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Short Title: Watercraft Titling Act.

(Public)

Sponsors:

Referred to:

May 3, 1989

A BILL TO BE ENTITLED
AN ACT TO ALLOW THE TITLING OF WATERCRAFT.

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) ‘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.

“§ 75A-34. Who may apply for certificate of title; authority of employees of Commission.

(a) Any owner of any watercraft in this State, which is not titled elsewhere, may apply to the Commission for a certificate of title. The Commission shall issue a

1 certificate of title upon reasonable evidence of ownership, which may be established by
2 affidavits, bills of sale, or other similar documents.

3 (b) Employees of the Commission are vested with the power to administer oaths
4 and to take acknowledgements and affidavits incidental to the administration and
5 enforcement of this section. They shall receive no compensation for these services.

6 **"§ 75A-35. Form and contents of application.**

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

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

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

20 **"§ 75A-36. Notice by owner of change of address.**

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

25 A fee of ten dollars (\$10.00) shall be imposed upon anyone failing to comply with
26 this section within the time prescribed.

27 **"§ 75A-37. Certificate of title as evidence; duration; transfer of title.**

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

31 (b) Upon the sale, assignment, or transfer of a watercraft which has been issued a
32 certificate of title under this Article by the legal holder of the certificate, the certificate
33 of title may, at the option of the purchaser or transferee, be delivered to the purchaser or
34 transferee with an assignment on the certificate showing title in the purchaser or
35 transferee. Otherwise, the certificate shall be returned to the Commission for
36 cancellation.

37 **"§ 75A-38. Commission's records; fees.**

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

39 (b) The Commission shall charge a fee of twenty dollars (\$20.00) for issue of
40 each certificate of title, and ten dollars (\$10.00) for each transfer of title, duplicate title,
41 or recording of a supplemental lien.

42 **"§ 75A-39. Duplicate certificate of title.**

43 The Commission may issue a duplicate certificate of title plainly marked 'duplicate'
44 across its face upon application by the person entitled to hold the certificate if the

1 Commission is satisfied that the original certificate has been lost, stolen, mutilated,
2 destroyed, or has become illegible. Mutilated or illegible certificates shall be returned
3 to the Commission with the application for a duplicate. If a duplicate certificate of title
4 has been issued and the lost or stolen original is recovered, the original shall be
5 promptly surrendered to the Commission for cancellation.

6 **"§ 75A-40. Certificate to show security interests.**

7 The Commission, after receiving an application for a certificate of title to a
8 watercraft, shall, upon issuing the certificate of title to the owner, show upon the face of
9 the certificate of title all security interests in the order of their priority as shown in the
10 application.

11 **"§ 75A-41. Security interests subsequently created.**

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

25 **"§ 75A-42. Certificate as notice of security interest.**

26 A certificate of title, when issued by the Commission showing a security interest,
27 shall be deemed adequate notice to the State, creditors, and purchasers that a security
28 interest in the watercraft exists and the recording or filing of the creation or reservation
29 of a security interest in the county or city wherein the purchaser or debtor resides or
30 elsewhere is not necessary and shall not be required. Watercraft, other than those that
31 are inventory held for sale, for which a certificate of title is currently in effect, shall be
32 exempt from the provisions of G.S. 25-9-302, 25-9-304, 25-9-307, 25-9-309, 25-9-312,
33 25-9-318, and 25-9-401 to 25-9-408 for so long as the certificate of title remains in
34 effect.

35 **"§ 75A-43. Security interest may be filed within 30 days after purchase.**

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

40 **"§ 75A-44. Priority of security interests shown on certificates.**

41 The security interests, except security interests in watercraft which are inventory
42 held for sale and which are perfected under G.S. 25-9-301 to 25-9-408, shown upon the
43 certificates of title issued by the Commission pursuant to applications for certificates
44 shall have priority over any other liens or security interests against the watercraft

1 however created and recorded, except for a mechanics lien for repairs, provided that the
2 mechanic furnishes the holder of any recorded lien who may request it with an itemized
3 sworn statement of the work done and materials supplied for which the lien is claimed.

4 **"§ 75A-45. Legal holder of certificate of title subject to security interest.**

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

10 **"§ 75A-46. Release of security interest shown on certificate of title.**

11 An owner, upon securing the release of any security interest upon a watercraft
12 shown upon the certificate of title issued for the watercraft, may exhibit the documents
13 evidencing the release, signed by the person or persons making the release, and the
14 certificate of title to the Commission. When it is impossible to secure the release from
15 the secured party, the owner may exhibit to the Commission any available evidence
16 showing that the debt secured has been satisfied, together with a statement by the owner
17 under oath that the debt has been paid. When the Commission is satisfied as to the
18 genuineness and regularity of the satisfied debt, the Commission shall issue to the
19 owner either a new certificate of title in proper form or an endorsement or rider showing
20 the release of the security interest which the Commission shall attach to the outstanding
21 certificate of title.

22 **"§ 75A-47. Surrender of certificate required when security interest paid.**

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

27 **"§ 75A-48. Levy of execution, etc.**

28 A levy made by virtue of an execution or other proper court order, upon a watercraft
29 for which a certificate of title has been issued by the Commission, shall constitute a lien,
30 subsequent to security interests previously recorded by the Commission and subsequent
31 to security interests in inventory held for sale and perfected as otherwise permitted by
32 law, if and when the officer making the levy reports to the Commission at its principal
33 office, on forms provided by the Commission, that the levy has been made and that the
34 watercraft levied upon has been seized by and is in the custody of the officer. Should
35 the lien thereafter be satisfied or should the watercraft levied upon and seized thereafter
36 be released by the officer, he shall immediately report that fact to the Commission at its
37 principal office. Any owner who, after a levy and seizure by an officer and before the
38 officer reports the levy and seizure to the Commission, fraudulently assigns or transfers
39 his title to or interest in the watercraft, or causes the certificate of title to be assigned or
40 transferred, or causes a security interest to be shown upon such certificate of title, is
41 guilty of a misdemeanor.

42 **"§ 75A-49. Possession of certificate of title issued to another unlawful.**

43 It is unlawful and constitutes a misdemeanor for any person in this State to have in
44 his possession a certificate of title issued by the Commission to a person other than the

1 holder thereof, unless and until the certificate of title has been duly assigned to the
2 holder as provided in this Article. This section shall not apply to secured parties who
3 legally hold such certificates of title as provided in this Chapter.

4 "**§ 75A-50. Registration prima facie evidence of ownership; rebuttal.**

5 Issuance of registration under the provisions of this Chapter shall be **prima facie**
6 **evidence of ownership** of a watercraft and entitlement to a certificate of title under the
7 provisions of this Article, but the registration and certificate of title shall be subject to
8 **rebuttal.**"

9 Sec. 2. This act shall become effective July 1, 1990.