25-9-302, 25-9-304, 25-9-307, 25-9-
4 309, 25-9-312, 25-9-318, and 25-9-401 to 25-9-408.

5 **"§ 75A-47. Security interest may be filed within 30 days after purchase.**

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

10 **"§ 75A-48. Priority of security interests shown on certificates.**

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

19 **"§ 75A-49. Legal holder of certificate of title subject to security interest.**

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

25 **"§ 75A-50. Release of security interest shown on certificate of title.**

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

37 **"§ 75A-51. Surrender of certificate required when security interest paid.**

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

42 **"§ 75A-52. Levy of execution, etc.**

43 A levy made by virtue of an execution or other proper court order, upon a watercraft
44 for which a certificate of title has been issued by the Commission, shall constitute a lien,

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

13 **"§ 75A-53. Possession of certificate of title issued to another unlawful.**

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

19 **"§ 75A-54. Registration prima facie evidence of ownership; rebuttal.**

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

24 Sec. 2. G.S. 105-259 reads as rewritten:

25 **"§ 105-259. Secrecy required of officials; penalty for violation.**

26 With respect to any one of the following persons: (i) the Secretary of Revenue
27 and all other officers or employees, and former officers and employees, of the
28 Department of Revenue; (ii) local tax officials, as defined in G.S. 105-273, and former
29 local tax officials; (iii) members and former members of the Property Tax Commission;
30 (iv) any other person authorized in this section to receive information concerning any
31 item contained in any report or return, or authorized to inspect any report or return; and
32 (v) the Commissioner of Insurance and all other officers or employees and former
33 officers and employees of the Department of Insurance with respect to State and federal
34 income tax returns filed with the Commissioner of Insurance by domestic insurance
35 companies; and except in accordance with proper judicial order or as otherwise
36 provided by law, it shall be unlawful for any of said persons to divulge or make known
37 in any manner the amount of income, income tax or other taxes of any taxpayer, or
38 information relating thereto or from which the amount of income, income tax or other
39 taxes or any part thereof might be determined, deduced or estimated, whether the same
40 be set forth or disclosed in or by means of any report or return required to be filed or
41 furnished under this Subchapter, or in or by means of any audit, assessment, application,
42 correspondence, schedule or other document relating to such taxpayer, notwithstanding
43 the provisions of Chapter 132 of the General Statutes or of any other law or laws
44 relating to public records. It shall likewise be unlawful to reveal whether or not any

1 taxpayer has filed a return, and to abstract, compile or furnish to any person, firm or
2 corporation not otherwise entitled to information relating to the amount of income,
3 income tax or other taxes of a taxpayer, any list of names, addresses, social security
4 numbers or other personal information concerning such taxpayer, whether or not such
5 list discloses a taxpayer's income, income tax or other taxes, or any part thereof, except
6 that when an election is made by a husband and wife under G.S. 105-152(e) to file their
7 separate returns on a single form, or in order to determine an exemption allowable under
8 G.S. 105-149(a)(2), any information given to one spouse concerning the income or
9 income tax of the other spouse reported or reportable on such single return or on
10 separate returns shall not be a violation of the provisions of this section.

11 Nothing in this section shall be construed to prohibit the publication of statistics, so
12 classified as to prevent the identification of particular reports or returns, and the items
13 thereof; the inspection of such reports or returns by the Governor, Attorney General, or
14 their duly authorized representative; or the inspection by a legal representative of the
15 State of the report or return of any taxpayer who shall bring an action to set aside or
16 review the tax based thereon, or against whom an action or proceeding has been
17 instituted to recover any tax or penalty imposed by this Subchapter; nor shall the
18 provisions of this section prohibit the Department of Revenue furnishing information to
19 other governmental agencies of persons and firms properly licensed under Schedule B,
20 G.S. 105-33 to 105-113. The Department of Revenue may exchange information with
21 the officers of organized associations of taxpayers under Schedule B, G.S. 105-33 to
22 105-113, with respect to parties liable for such taxes and as to parties who have paid
23 such license taxes.

24 When any record of the Department of Revenue shall have been photographed,
25 photocopied or microphotocopied pursuant to the authority contained in G.S. 8-45.3, the
26 original of said record may thereafter be destroyed at any time upon the order of the
27 Secretary of Revenue, notwithstanding the provisions of G.S. 121-5, G.S. 132-3 or any
28 other law or laws relating to the preservation of public records. Any record which shall
29 not have been so photographed, photocopied or microphotocopied shall be preserved for
30 three years, and thereafter until the Secretary of Revenue shall order the same to be
31 destroyed.

32 Any person, officer, agent, clerk, employee, local tax official or former officer,
33 employee or local tax official violating the provisions of this section shall be guilty of a
34 misdemeanor and fined not less than two hundred dollars (\$200.00) nor more than one
35 thousand dollars (\$1,000) and/or imprisoned, in the discretion of the court; and if such
36 offending person be a public officer or employee, he shall be dismissed from such office
37 or employment, and shall not hold any public office or employment in this State for a
38 period of five years thereafter.

39 Notwithstanding the provisions of this section, the Secretary of Revenue may permit
40 the Commissioner of Internal Revenue of the United States, or the revenue officer of
41 any other state imposing any of the taxes imposed in this Subchapter, or the duly
42 authorized representative of either, to inspect the report or return of any taxpayer; or
43 may furnish such officer or his authorized agent an abstract of the report or return of any
44 taxpayer; or supply such officer with information concerning any item contained in any

1 report or return, or disclosed by the report of any investigation of such report or return
2 of any taxpayer. Such permission, however, shall be granted or such information
3 furnished to such officer, or his duly authorized representatives, only if the statutes of
4 the United States or of such other state grants substantially similar privilege to the
5 Secretary of Revenue of this State or his duly authorized representative.
6 Notwithstanding contrary provisions of this section, the Secretary may also furnish to
7 the Employment Security Commission account and identification numbers, and names
8 and addresses, of taxpayers when said Commission requires such information for the
9 purpose of administering Chapter 96 of the General Statutes. Notwithstanding contrary
10 provisions of this section, upon request, the Secretary may also furnish to the North
11 Carolina Wildlife Resources Commission information tending to identify a taxpayer as
12 a watercraft dealer when the Wildlife Resources Commission needs the information to
13 administer Article 4 of Chapter 75A of the General Statutes. Neither this section nor
14 any other law prevents the exchange of information between the Department of
15 Revenue and the Department of Transportation's Division of Motor Vehicles when the
16 information is needed by either to administer the laws with which they are charged.
17 Notwithstanding any other provision of law, State officers and employees who perform
18 computerized data processing functions pursuant to G.S. 143-341(9) for the Department
19 of Revenue are authorized to receive and process for the Department of Revenue
20 information in reports and returns and are subject to the criminal provisions of this
21 section.

22 Notwithstanding the provisions of this section, the Secretary of Revenue may
23 contract with any person, firm or corporation to receive and address, sort, bag, or deliver
24 to the United States Postal Service any bulk mailing originated by the Department of
25 Revenue, and may deliver the mail to the contractor pursuant to the contract. To ensure
26 performance of the contract, the contractor shall furnish a bond in a form and amount
27 acceptable to the Secretary."

28 Sec. 3. This act shall become effective July 1, 1990.