

1 SB266
2 168426-9
3 By Senator Blackwell
4 RFD: Transportation and Energy
5 First Read: 17-FEB-16

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8 SYNOPSIS: This bill would adopt the Uniform
9 Certificate of Title for Vessels Act.

10 This bill would allow the owner of a vessel
11 to voluntarily obtain a certificate of title on the
12 vessel and would provide a procedure for the owner
13 of a vessel to make application with the Alabama
14 State Law Enforcement Agency.

15 This bill would specify the process for
16 perfecting a security interest on a vessel and
17 provide for the maintenance of records and files
18 regarding the security agreement.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 To adopt the Uniform Certificate of Title for
25 Vessels Act, to provide for the issuance by the Alabama State
26 Law Enforcement Agency of certificates of title on vessels; to
27 allow owners of vessels to voluntarily obtain a certificate of

1 title; to provide for the application process; to provide for
2 the issuance of certificates of title; and to provide the
3 perfecting of a security interest on a vessel and to provide
4 for the maintenance of records and files regarding security
5 interests.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. SHORT TITLE. This act may be cited as the
8 Uniform Certificate of Title for Vessels Act.

9 Section 2. DEFINITIONS.

10 (a) In this act:

11 (1) "Barge" means a vessel that is not selfpropelled
12 or fitted for propulsion by sail, paddle, oar, or similar
13 device.

14 (2) "Builder's certificate" means a certificate of
15 the facts of build of a vessel described in 46 C.F.R.
16 Section 67.99, as amended.

17 (3) "Buyer" means a person that buys or contracts to
18 buy a vessel.

19 (4) "Cancel," with respect to a certificate of
20 title, means to make the certificate ineffective.

21 (5) "Certificate of origin" means a record created
22 by a manufacturer or importer as the manufacturer's or
23 importer's proof of identity of a vessel. The term includes a
24 manufacturer's certificate or statement of origin and an
25 importer's certificate or statement of origin. The term does
26 not include a builder's certificate.

1 (6) "Certificate of title" means a record, created
2 by the office under this act or by a governmental agency of
3 another jurisdiction under the law of that jurisdiction that
4 is designated as a certificate of title by the office or
5 agency and is evidence of ownership of a vessel.

6 (7) "Dealer" means a person, including a
7 manufacturer, in the business of selling vessels.

8 (8) "Documented vessel" means a vessel covered by a
9 certificate of documentation issued pursuant to 46 U.S.C.
10 Section 12105, as amended. The term does not include a
11 foreign-documented vessel.

12 (9) "Electronic" means relating to technology having
13 electrical, digital, magnetic, wireless, optical,
14 electromagnetic, or similar capabilities.

15 (10) "Electronic certificate of title" means a
16 certificate of title consisting of information that is stored
17 solely in an electronic medium and is retrievable in
18 perceivable form.

19 (11) "Foreign-documented vessel" means a vessel the
20 ownership of which is recorded in a registry maintained by a
21 country other than the United States which identifies each
22 person that has an ownership interest in a vessel and includes
23 a unique alphanumeric designation for the vessel.

24 (12) "Good faith" means honesty in fact in the
25 conduct or transaction concerned.

26 (13) "Hull damaged" means compromised with respect
27 to the integrity of a vessel's hull by a collision, allision,

1 lightning strike, fire, explosion, running aground, or similar
2 occurrence, or the sinking of a vessel in a manner that
3 creates a significant risk to the integrity of the vessel's
4 hull.

5 (14) "Hull identification number" means the
6 alphanumeric designation assigned to a vessel pursuant to 33
7 C.F.R. Part 181, as amended.

8 (15) "Lien creditor," with respect to a vessel,
9 means:

10 (A) a creditor that has acquired a lien on the
11 vessel by attachment, levy, or the like;

12 (B) an assignee for benefit of creditors from the
13 time of assignment;

14 (C) a trustee in bankruptcy from the date of the
15 filing of the petition;

16 (D) a receiver in equity from the time of
17 appointment; or

18 (E) a person with a lien arising under Section
19 35-11-60, Code of Alabama 1975.

20 (16) "Office" means the Alabama State Law
21 Enforcement Agency.

22 (17) "Owner" means a person that has legal title to
23 a vessel.

24 (18) "Owner of record" means the owner indicated in
25 the files of the office or, if the files indicate more than
26 one owner, the one first indicated.

1 (19) "Person" means an individual, corporation,
2 business trust, estate, trust, statutory trust, partnership,
3 limited liability company, association, joint venture, public
4 corporation, government or governmental subdivision, agency,
5 or instrumentality, or any other legal or commercial entity.

6 (20) "Purchase" means to take by sale, lease,
7 mortgage, pledge, consensual lien, security interest, gift, or
8 any other voluntary transaction that creates an interest in a
9 vessel.

10 (21) "Purchaser" means a person that takes by
11 purchase.

12 (22) "Record" means information that is inscribed on
13 a tangible medium or that is stored in an electronic or other
14 medium and is retrievable in perceivable form.

15 (23) "Secured party," with respect to a vessel,
16 means a person:

17 (A) in whose favor a security interest is created or
18 provided for under a security agreement, whether or not any
19 obligation to be secured is outstanding;

20 (B) that is a consignor under Title 7, Article 9A of
21 the Code of Alabama 1975; or

22 (C) that holds a security interest arising under
23 Section 7-2-401, 7-2-505, 7-2-711(3), or 7-2A-508(5) of the
24 Code of Alabama 1975.

25 (24) "Secured party of record" means the secured
26 party whose name is indicated as the name of the secured party

1 in the files of the office or, if the files indicate more than
2 one secured party, the one first indicated.

3 (25) "Security interest" means an interest in a
4 vessel which secures payment or performance of an obligation
5 created by contract or pursuant to Article 9A of Title 7 of
6 the Code Alabama 1975, or this act, or if the interest is
7 created by contract or arises under Section 7-2-401, 7-2-505,
8 7-2-711(3), or 7-2A-508(5) of the Code of Alabama 1975. The
9 term includes any interest of a consignor in a vessel in a
10 transaction that is subject to Title 7, Article 9A of the Code
11 of Alabama 1975. The term does not include the special
12 property interest of a buyer of a vessel on identification of
13 that vessel to a contract for sale under Section 7-2-501 of
14 the Code of Alabama 1975, but a buyer also may acquire a
15 security interest by complying with Title 7, Article 9A of the
16 Code of Alabama 1975. Except as otherwise provided in Section
17 7-2-505, Code of Alabama 1975, the right of a seller or lessor
18 of a vessel under Section 7, Article 2 or 2A of the Code of
19 Alabama 1975 to retain or acquire possession of the vessel is
20 not a security interest, but a seller or lessor also may
21 acquire a security interest by complying with Title 7, Article
22 9A of the Code of Alabama 1975. The retention or reservation
23 of title by a seller of a vessel notwithstanding shipment or
24 delivery to the buyer under Section 7-2-401 of the Code of
25 Alabama 1975 is limited in effect to a reservation of a
26 security interest. Whether a transaction in the form of a

1 lease creates a security interest is determined by Section
2 7-1-203 of the Code of Alabama 1975.

3 (26) "Sign" means, with present intent to
4 authenticate or adopt a record, to:

5 (A) make or adopt a tangible symbol; or

6 (B) attach to or logically associate with the record
7 an electronic symbol, sound, or process.

8 (27) "State" means a state of the United States, the
9 District of Columbia, Puerto Rico, the United States Virgin
10 Islands, or any territory or insular possession subject to the
11 jurisdiction of the United States.

12 (28) "State of principal use" means the state on
13 whose waters a vessel is or will be used, operated, navigated,
14 or employed more than on the waters of any other state during
15 a calendar year.

16 (29) "Title brand" means a designation of previous
17 damage, use, or condition that must be indicated on a
18 certificate of title.

19 (30) "Transfer of ownership" means a voluntary or
20 involuntary conveyance of an interest in a vessel.

21 (31) "Vessel" means any watercraft used or capable
22 of being used as a means of transportation on water, except:

23 (A) a seaplane;

24 (B) an amphibious vehicle for which a certificate of
25 title is issued pursuant to Chapter 8 of Title 32 of the Code
26 of Alabama 1975 or a similar statute of another state;

1 (C) watercraft less than 16 feet in length and not
2 capable of being motorized;

3 (D) watercraft that operate only on a permanently
4 fixed, manufactured course and the movement of which is
5 restricted to or guided by means of a mechanical device to
6 which the watercraft is attached or by which the watercraft is
7 controlled;

8 (E) a stationary floating structure that:

9 (i) does not have and is not designed to have a mode
10 of propulsion of its own;

11 (ii) is dependent for utilities upon a continuous
12 utility hookup to a source originating on shore; and

13 (iii) has a permanent, continuous hookup to a
14 shoreside sewage system;

15 (F) watercraft owned by the United States, a state,
16 or a foreign government or a political subdivision of any of
17 them; and

18 (G) watercraft used solely as a lifeboat on another
19 watercraft.

20 (32) "Vessel number" means the alphanumeric
21 designation for a vessel issued pursuant to 46 U.S.C. Section
22 12301, as amended.

23 (33) "Written certificate of title" means a
24 certificate of title consisting of information inscribed on a
25 tangible medium.

26 (b) The following definitions and terms also apply
27 to this act:

1 (1) "Agreement," Section 7-1-201(b) (3) of the Code
2 of Alabama 1975.

3 (2) "Buyer in ordinary course of business," Section
4 7-1-201(b) (9) of the Code of Alabama 1975.

5 (3) "Conspicuous," Section 7-1-201(b) (10) of the
6 Code of Alabama 1975.

7 (4) "Consumer goods," Section 7-9A-102(a) (23) of the
8 Code of Alabama 1975.

9 (5) "Debtor," Section 7-9A-102(a) (28) of the Code of
10 Alabama 1975.

11 (6) "Knowledge," Section 7-1-202 of the Code of
12 Alabama 1975.

13 (7) "Lease," Section 7-2A-103(1) (j) of the Code of
14 Alabama 1975.

15 (8) "Lessor," Section 7-2A-103(1) (p) of the Code of
16 Alabama 1975.

17 (9) "Notice," Section 7-1-202 of the Code of Alabama
18 1975.

19 (10) "Representative," Section 7-1-201(b) (33) of the
20 Code of Alabama 1975.

21 (11) "Sale," Section 7-2-106(1) of the Code of
22 Alabama 1975.

23 (12) "Security agreement," Section 7-9A-102(a) (74)
24 of the Code of Alabama 1975.

25 (13) "Seller," Section 7-2-103(1) (d) of the Code of
26 Alabama 1975.

1 (14) "Send," Section 7-1-201(b) (36) of the Code of
2 Alabama 1975.

3 (15) "Value," Section 7-1-204 of the Code of Alabama
4 1975.

5 (c) The definitions in subsections (a) and (b) do
6 not apply to any state or federal law governing licensing,
7 numbering, or registration if the same term is used in that
8 law.

9 Section 3. APPLICABILITY. Subject to Section 29,
10 this act applies to any transaction, certificate of title, or
11 record relating to a vessel, even if the transaction,
12 certificate of title, or record was entered into or created
13 before January 1, 2017.

14 Section 4. SUPPLEMENTAL PRINCIPLES OF LAW AND
15 EQUITY. Unless displaced by a provision of this act, the
16 principles of law and equity supplement its provisions.

17 Section 5. LAW GOVERNING VESSEL COVERED BY
18 CERTIFICATE OF TITLE.

19 (a) The law of the jurisdiction under whose
20 certificate of title a vessel is covered governs all issues
21 relating to the certificate from the time the vessel becomes
22 covered by the certificate until the vessel becomes covered by
23 another certificate or becomes a documented vessel, even if no
24 other relationship exists between the jurisdiction and the
25 vessel or its owner.

26 (b) A vessel becomes covered by a certificate of
27 title when an application for the certificate is delivered to

1 the office in accordance with this act or to the governmental
2 agency that creates a certificate in another jurisdiction in
3 accordance with the law of that jurisdiction.

4 Section 6. CERTIFICATE OF TITLE.

5 (a) Except as otherwise provided in subsections (b)
6 and (c), the owner of a vessel for which this state is the
7 state of principal use may deliver to the office an
8 application for a certificate of title for the vessel not
9 later than 20 days after the later of:

10 (1) the date of a transfer of ownership; or

11 (2) the date this state becomes the state of
12 principal use.

13 (b) An application for a certificate of title is
14 voluntary and is not required for any vessel.

15 (c) The office may not issue, transfer, or renew a
16 certificate of number for a vessel issued pursuant to the
17 requirements of 46 U.S.C. Section 12301, as amended, unless
18 the office has created a certificate of title for the vessel
19 or an application for a certificate of title for the vessel
20 has been delivered to the office.

21 Section 7. APPLICATION FOR CERTIFICATE OF TITLE.

22 (a) Except as otherwise provided in Sections 10, 15,
23 19, 20, 21, and 22, only an owner may request for a
24 certificate of title.

25 (b) An application for a certificate of title must
26 be signed by the applicant and contain:

1 (1) the applicant's name, the street address of the
2 applicant's principal residence, and, if different, the
3 applicant's mailing address;

4 (2) the name and mailing address of each other owner
5 of the vessel;

6 (3) the Social Security number or taxpayer
7 identification number of each owner;

8 (4) the hull identification number for the vessel
9 or, if none, an application for the issuance of a hull
10 identification number for the vessel;

11 (5) the vessel number for the vessel or, if none
12 issued by the office, an application for a vessel number;

13 (6) a description of the vessel as required by the
14 office, which must include:

15 (A) the official number for the vessel, if any,
16 assigned by the United States Coast Guard;

17 (B) the name of the manufacturer, builder, or maker;

18 (C) the model year or, if none, the year in which
19 the manufacture or build of the vessel was completed;

20 (D) the overall length of the vessel;

21 (E) the vessel type;

22 (F) the hull material;

23 (G) the propulsion type;

24 (H) the engine drive type, if any; and

25 (I) the fuel type, if any;

1 (7) an indication of all security interests in the
2 vessel known to the applicant and the name and mailing address
3 of each secured party;

4 (8) a statement that the vessel is not a documented
5 vessel or a foreign-documented vessel;

6 (9) any title brand known to the applicant and, if
7 known, the jurisdiction under whose law the title brand was
8 created;

9 (10) if the applicant knows that the vessel is hull
10 damaged, a statement that the vessel is hull damaged;

11 (11) if the application is made in connection with a
12 transfer of ownership, the transferor's name, street address,
13 and, if different, mailing address, the sales price, if any,
14 and the date of the transfer; and

15 (12) if the vessel previously was registered or
16 titled in another jurisdiction, a statement identifying each
17 jurisdiction known to the applicant in which the vessel was
18 registered or titled.

19 (c) In addition to the information required by
20 subsection (b), an application for a certificate of title may
21 contain an electronic communication address of the owner,
22 transferor, or secured party.

23 (d) Except as otherwise provided in Section 19, 20,
24 21, or 22, an application for a certificate of title must be
25 accompanied by:

26 (1) a certificate of title signed by the owner shown
27 on the certificate and which:

1 (A) identifies the applicant as the owner of the
2 vessel; or

3 (B) is accompanied by a record that identifies the
4 applicant as the owner; or

5 (2) if there is no certificate of title:

6 (A) if the vessel was a documented vessel, a record
7 issued by the United States Coast Guard which shows the vessel
8 is no longer a documented vessel and identifies the applicant
9 as the owner;

10 (B) if the vessel was a foreign-documented vessel, a
11 record issued by the foreign country which shows the vessel is
12 no longer a foreign-documented vessel and identifies the
13 applicant as the owner; or

14 (C) in all other cases, a certificate of origin,
15 bill of sale, or other record that to the satisfaction of the
16 office identifies the applicant as the owner.

17 (e) A record submitted in connection with an
18 application is part of the application. The office shall
19 maintain the record in its files.

20 (f) The office may require that an application for a
21 certificate of title be accompanied by payment or evidence of
22 taxes payable by the applicant under law of this state other
23 than this act in connection with the application or the
24 acquisition or use of the vessel. If a provision of this act
25 places a duty on the office on delivery to it of an
26 application for a certificate of title and the office requires
27 that the application be accompanied by payment or evidence of

1 payment of taxes payable by the applicant under law of this
2 state other than this act, the office is not required to carry
3 out its duty in the absence of such payment or evidence of
4 payment.

5 Section 8. CREATION AND CANCELLATION OF CERTIFICATE
6 OF TITLE.

7 (a) Unless an application for a certificate of title
8 is rejected under subsection (c) or (d), the office shall
9 create a certificate for the vessel in accordance with
10 subsection (b) not later than 20 days after delivery to it of
11 an application that complies with Section 7.

12 (b) If the office creates electronic certificates of
13 title, the office shall create an electronic certificate
14 unless in the application the secured party of record or, if
15 none, the owner of record, requests that the office create a
16 written certificate.

17 (c) Except as otherwise provided in subsection (d),
18 the office may reject an application for a certificate of
19 title only if:

20 (1) the application does not comply with Section 7;

21 (2) the application does not contain documentation
22 sufficient for the office to determine whether the applicant
23 is entitled to a certificate;

24 (3) there is a reasonable basis for concluding that
25 the application is fraudulent or issuance of a certificate
26 would facilitate a fraudulent or illegal act; or

1 (4) the application does not comply with the law of
2 this state other than this act.

3 (d) The office shall reject an application for a
4 certificate of title for a vessel that is a documented vessel
5 or a foreign-documented vessel.

6 (e) The office may cancel a certificate of title
7 created by it only if the office:

8 (1) could have rejected the application for the
9 certificate under subsection (c);

10 (2) is required to cancel the certificate under
11 another provision of this act; or

12 (3) receives satisfactory evidence that the vessel
13 is a documented vessel or a foreign-documented vessel.

14 (f) The office shall provide an opportunity for an
15 administrative review at which the owner and any other
16 interested party may present evidence in support of or
17 opposition to cancellation of a certificate of title. The
18 office shall serve all owners and secured parties indicated in
19 the files of the office with notice of the opportunity for an
20 administrative review. Service must be made personally or by
21 mail through the United States Postal Service, properly
22 addressed, postage paid, return receipt requested. Service by
23 mail is complete on deposit with the United States Postal
24 Service. The office by rule may authorize service by
25 electronic transmission if a copy is sent on the same day by
26 first-class mail or by a commercial delivery company. If not
27 later than 30 days after the notice was served, the office

1 receives a request for an administrative review from an
2 interested party, the office shall hold the review not later
3 than 20 days after receiving the request.

4 Section 9. CONTENT OF CERTIFICATE OF TITLE.

5 (a) A certificate of title must contain:

6 (1) the date the certificate was created;

7 (2) the name of the owner of record and, if not all
8 owners are listed, an indication that there are additional
9 owners indicated in the files of the office;

10 (3) the mailing address of the owner of record;

11 (4) the hull identification number;

12 (5) the information listed in Section 7(b)(6);

13 (6) except as otherwise provided in Section 15(b),
14 the name and mailing address of the secured party of record,
15 if any, and if not all secured parties are listed, an
16 indication that there are other security interests indicated
17 in the files of the office; and

18 (7) all title brands indicated in the files of the
19 office covering the vessel, including brands indicated on a
20 certificate created by a governmental agency of another
21 jurisdiction and delivered to the office.

22 (b) This act does not preclude the office from
23 noting on a certificate of title the name and mailing address
24 of a secured party that is not a secured party of record.

25 (c) For each title brand indicated on a certificate
26 of title, the certificate must identify the jurisdiction under
27 whose law the title brand was created or the jurisdiction that

1 created the certificate on which the title brand was
2 indicated. If the meaning of a title brand is not easily
3 ascertainable or cannot be accommodated on the certificate,
4 the certificate may state: "Previously branded in (insert the
5 jurisdiction under whose law the title brand was created or
6 whose certificate of title previously indicated the title
7 brand)."

8 (d) If the files of the office indicate that a
9 vessel previously was registered or titled in a foreign
10 country, the office shall indicate on the certificate of title
11 that the vessel was registered or titled in that country.

12 (e) A written certificate of title must contain a
13 form that all owners indicated on the certificate may sign to
14 evidence consent to a transfer of an ownership interest to
15 another person. The form must include a certification, signed
16 under penalty for making an unsworn falsification to
17 authorities pursuant to Section 13A-10-109 of the Code of
18 Alabama 1975, as amended, that the statements made are true
19 and correct to the best of each owner's knowledge,
20 information, and belief.

21 (f) A written certificate of title must contain a
22 form for the owner of record to indicate, in connection with a
23 transfer of an ownership interest, that the vessel is hull
24 damaged.

25 (g) A written certificate of title must contain a
26 form for a secured party to indicate release of its security
27 interest.

1 Section 10. TITLE BRAND.

2 (a) Unless subsection (c) applies, at or before the
3 time the owner of record transfers an ownership interest in a
4 hull-damaged vessel that is covered by a certificate of title
5 created by the office, if the damage occurred while that
6 person was an owner of the vessel and the person has notice of
7 the damage at the time of the transfer, the owner shall:

8 (1) deliver to the office an application for a new
9 certificate that complies with Section 7 and includes the
10 title brand designation "Hull Damaged"; or

11 (2) indicate on the certificate in the place
12 designated for that purpose that the vessel is hull damaged
13 and deliver the certificate to the transferee.

14 (b) Not later than 20 days after delivery to the
15 office of the application under subsection (a)(1) or the
16 certificate of title under subsection (a)(2), the office shall
17 create a new certificate that indicates that the vessel is
18 branded "Hull Damaged".

19 (c) Before an insurer transfers an ownership
20 interest in a hull-damaged vessel that is covered by a
21 certificate of title created by the office, the insurer shall
22 deliver to the office an application for a new certificate
23 that complies with Section 6 and includes the title brand
24 designation "Hull Damaged". Not later than 20 days after
25 delivery of the application to the office, the office shall
26 create a new certificate that indicates that the vessel is
27 branded "Hull Damaged".

1 (d) An owner of record that fails to comply with
2 subsection (a), a person that solicits or colludes in a
3 failure by an owner of record to comply with subsection (a),
4 or an insurer that fails to comply with subsection (c) is
5 subject to an administrative penalty not to exceed one
6 thousand dollars (\$1,000).

7 Section 11. MAINTENANCE OF AND ACCESS TO FILES.

8 (a) For each record relating to a certificate of
9 title submitted to the office, the office shall:

10 (1) ascertain or assign the hull identification
11 number for the vessel;

12 (2) maintain the hull identification number and all
13 the information submitted with the application pursuant to
14 Section 7(b) to which the record relates, including the date
15 and time the record was delivered to the office;

16 (3) maintain the files for public inspection subject
17 to subsection (e); and

18 (4) index the files of the office as required by
19 subsection (b).

20 (b) The office shall maintain in its files the
21 information contained in all certificates of title created
22 under this act. The information in the files of the office
23 must be searchable by the hull identification number of the
24 vessel, the vessel number, the name of the owner of record,
25 and any other method used by the office.

26 (c) The office shall maintain in its files, for each
27 vessel for which it has created a certificate of title, all

1 title brands known to the office, the name of each secured
2 party known to the office, the name of each person known to
3 the office to be claiming an ownership interest, and all
4 stolen-property reports the office has received.

5 (d) Upon request, for safety, security, or
6 law-enforcement purposes, the office shall provide to federal,
7 state, or local government the information in its files
8 relating to any vessel for which the office has issued a
9 certificate of title.

10 (e) Except as otherwise provided by the law of this
11 state other than this act, the information required under
12 Section 9 is a public record. The information provided under
13 Section 7(b) (3) is not a public record.

14 Section 12. ACTION REQUIRED ON CREATION OF
15 CERTIFICATE OF TITLE.

16 (a) On creation of a written certificate of title,
17 the office promptly shall send the certificate to the secured
18 party of record or, if none, to the owner of record, at the
19 address indicated for that person in the files of the office.
20 On creation of an electronic certificate of title, the office
21 promptly shall send a record evidencing the certificate to the
22 owner of record and, if there is one, to the secured party of
23 record, at the address indicated for that person in the files
24 of the office. The office may send the record to the person's
25 mailing address or, if indicated in the files of the office,
26 an electronic address.

1 (b) If the office creates a written certificate of
2 title, any electronic certificate of title for the vessel is
3 canceled and replaced by the written certificate. The office
4 shall maintain in the files of the office the date and time of
5 cancellation.

6 (c) Before the office creates an electronic
7 certificate of title, any written certificate for the vessel
8 must be surrendered to the office. If the office creates an
9 electronic certificate, the office shall destroy or otherwise
10 cancel the written certificate for the vessel which has been
11 surrendered to the office and maintain in the files of the
12 office the date and time of destruction or other cancellation.
13 If a written certificate being canceled is not destroyed, the
14 office shall indicate on the face of the certificate that it
15 has been canceled.

16 Section 13. EFFECT OF CERTIFICATE OF TITLE. A
17 certificate of title is prima facie evidence of the accuracy
18 of the information in the record that constitutes the
19 certificate.

20 Section 14. EFFECT OF POSSESSION OF CERTIFICATE OF
21 TITLE; JUDICIAL PROCESS. Possession of a certificate of title
22 does not by itself provide a right to obtain possession of a
23 vessel. Garnishment, attachment, levy, replevin, or other
24 judicial process against the certificate is not effective to
25 determine possessory rights to the vessel. This act does not
26 prohibit enforcement under law of this state other than this
27 act of a security interest in, levy on, or foreclosure of a

1 statutory or common-law lien on a vessel. Absence of an
2 indication of a security interest, statutory lien, or
3 common-law lien on a certificate does not invalidate the
4 security interest or lien.

5 Section 15. PERFECTION OF SECURITY INTEREST.

6 (a) Except as otherwise provided in this section or
7 Section 29, a security interest in a vessel may be perfected
8 only by delivery to the office of an application for a
9 certificate of title that identifies the secured party and
10 otherwise complies with Section 7. The security interest is
11 perfected on the later of delivery to the office of the
12 application or attachment of the security interest under
13 Section 7-9A-203 of the Code of Alabama 1975.

14 (b) If the interest of a person named as owner in an
15 application for a certificate of title delivered to the office
16 is a security interest, the application sufficiently
17 identifies the person as a secured party. Identification on
18 the application for a certificate of a person as owner is not
19 by itself a factor in determining whether the person's
20 interest is a security interest.

21 (c) If the office has created a certificate of title
22 for a vessel, a security interest in the vessel may be
23 perfected by delivery to the office of an application, on a
24 form the office may require, to have the security interest
25 added to the certificate. The application must be signed by an
26 owner of the vessel or by the secured party and must include:

27 (1) the name of the owner of record;

1 (2) the name and mailing address of the secured
2 party;

3 (3) the hull identification number for the vessel;
4 and

5 (4) if the office has created a written certificate
6 of title for the vessel, the certificate.

7 (d) A security interest perfected under subsection
8 (c) is perfected on the later of delivery to the office of the
9 application or attachment of the security interest under
10 Section 7-9A-203 of the Code of Alabama 1975.

11 (e) On delivery of an application that complies with
12 subsection (c), the office shall create a new certificate of
13 title pursuant to Section 8 and deliver the new certificate or
14 a record evidencing an electronic certificate pursuant to
15 Section 12(a). The office shall maintain in the files of the
16 office the date and time of delivery of the application to the
17 office.

18 (f) If a secured party assigns a perfected security
19 interest in a vessel, the receipt by the office of a statement
20 providing the name of the assignee as secured party is not
21 required to continue the perfected status of the security
22 interest against creditors of and transferees from the
23 original debtor. A purchaser of a vessel subject to a security
24 interest which obtains a release from the secured party
25 indicated in the files of the office or on the certificate
26 takes free of the security interest and of the rights of a

1 transferee unless the transfer is indicated in the files of
2 the office or on the certificate.

3 (g) This section does not apply to a security
4 interest:

5 (1) created in a vessel by a person during any
6 period in which the vessel is inventory held for sale or lease
7 by the person or is leased by the person as lessor if the
8 person is a dealer;

9 (2) in a barge for which no application for a
10 certificate of title has been delivered to the office; or

11 (3) in a vessel before delivery if the vessel is
12 under construction, or completed, pursuant to contract and for
13 which no application for a certificate has been delivered to
14 the office.

15 (h) This subsection applies if a certificate of
16 documentation for a documented vessel is deleted or canceled.
17 If a security interest in the vessel was valid immediately
18 before deletion or cancellation against a third party as a
19 result of compliance with 46 U.S.C. Section 31321, the
20 security interest is and remains perfected until the earlier
21 of four months after cancellation of the certificate or the
22 time the security interest becomes perfected under this act.

23 (i) A security interest in a vessel arising under
24 Section 7-2-401, 7-2-505, 7-2-711(3), or 7-2A-508(5) of the
25 Code of Alabama 1975 is perfected when it attaches but becomes
26 unperfected when the debtor obtains possession of the vessel,

1 unless before the debtor obtains possession the security
2 interest is perfected pursuant to subsection (a) or (c).

3 (j) A security interest in a vessel as proceeds of
4 other collateral is perfected to the extent provided in
5 Section 7-9A-315 of the Code of Alabama 1975.

6 (k) A security interest in a vessel perfected under
7 the law of another jurisdiction is perfected to the extent
8 provided in Section 7-9A-316(d) of the Code of Alabama 1975.

9 Section 16. TERMINATION STATEMENT.

10 (a) Except as provided in subsection (b), a secured
11 party indicated in the files of the office as having a
12 security interest in a vessel shall deliver a termination
13 statement to the office and, on request of the owner of record
14 in a signed record, shall deliver a copy of the termination
15 statement to the owner of record, by the earlier of:

16 (1) twenty days after the secured party receives a
17 signed demand from an owner for a termination statement and
18 there is no obligation secured by the vessel subject to the
19 security interest and no commitment to make an advance, incur
20 an obligation, or otherwise give value secured by the vessel.

21 (2) if the vessel is consumer goods, 30 days after
22 there is no obligation secured by the vessel and no commitment
23 to make an advance, incur an obligation, or otherwise give
24 value secured by the vessel; or

25 (b) If a written certificate of title has been
26 created and delivered to a secured party, the secured party
27 may comply with the requirements of subsection (a) by signing

1 the release form on the certificate and delivering the
2 certificate to the office or to the owner of record no later
3 than the date required by subsection (a). On request of the
4 owner of record, a secured party that delivers a written
5 certificate with a signed release form to the office shall,
6 not later than the date required by subsection (a), deliver a
7 copy of the certificate showing the signed release form to the
8 owner of record. If the certificate is lost, stolen,
9 mutilated, destroyed, or is otherwise unavailable or
10 illegible, the secured party shall deliver a termination
11 statement to the office as required by subsection (a) and
12 shall deliver to the office with the statement an application
13 for a replacement certificate meeting the requirements of
14 Section 22.

15 (c) On delivery to the office of a termination
16 statement under subsection (a) or (b), or on delivery of a
17 written certificate of title with a signed release form to the
18 office or the owner of record under subsection (b), any
19 security interest to which the statement or certificate
20 relates ceases to be perfected. If the security interest to
21 which the statement relates was indicated on the certificate,
22 the office shall create a new certificate and deliver the new
23 certificate or a record evidencing an electronic certificate
24 pursuant to Section 12(a). The office shall maintain in its
25 files the date and time of delivery to the office of a
26 termination statement or written certificate with a signed
27 release form.

1 (d) A secured party that fails to comply with this
2 section is liable to the owner of record for a penalty not to
3 exceed the amount of five hundred dollars (\$500). Nothing in
4 this subsection precludes the owner of record or another owner
5 from recovering damages under law of this state other than
6 this act.

7 Section 17. TRANSFER OF OWNERSHIP.

8 (a) On voluntary transfer of an ownership interest
9 in a vessel already covered by a certificate of title, the
10 following rules apply:

11 (1) If the certificate is a written certificate of
12 title and the transferor's interest is noted on the
13 certificate, the transferor shall sign the certificate and
14 deliver it to the transferee. If the transferor does not have
15 possession of the certificate, the person in possession of the
16 certificate has a duty to facilitate the transferor's
17 compliance with this subdivision. A secured party does not
18 have a duty to facilitate the transferor's compliance with
19 this subdivision if the proposed transfer is prohibited by the
20 security agreement.

21 (2) If the certificate of title is an electronic
22 certificate of title, the transferor shall sign and deliver to
23 the transferee a record evidencing the transfer of ownership
24 to the transferee.

25 (3) The transferee has a right enforceable by
26 specific performance to require the transferor comply with
27 subdivision (1) or (2).

1 (b) The creation of a certificate of title
2 identifying the transferee as owner of record satisfies
3 subsection (a).

4 (c) A failure to comply with subsection (a) or to
5 apply for a new certificate of title does not render a
6 transfer of ownership of a vessel ineffective between the
7 parties. Except as otherwise provided in Section 18, 19,
8 23(a), or 24, a transfer of ownership without compliance with
9 subsection (a) is not effective against another person
10 claiming an interest in the vessel.

11 (d) A transferor that complies with subsection (a)
12 is not liable solely in the capacity as owner of the vessel
13 for an event occurring after the transfer, regardless of
14 whether the transferee applies for a new certificate of title.

15 Section 18. EFFECT OF MISSING OR INCORRECT
16 INFORMATION.

17 Except as otherwise provided in Section 7-9A-337 of
18 the Code of Alabama 1975, a certificate of title or other
19 record required or authorized by this act is effective even if
20 it contains incorrect information or does not contain required
21 information.

22 Section 19. TRANSFER OF OWNERSHIP BY SECURED PARTY'S
23 TRANSFER STATEMENT.

24 (a) In this section, "secured party's transfer
25 statement" means a record signed by the secured party of
26 record stating:

1 (1) that there has been a default on an obligation
2 secured by the vessel;

3 (2) that the secured party of record has exercised
4 post-default remedies with respect to the vessel;

5 (3) that, by reason of the exercise, a transferee
6 has acquired the ownership interest of an owner;

7 (4) the name of the owner whose ownership interest
8 has been acquired by the transferee;

9 (5) the name and last-known mailing address of the
10 owner of record and the secured party of record;

11 (5) the name of the transferee;

12 (6) other information required by Section 7(b); and

13 (7) one of the following:

14 (A) that the certificate of title is an electronic
15 certificate;

16 (B) that the secured party does not have possession
17 of the written certificate of title created in the name of the
18 owner of record; or

19 (C) that the secured party of record is delivering
20 the written certificate of title created in the name of the
21 owner of record to the office, with the release form signed,
22 with the transfer statement.

23 (b) Unless the office rejects a secured party's
24 transfer statement for a reason stated in Section 8(c), not
25 later than 20 days after delivery to the office of the
26 statement the office shall:

27 (1) accept the statement;

1 (2) amend its files to reflect the transfer; and
2 (3) if the name of the owner whose ownership
3 interest has been transferred is indicated on the certificate
4 of title:

5 (A) cancel the certificate;

6 (B) create a new certificate substituting the name
7 of the transferee for the name of the owner; and

8 (C) deliver the new certificate or a record
9 evidencing an electronic certificate pursuant to Section
10 12(a).

11 (c) An application under subsection (a) or the
12 creation of a certificate of title under subsection (b) is not
13 by itself a disposition of the vessel and does not by itself
14 relieve the secured party of its duties under Title 7, Article
15 9A of the Code of Alabama 1975.

16 Section 20. TRANSFER BY OPERATION OF LAW.

17 (a) In this section:

18 (1) "By operation of law" means pursuant to a law or
19 judicial order affecting ownership of a vessel:

20 (A) because of death, divorce or other family law
21 proceeding, merger, consolidation, dissolution, or bankruptcy;

22 (B) through the exercise of the rights of a lien
23 creditor or a person having a lien created by statute or rule
24 of law; or

25 (C) through other legal process.

26 (2) "Transfer-by-law statement" means a record
27 signed by a transferee stating that by operation of law the

1 transferee has acquired or has the right to acquire an
2 ownership interest in a vessel.

3 (b) A transfer-by-law statement must contain:

4 (1) the name and last known mailing address of the
5 owner of record and the transferee and the other information
6 required by Section 7(b);

7 (2) documentation sufficient to establish the
8 transferee's ownership interest or right to acquire the
9 ownership interest;

10 (3) a statement that:

11 (A) the certificate of title is an electronic
12 certificate of title;

13 (B) the transferee does not have possession of the
14 written certificate of title created in the name of the owner
15 of record; or

16 (C) the transferee is delivering the written
17 certificate to the office with the transfer-by-law statement;
18 and

19 (4) except for a transfer described in subsection
20 (a)(1)(A), evidence that notification of the transfer and the
21 intent to file the transfer-by-law statement has been sent to
22 all persons indicated in the files of the office as having an
23 interest, including a security interest, in the vessel.

24 (c) Unless the office rejects a transfer-by-law
25 statement for a reason stated in Section 8(c) or because the
26 statement does not include documentation satisfactory to the
27 office as to the transferee's ownership interest or right to

1 acquire the ownership interest, not later than 20 days after
2 delivery to the office of the statement and payment of taxes
3 payable under the law of this state other than this act in
4 connection with the statement or with the acquisition or use
5 of the vessel, the office shall:

6 (1) accept the statement;

7 (2) amend the files of the office to reflect the
8 transfer; and

9 (3) if the name of the owner whose ownership
10 interest is being transferred is indicated on the certificate
11 of title:

12 (A) cancel the certificate even if the certificate
13 has not been delivered to the office;

14 (B) create a new certificate indicating the
15 transferee as owner;

16 (C) indicate on the new certificate any security
17 interest indicated on the canceled certificate, unless a court
18 order provides otherwise; and

19 (D) deliver the new certificate or a record
20 evidencing an electronic certificate.

21 (d) This section does not apply to a transfer of an
22 interest in a vessel by a secured party under Title 7, Article
23 9, Part 6 of the Code of Alabama 1975.

24 Section 21. APPLICATION FOR TRANSFER OF OWNERSHIP OR
25 TERMINATION OF SECURITY INTEREST WITHOUT CERTIFICATE OF TITLE.

26 (a) Except as otherwise provided in Section 19 or
27 20, if the office receives, unaccompanied by a signed

1 certificate of title, an application for a new certificate
2 that includes an indication of a transfer of ownership or a
3 termination statement, the office may create a new certificate
4 under this section only if:

5 (1) all other requirements under Sections 7 and 8
6 are met;

7 (2) the applicant provides an affidavit stating
8 facts showing the applicant is entitled to a transfer of
9 ownership or termination statement;

10 (3) the applicant provides the office with
11 satisfactory evidence that notification of the application has
12 been sent to the owner of record and all persons indicated in
13 the files of the office as having an interest, including a
14 security interest, in the vessel, at least 45 days have passed
15 since the notification was sent, and the office has not
16 received an objection from any of those persons; and

17 (4) the applicant submits any other information
18 required by the office as evidence of the applicant's
19 ownership or right to terminate the security interest, and the
20 office has no credible information indicating theft, fraud, or
21 an undisclosed or unsatisfied security interest, lien, or
22 other claim to an interest in the vessel.

23 (b) The office may indicate in a certificate of
24 title created under subsection (a) that the certificate was
25 created without submission of a signed certificate or
26 termination statement. Unless credible information indicating
27 theft, fraud, or an undisclosed or unsatisfied security

1 interest, lien, or other claim to an interest in the vessel is
2 delivered to the office not later than one year after creation
3 of the certificate, on request in a form and manner required
4 by the office, the office shall remove the indication from the
5 certificate.

6 (c) Before the office creates a certificate of title
7 under subsection (a), the office may require the applicant to
8 post a bond. The bond may not exceed twice the value of the
9 vessel as determined by the office. The bond must be in form,
10 amount, and term required by the office and provide for
11 indemnification of any owner, purchaser, or other claimant for
12 any expense, loss, delay, or damage, including reasonable
13 attorney's fees and costs, but not including incidental or
14 consequential damages, resulting from creation or amendment of
15 the certificate.

16 Section 22. REPLACEMENT CERTIFICATE OF TITLE.

17 (a) If a written certificate of title is lost,
18 stolen, mutilated, destroyed, or otherwise becomes unavailable
19 or illegible, the secured party of record or, if no secured
20 party is indicated in the files of the office, the owner of
21 record may apply for and, by furnishing information
22 satisfactory to the office, obtain a replacement certificate
23 in the name of the owner of record.

24 (b) An applicant for a replacement certificate of
25 title must sign the application, and, except as otherwise
26 permitted by the office, the application must comply with
27 Section 7. The application must include the existing

1 certificate unless the certificate is lost, stolen, mutilated,
2 destroyed, or otherwise unavailable.

3 (c) A replacement certificate of title created by
4 the office must comply with Section 9 and indicate on the face
5 of the certificate that it is a replacement certificate.

6 (d) If a person receiving a replacement certificate
7 of title subsequently obtains possession of the original
8 written certificate, the person promptly shall destroy the
9 original certificate of title.

10 Section 23. RIGHTS OF PURCHASER OTHER THAN SECURED
11 PARTY.

12 (a) A buyer in ordinary course of business has the
13 protections afforded by Sections 7-2-403(2) and 7-9A-320(a) of
14 the Code of Alabama 1975 even if an existing certificate of
15 title was not signed and delivered to the buyer or a new
16 certificate listing the buyer as owner of record was not
17 created.

18 (b) Except as otherwise provided in Sections 17 and
19 24, the rights, with respect to a vessel, of a purchaser that
20 is not a buyer in ordinary course of business are governed by
21 Title 7 of the Code of Alabama 1975.

22 Section 24. RIGHTS OF SECURED PARTY.

23 (a) Subject to subsection (b), the effect of
24 perfection and nonperfection of a security interest and the
25 priority of a perfected or unperfected security interest with
26 respect to the rights of a purchaser or creditor, including a
27 lien creditor, is governed by Title 7 of the Code of Alabama

1 1975. For purposes of the application of the provisions of
2 Title 7 of the Code of Alabama 1975, lien creditor has the
3 meaning provided by this act.

4 (b) If, while a security interest in a vessel is
5 perfected by any method under this act, the office creates a
6 certificate of title that does not indicate that the vessel is
7 subject to the security interest or contain a statement that
8 it may be subject to security interests not indicated on the
9 certificate:

10 (1) a buyer of the vessel, other than a person in
11 the business of selling or leasing vessels of that kind, takes
12 free of the security interest if the buyer, acting in good
13 faith and without knowledge of the security interest, gives
14 value and receives possession of the vessel; and

15 (2) the security interest is subordinate to a
16 conflicting security interest in the vessel that is perfected
17 under Section 15 after creation of the certificate and without
18 the conflicting secured party's knowledge of the security
19 interest.

20 Section 25. DUTIES AND OPERATION OF OFFICE.

21 (a) The office shall retain the evidence used to
22 establish the accuracy of the information in its files
23 relating to the current ownership of a vessel and the
24 information on the certificate of title.

25 (b) The office shall retain in its files all
26 information regarding a security interest in a vessel for at
27 least 10 years after the office receives a termination

1 statement regarding the security interest. The information
2 must be accessible by the hull identification number for the
3 vessel and any other methods provided by the office.

4 (c) If a person submits a record to the office, or
5 submits information that is accepted by the office, and
6 requests an acknowledgment of the filing or submission, the
7 office shall send to the person an acknowledgment showing the
8 hull identification number of the vessel to which the record
9 or submission relates, the information in the filed record or
10 submission, and the date and time the record was received or
11 the submission accepted. A request under this section must
12 contain the hull identification number and be delivered by
13 means authorized by the office.

14 (d) The office shall send or otherwise make
15 available in a record the following information to any person
16 that requests it:

17 (1) whether the files of the office indicate, as of
18 a date and time specified by the office, but not a date
19 earlier than three days before the office received the
20 request, any certificate of title, security interest,
21 termination statement, or title brand that relates to a
22 vessel:

23 (A) identified by a hull identification number
24 designated in the request;

25 (B) identified by a vessel number designated in the
26 request; or

27 (C) owned by a person designated in the request;

1 (2) with respect to the vessel:

2 (A) the name and address of any owner as indicated
3 in the files of the office or on the certificate of title;

4 (B) the name and address of any secured party as
5 indicated in the files of the office or on the certificate,
6 and the effective date of the information; and

7 (C) a copy of any termination statement indicated in
8 the files of the office and the effective date of the
9 termination statement; and

10 (3) with respect to the vessel, a copy of any
11 certificate of origin, secured party transfer statement,
12 transfer-by-law statement under Section 20, and other evidence
13 of previous or current transfers of ownership.

14 (e) In responding to a request under this section,
15 the office may provide the requested information in any medium
16 as determined by the office. On request, the office shall send
17 the requested information in a record that is
18 self-authenticating under Alabama Rule of Evidence 902(1).

19 Section 26. UNIFORMITY OF APPLICATION AND
20 CONSTRUCTION. In applying and construing this uniform act,
21 consideration must be given to the need to promote uniformity
22 of the law with respect to its subject matter among states
23 that enact it.

24 Section 27. RELATION TO ELECTRONIC SIGNATURES IN
25 GLOBAL AND NATIONAL COMMERCE ACT.

26 This act modifies, limits, and supersedes the
27 federal Electronic Signatures in Global and National Commerce

1 Act, 15 U.S.C. Section 7001, et seq., but does not modify,
2 limit, or supersede Section 101(c) of that act, 15 U.S.C.
3 Section 7001(c), or authorize electronic delivery of any of
4 the notices described in Section 103(b) of that act, 15 U.S.C.
5 Section 7003(b).

6 Section 28. EFFECTIVE DATE; TRANSITION RULES;
7 SAVINGS CLAUSE.

8 (a) This act takes effect on January 1, 2017.

9 (b) Except as provided in subsection (c), this act
10 applies to any vessel as defined in Section 2 (a) (2) for which
11 this state is the state of principal use on or after January
12 1, 2017.

13 (c) The owner of a vessel may voluntarily elect for
14 the provisions of this act to apply to any vessel that has
15 never been titled.

16 (d) The owner of a vessel may voluntarily apply for
17 a certificate of title as provided in Section 6. If the owner
18 of a vessel applies for a certificate of title, the provisions
19 of this act apply to the vessel for all purposes when the
20 application for a certificate of title is delivered to the
21 office and thereafter.

22 (e) Notwithstanding any provision of this act to the
23 contrary, the rights, duties, and interests flowing from a
24 transaction, certificate of title, security interest, or
25 record relating to a vessel which was validly entered into or
26 created before the effective date of this act and would be
27 subject to this act if it had been entered into or created on

1 or after the effective date of this act, shall remain valid on
2 and after the effective date of this act.

3 (f) This act does not affect an action or proceeding
4 commenced before the effective date of this act.

5 (g) Except as otherwise provided in subsection (i),
6 a security interest in a vessel that is enforceable
7 immediately before the effective date of this act and at that
8 time had priority over the rights of a person that became a
9 lien creditor, is a perfected security interest under this
10 act.

11 (h) A security interest in a vessel perfected
12 immediately before January 1, 2017, remains perfected until
13 the time perfection would have ceased under the law under
14 which the security interest was perfected. A security interest
15 in a vessel perfected on or after January 1, 2017, remains
16 perfected for five years.

17 (i) This act does not affect the priority of a
18 security interest in a vessel if, immediately before the
19 effective date of this act, the security interest is
20 enforceable and perfected, and that priority is established.

21 Section 29. This act shall become effective on
22 January 1, 2017.