

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 739
SENATE BILL 1151

AN ACT TO ALLOW THE TITLING OF WATERCRAFT.

The General Assembly of North Carolina enacts:

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

"ARTICLE 4.
"Watercraft Titling Act.

"§ 75A-32. Short title.

This act shall be known as the Watercraft Titling Act.

"§ 75A-33. Definitions.

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

- (1) 'Commission' means the North Carolina Wildlife Resources Commission.
- (2) 'Watercraft' means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

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

(a) Any owner of any watercraft in this State, which is not titled elsewhere, may apply to the Commission for a certificate of title. The Commission shall issue a certificate of title upon reasonable evidence of ownership, which may be established by affidavits, bills of sale, or other similar documents.

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

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

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

(b) Every application for a certificate shall contain a brief description of the watercraft to be registered, including the name of the manufacturer, State identification number, hull identification number, length, type, and principal material of construction, model year, date of purchase, identification of the motor (including manufacturer's

name and serial number, except on motors of 25 horsepower or less), and the name and address of the person from whom the watercraft was purchased.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Security interests, other than a security interest in inventory held for sale to be perfected only as provided in G.S. 25-9-301 to G.S. 25-9-408, created in watercraft by the voluntary act of the owner after the original issue of title to the owner must be shown on the certificate of title. In such cases, the owner shall file an application with

the Commission on a blank furnished for that purpose, setting forth the security interests and other information as the Commission requires. The Commission, if satisfied that it is proper that the same be recorded and upon surrender of the certificate of title covering the watercraft, shall thereupon issue a new certificate of title showing their security interests in the order of the priority according to the date of the filing of the application. For the purpose of recording the subsequent security interest, the Commission may require any secured party to deliver the certificate of title to the Commission. The newly issued certificate shall be sent or delivered to the secured party from whom the prior certificate was obtained.

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

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

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

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

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

The security interests, except security interests in watercraft which are inventory held for sale and which are perfected under G.S. 25-9-301 to 25-9-408, shown upon the certificates of title issued by the Commission pursuant to applications for certificates shall have priority over any other liens or security interests against the watercraft however created and recorded, except for a mechanics lien for repairs, provided that the mechanic furnishes the holder of any recorded lien who may request it with an itemized sworn statement of the work done and materials supplied for which the lien is claimed.

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

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

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

An owner, upon securing the release of any security interest upon a watercraft shown upon the certificate of title issued for the watercraft, may exhibit the documents evidencing the release, signed by the person or persons making the release, and the certificate of title to the Commission. When it is impossible to secure the release from the secured party, the owner may exhibit to the Commission any available evidence

showing that the debt secured has been satisfied, together with a statement by the owner under oath that the debt has been paid. When the Commission is satisfied as to the genuineness and regularity of the satisfied debt, the Commission shall issue to the owner either a new certificate of title in proper form or an endorsement or rider showing the release of the security interest which the Commission shall attach to the outstanding certificate of title.

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

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

"§ 75A-48. Levy of execution, etc.

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

"§ 75A-49. Registration prima facie evidence of ownership; rebuttal.

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

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

In the General Assembly read three times and ratified this the 8th day of August, 1989.