

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1221

Short Title: Boat Title Act.

(Public)

Sponsors: Representatives Brubaker; and Bowman.

Referred to: Government.

April 12, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE TITLING OF BOATS AND OTHER WATERCRAFT.
3 The General Assembly of North Carolina enacts:

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

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

8 **“§ 75A-32. Short Title.**

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

10 **“§ 75A-33. Definitions.**

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

- 12 (1) ‘Division’ means the Division of Motor Vehicles of the North Carolina
13 Department of Transportation.
14 (2) ‘Dealer’ means any person whom the Department of Revenue finds to
15 be in the regular business of selling watercraft, and who has held,
16 during the calendar year, five or more watercraft for resale.
17 (3) ‘Watercraft’ means every description of watercraft, other than a
18 seaplane on the water, used or capable of being used as a means of
19 transportation on water, and which is (i) fifteen feet or more in overall
20 length measured along the centerline, has a gross weight of four
21 hundred pounds, and is powered by a motor in excess of twenty-five
22 horsepower or (ii) any sail-powered vessel longer than eighteen feet
23 measured along the centerline. The term does not include a vessel

1 which has a valid marine document issued by the United States Coast
2 Guard.

3 **"§ 75A-34. Who must or may apply for certificate of title; authority of employees**
4 **of Division.**

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

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

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

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

16 (e) Employees of the Division are vested with the power to administer oaths and
17 to take acknowledgements and affidavits incidental to the administration and
18 enforcement of this section. They shall receive no compensation for these services.

19 **"§ 75A-35. Form and contents of application.**

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

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

31 The application shall be made on forms prescribed and furnished by the Division
32 and shall contain other information as may be required by the Division.

33 **"§ 75A-36. Notice by owner of change of address.**

34 Whenever any person, after applying for or obtaining the certificate of title of a
35 watercraft, moves from the address shown in the application or upon the certificate of
36 title, that person shall, within 30 days, notify the Division in writing of his change of
37 address.

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

40 **"§ 75A-37. Certificate of title prerequisite to issuance of certificate of number.**

41 The Division shall neither issue nor renew a certificate of number to any watercraft
42 required to be titled in this State unless the Division has issued a certificate of title to the
43 owner.

1 **"§ 75A-38. Certificate of title required; certificate as evidence; duration; transfer**
2 **of title.**

3 (a) Except for amphibious vessels which have a valid motor vehicle title issued
4 by the Division, or a watercraft owned by a bona fide dealer, no person shall operate a
5 watercraft subject to titling under this Article unless the owner has applied to the
6 Division for a certificate of title for that watercraft.

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

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

15 **"§ 75A-39. Division's records; fees.**

16 (a) The Division shall maintain a record of any title it issues.

17 (b) The Division shall charge a fee of ten dollars (\$10.00) for issue of each
18 certificate of title, and seven dollars (\$7.00) for each transfer of title, duplicate title, or
19 recording of a supplemental lien.

20 **"§ 75A-40. Acquisition of watercraft by dealer.**

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

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

27 **"§ 75A-41. Transfer to or from dealer; manufacturer's or importer's certificate.**

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

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

33 (c) The manufacturer's or importer's certificate shall be a uniform or standardized
34 form prescribed by the Division, and shall contain:

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

38 (2) Certification of date of transfer of watercraft and name and address of
39 transferee;

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

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

43 (d) On the reverse side of each manufacturer's or importer's certificate shall
44 appear an assignment form, including the name and address of the transferee, a

1 certification that the watercraft is new, and a warranty that the title at the time of
2 delivery is subject only to liens and encumbrances as set forth and described in full in
3 the assignment.

4 **"§ 75A-42. Dealer's records.**

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

8 **"§ 75A-43. Duplicate certificate of title.**

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

16 **"§ 75A-44. Certificate to show security interests.**

17 The Division, after receiving an application for a certificate of title to a watercraft,
18 shall, upon issuing the certificate of title to the owner, show upon the face of the
19 certificate of title all security interests in the order of their priority as shown in the
20 application.

21 **"§ 75A-45. Security interests subsequently created.**

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

35 **"§ 75A-46. Certificate as notice of security interest.**

36 A certificate of title, when issued by the Division showing a security interest, shall
37 be deemed adequate notice to the State, creditors, and purchasers that a security interest
38 in the watercraft exists and the recording or filing of the creation or reservation of a
39 security interest in the county or city wherein the purchaser or debtor resides or
40 elsewhere is not necessary and shall not be required. Watercraft, other than those that
41 are inventory held for sale, for which a certificate of title has been issued under this
42 Article shall be exempt from the provisions of G.S. 25-9-302, 25-9-304, 25-9-307, 25-9-
43 309, 25-9-312, 25-9-318, and 25-9-401 to 25-9-408.

44 **"§ 75A-47. Security interest may be filed within thirty days after purchase.**

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

5 **"§ 75A-48. Priority of security interests shown on certificates.**

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

14 **"§ 75A-49. Legal holder of certificate of title subject to security interest.**

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

20 **"§ 75A-50. Release of security interest shown on certificate of title.**

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

31 **"§ 75A-51. Surrender of certificate required when security interest paid.**

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

36 **"§ 75A-52. Levy of execution, etc.**

37 A levy made by virtue of an execution or other proper court order, upon a watercraft
38 for which a certificate of title has been issued by the Division, shall constitute a lien,
39 subsequent to security interests previously recorded by the Division and subsequent to
40 security interests in inventory held for sale and perfected as otherwise permitted by law,
41 if and when the officer making the levy reports to the Division at its principal office, on
42 forms provided by the Division, that the levy has been made and that the watercraft
43 levied upon has been seized by and is in the custody of the officer. Should the lien
44 thereafter be satisfied or should the watercraft levied upon and seized thereafter be

1 released by the officer, he shall immediately report that fact to the Division at its
2 principal office. Any owner who, after a levy and seizure by an officer and before the
3 officer reports the levy and seizure to the Division, fraudulently assigns or transfers his
4 title to or interest in the watercraft, or causes the certificate of title to be assigned or
5 transferred, or causes a security interest to be shown upon such certificate of title, is
6 guilty of a misdemeanor.

7 **"§ 75A-53. Possession of certificate of title issued to another unlawful.**

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

13 **"§ 75A-54. Registration prima facie evidence of ownership; rebuttal.**

14 Issuance of registration under the provisions of this Chapter shall be **prima facie**
15 evidence of ownership of a watercraft and entitlement to a certificate of title under the
16 provisions of this Article, but the registration and certificate of title shall be subject to
17 rebuttal."

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