

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1151  
Second Edition Engrossed 6/7/89  
Finance Committee Substitute Adopted 6/30/89

Short Title: Watercraft Titling Act.

(Public)

Sponsors:

Referred to:

May 3, 1989

1 A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE THE TITLING OF 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) ‘Commission’ means the North Carolina Wildlife Resources  
13 Commission.  
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) 15 feet or more in overall  
20 length measured along the centerline, has a gross weight of 400  
21 pounds, and is powered by a motor in excess of twenty-five  
22 horsepower or (ii) any sail-powered vessel longer than 18 feet

1                   measured along the centerline. The term does not include commercial  
2                   fishing boats as defined in G.S. 75A-5.1(b) or a vessel which has a  
3                   valid marine document issued by the United States Coast Guard.

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

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

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

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

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

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

20    **"§ 75A-35. Form and contents of application.**

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

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

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

34    **"§ 75A-36. Notice by owner of change of address.**

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

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

41    **"§ 75A-37. Certificate of title prerequisite to issuance of certificate of number.**

42          The Commission shall neither issue nor renew a certificate of number to any  
43          watercraft required to be titled in this State unless the Commission has issued a  
44          certificate of title to the 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 title issued by the Division  
4 of Motor Vehicles, or a watercraft owned by a bona fide dealer, no person shall operate  
5 a watercraft subject to titling under this Article unless the owner has applied to the  
6 Commission 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. Commission's records; fees.**

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

17 (b) The Commission shall charge a fee of twenty dollars (\$20.00) for issue of  
18 each certificate of title, and ten dollars (\$10.00) for each transfer of title, duplicate title,  
19 or 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 Commission, 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 Commission, 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 Commission representatives during reasonable business hours.

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

9 The Commission 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 Commission 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 Commission with the application for a duplicate. If a duplicate certificate of title  
14 has been issued and the lost or stolen original is recovered, the original shall be  
15 promptly surrendered to the Commission for cancellation.

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

17 The Commission, after receiving an application for a certificate of title to a  
18 watercraft, shall, upon issuing the certificate of title to the owner, show upon the face of  
19 the 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 Commission on a blank furnished for that purpose, setting forth the security interests  
27 and other information as the Commission requires. The Commission, if satisfied that it  
28 is 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 Commission may  
32 require any secured party to deliver the certificate of title to the Commission. The  
33 newly issued certificate shall be sent or delivered to the secured party from whom the  
34 prior certificate was obtained.

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

36 A certificate of title, when issued by the Commission showing a security interest,  
37 shall be deemed adequate notice to the State, creditors, and purchasers that a security  
38 interest in the watercraft exists and the recording or filing of the creation or reservation  
39 of a 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 30 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 Commission 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 Commission pursuant to applications for certificates  
9 shall have priority over any other liens or security interests against the watercraft  
10 however created and recorded, except for a mechanics lien for repairs in an amount of  
11 up to one hundred fifty dollars (\$150.00), provided that the mechanic furnishes the  
12 holder of any recorded lien who may request it with an itemized sworn statement of the  
13 work done 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 Commission. When it is impossible to secure the release from  
25 the secured party, the owner may exhibit to the Commission any available evidence  
26 showing that the debt secured has been satisfied, together with a statement by the owner  
27 under oath that the debt has been paid. When the Commission is satisfied as to the  
28 genuineness and regularity of the satisfied debt, the Commission shall issue to the  
29 owner either a new certificate of title in proper form or an endorsement or rider showing  
30 the release of the security interest which the Commission shall attach to the outstanding  
31 certificate of title.

32 **"§ 75A-51. Surrender of certificate required when security interest paid.**

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

37 **"§ 75A-52. Levy of execution, etc.**

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

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

8 **"§ 75A-53. Possession of certificate of title issued to another unlawful.**

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

14 **"§ 75A-54. Registration prima facie evidence of ownership; rebuttal.**

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

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

20 **"§ 105-259. Secrecy required of officials; penalty for violation.**

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

1 that when an election is made by a husband and wife under G.S. 105-152(e) to file their  
2 separate returns on a single form, or in order to determine an exemption allowable under  
3 G.S. 105-149(a)(2), any information given to one spouse concerning the income or  
4 income tax of the other spouse reported or reportable on such single return or on  
5 separate returns shall not be a violation of the provisions of this section.

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

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

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

34 Notwithstanding the provisions of this section, the Secretary of Revenue may permit  
35 the Commissioner of Internal Revenue of the United States, or the revenue officer of  
36 any other state imposing any of the taxes imposed in this Subchapter, or the duly  
37 authorized representative of either, to inspect the report or return of any taxpayer; or  
38 may furnish such officer or his authorized agent an abstract of the report or return of any  
39 taxpayer; or supply such officer with information concerning any item contained in any  
40 report or return, or disclosed by the report of any investigation of such report or return  
41 of any taxpayer. Such permission, however, shall be granted or such information  
42 furnished to such officer, or his duly authorized representatives, only if the statutes of  
43 the United States or of such other state grants substantially similar privilege to the  
44 Secretary of Revenue of this State or his duly authorized representative.

1 Notwithstanding contrary provisions of this section, the Secretary may also furnish to  
2 the Employment Security Commission account and identification numbers, and names  
3 and addresses, of taxpayers when said Commission requires such information for the  
4 purpose of administering Chapter 96 of the General Statutes. Notwithstanding contrary  
5 provisions of this section, upon request, the Secretary may also furnish to the North  
6 Carolina Wildlife Resources Commission information tending to identify a taxpayer as  
7 a watercraft dealer when the Wildlife Resources Commission needs the information to  
8 administer Article 4 of Chapter 75A of the General Statutes. Neither this section nor  
9 any other law prevents the exchange of information between the Department of  
10 Revenue and the Department of Transportation's Division of Motor Vehicles when the  
11 information is needed by either to administer the laws with which they are charged.  
12 Notwithstanding any other provision of law, State officers and employees who perform  
13 computerized data processing functions pursuant to G.S. 143-341(9) for the Department  
14 of Revenue are authorized to receive and process for the Department of Revenue  
15 information in reports and returns and are subject to the criminal provisions of this  
16 section.

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

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