

VIRGINIA ACTS OF ASSEMBLY -- 2014 SESSION

CHAPTER 371

An Act to amend and reenact §§ 29.1-733.2 and 29.1-733.7 of the Code of Virginia, relating to certificates of title for watercraft.

[S 504]

Approved March 27, 2014

Be it enacted by the General Assembly of Virginia:

1. That §§ 29.1-733.2 and 29.1-733.7 of the Code of Virginia are amended and reenacted as follows:

§ 29.1-733.2. (Effective July 1, 2014) Definitions.

The definitions in this section do not apply to any Virginia or federal law governing licensing, numbering, or registration if the same term is used in that law. As used in this article, unless the context requires a different meaning:

"Abandoned watercraft" means a watercraft that is left unattended on private property for more than 10 days without the consent of the property's owner, regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property.

"Agreement" means the same as that term is defined in subdivision (b)(3) of § 8.1A-201.

"Barge" means a watercraft that is not self-propelled or fitted for propulsion by sail, paddle, oar, or similar device.

"Builder's certificate" means a certificate of the facts of the build of a vessel described in 46 C.F.R. § 67.99, as amended.

"Buyer" means a person that buys or contracts to buy a watercraft.

"Buyer in ordinary course of business" means the same as that term is defined in subdivision (b)(9) of § 8.1A-201.

"Cancel," with respect to a certificate of title, means to make the certificate ineffective.

"Certificate of origin" means a record created by a manufacturer or importer as the manufacturer's or importer's proof of identity of a watercraft. The term includes a manufacturer's certificate or statement of origin and an importer's certificate or statement of origin. The term does not include a builder's certificate.

"Certificate of title" means a record, created by the Department under this article or by a governmental agency of another jurisdiction under the law of that jurisdiction that is designated as a certificate of title by the Department or agency and is evidence of ownership of a watercraft.

"Conspicuous" means the same as that term is defined in subdivision (b)(10) of § 8.1A-201.

"Consumer goods" means the same as that term is defined in subdivision (a)(23) of § 8.9A-102.

"Dealer" means any watercraft dealer as defined in § 29.1-801.

"Debtor" means the same as that term is defined in subdivision (a)(28) of § 8.9A-102.

"Documented vessel" means a watercraft covered by a certificate of documentation issued pursuant to 46 U.S.C. § 12105, as amended. The term does not include a foreign-documented vessel.

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Electronic certificate of title" means a certificate of title consisting of information that is stored solely in an electronic medium and is retrievable in perceivable form.

"Foreign-documented vessel" means a watercraft whose ownership is recorded in a registry maintained by a country other than the United States that identifies each person that has an ownership interest in a watercraft and includes a unique alphanumeric designation for the watercraft.

"Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

"Hull damaged" means compromised with respect to the integrity of a watercraft's hull by a collision, allision, lightning strike, fire, explosion, running aground, or similar occurrence, or the sinking of a watercraft in a manner that creates a significant risk to the integrity of the watercraft's hull.

"Hull identification number" means the alphanumeric designation assigned to a watercraft pursuant to 33 C.F.R. Part 181, as amended.

"Knowledge" means the same as that term is defined in § 8.1A-202.

"Lease" means the same as that term is defined in subdivision (1)(j) of § 8.2A-103.

"Lessor" means the same as that term is defined in subdivision (1)(p) of § 8.2A-103.

"Lien creditor," with respect to a watercraft, means:

1. A creditor that has acquired a lien on the watercraft by attachment, levy, or the like;
2. An assignee for benefit of creditors from the time of assignment;
3. A trustee in bankruptcy from the date of the filing of the petition; or

4. A receiver in equity from the time of appointment.

"Notice" means the same as that term is defined in § 8.1A-202.

"Owner" means a person that has legal title to a watercraft.

"Owner of record" means the owner indicated in the files of the Department or, if the files indicate more than one owner, the one first indicated.

"Person" means an individual, corporation, business trust, estate, trust, statutory trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

"Purchase" means to take by sale, lease, mortgage, pledge, consensual lien, security interest, gift, or any other voluntary transaction that creates an interest in a watercraft.

"Purchaser" means a person that takes by purchase.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Registration number" means the alphanumeric designation for a vessel issued pursuant to 46 U.S.C. § 12301, as amended.

"Representative" means the same as that term is defined in subdivision (b)(33) of § 8.1A-201.

"Sale" means the same as that term is defined in § 8.2-106.

"Secured party," with respect to a watercraft, means a person:

1. In whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

2. That is a consignor under Title 8.9A; or

3. That holds a security interest arising under § 8.2-401 or 8.2-505, subsection (3) of § 8.2-711, or subsection (5) of § 8.2A-508.

"Secured party of record" means the secured party whose name is indicated as the name of the secured party in the files of the Department or, if the files indicate more than one secured party, the one first indicated.

"Security agreement" means the same as that term is defined in subdivision (a)(74) of § 8.9A-102.

"Security interest" means an interest in a watercraft that secures payment or performance of an obligation if the interest is created by contract or arises under § 8.2-401 or 8.2-505, subsection (3) of § 8.2-711, or subsection (5) of § 8.2A-508. The term includes any interest of a consignor in a watercraft in a transaction that is subject to Title 8.9A. The term does not include the special property interest of a buyer of a watercraft on identification of that watercraft to a contract for sale under § 8.2-401, but a buyer also may acquire a security interest by complying with Title 8.9A. Except as otherwise provided in § 8.2-505, the right of a seller or lessor of a watercraft under Title 8.2 or Title 8.2A to retain or acquire possession of the watercraft is not a security interest, but a seller or lessor also may acquire a security interest by complying with Title 8.9A. The retention or reservation of title by a seller of a watercraft notwithstanding shipment or delivery to the buyer under § 8.2-401 is limited in effect to a reservation of a security interest. Whether a transaction in the form of a lease creates a security interest is determined by § 8.1A-304.

"Seller" means the same as that term is defined in subdivision (1)(o) of § 8.2A-103.

"Send" means the same as that term is defined in subdivision (b)(36) of § 8.1A-201.

"Sign" means, with present intent to authenticate or adopt a record, to:

1. Make or adopt a tangible symbol; or

2. Attach to or logically associate with the record an electronic symbol, sound, or process.

"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

"State of principal use" means the state on whose waters a watercraft is or will be used, operated, navigated, or employed more than on the waters of any other state during a calendar year.

"Title brand" means a designation of previous damage, use, or condition that shall be indicated on a certificate of title.

"Transfer of ownership" means a voluntary or involuntary conveyance of an interest in a watercraft.

"Value" means the same as that term is defined in § 8.1A-204.

"Watercraft" means any vessel *that is used or capable of being used as a means of transportation on water and is propelled by machinery, whether or not the machinery is the principal source of propulsion*, except:

1. A seaplane;

2. An amphibious vehicle for which a certificate of title is issued pursuant to Chapter 6 (§ 46.2-600 et seq.) of Title 46.2 or a similar statute of another state;

3. ~~Vessels less than 16~~ *A vessel that measures 18 feet or less in length along the centerline and is propelled solely by sail, paddle, oar, or an engine of less than 10 horsepower;*

4. ~~Vessels~~ *A vessel that operates only on a permanently fixed, manufactured course and whose movement is restricted to or guided by means of a mechanical device to which the vessel is attached or by which the vessel is controlled;*

5. A stationary floating structure that:

- a. Does not have and is not designed to have a mode of propulsion of its own;
- b. Is dependent for utilities upon a continuous utility hookup to a source originating on shore; and
- c. Has a permanent, continuous hookup to a shoreside sewage system;
- 6. ~~Vessels~~ A vessel owned by the United States, a state, or a foreign government or a political subdivision of any of them;
- 7. A vessel used solely as a lifeboat on another vessel; ~~and or~~
- 8. ~~Vessels measuring between 16 feet and 18 feet in length that are propelled solely by sail, paddle, or are owned or purchased prior to July 1, 2014~~ A vessel that has a valid marine document issued by the United States Coast Guard.

"Written certificate of title" means a certificate of title consisting of information inscribed on a tangible medium.

§ 29.1-733.7. (Effective July 1, 2014) Application for certificate of title.

A. Except as otherwise provided in § 29.1-733.10, 29.1-733.15, 29.1-733.19, 29.1-733.20, 29.1-733.21, or 29.1-733.22, only an owner may apply for a certificate of title.

B. An application for a certificate of title shall be signed by the applicant and contain:

- 1. The applicant's name, the street address of the applicant's principal residence, and, if different, the applicant's mailing address;
- 2. The name and mailing address of each other owner of the watercraft at the time of application;
- 3. The motor vehicle driver's license number, social security number, or taxpayer identification number of each owner;
- 4. The hull identification number for the watercraft or, if none, an application for the issuance of a hull identification number for the watercraft;
- 5. ~~The~~ If numbering is required pursuant to § 29.1-703, the registration number for the watercraft or, if none has been issued by the Department, an application for a registration number pursuant to § 29.1-702;
- 6. A description of the watercraft as required by the Department, which shall include:
 - a. The official number for the watercraft, if any, assigned by the U.S. Coast Guard;
 - b. The name of the manufacturer, builder, or maker;
 - c. The model year or the year in which the manufacture or build of the watercraft was completed;
 - d. The overall length of the watercraft;
 - e. The watercraft type;
 - f. The hull material;
 - g. The propulsion type;
 - h. The engine drive type, if any;
 - i. The motor identification, including manufacturer's name and serial number, except on motors of 25 horsepower or less; and
 - j. The fuel type, if any;
- 7. An indication of all security interests in the watercraft known to the applicant and the name and mailing address of each secured party;
- 8. A statement that the watercraft is not a documented vessel or a foreign-documented vessel;
- 9. Any title brand known to the applicant and, if known, the jurisdiction under whose law the title brand was created;
- 10. If the applicant knows that the watercraft is hull damaged, a statement that the watercraft is hull damaged;
- 11. If the application is made in connection with a transfer of ownership, the transferor's name, street address and, if different, mailing address, the sales price, if any, and the date of the transfer; and
- 12. If the watercraft previously was registered or titled in another jurisdiction, a statement identifying each jurisdiction known to the applicant in which the watercraft was registered or titled.

C. In addition to the information required by subsection B, an application for a certificate of title may contain an electronic communication address of the owner, transferor, or secured party.

D. Except as otherwise provided in § 29.1-733.19, 29.1-733.20, 29.1-733.21, or 29.1-733.22, an application for a certificate of title shall be accompanied by:

- 1. A certificate of title that is signed by the owner shown on the certificate and that:
 - a. Identifies the applicant as the owner of the watercraft; or
 - b. Is accompanied by a record that identifies the applicant as the owner; or
- 2. If there is no certificate of title:
 - a. If the watercraft was a documented vessel, a record issued by the U.S. Coast Guard that shows that the watercraft is no longer a documented vessel and identifies the applicant as the owner;
 - b. If the watercraft was a foreign-documented vessel, a record issued by the foreign country that shows that the watercraft is no longer a foreign-documented vessel and identifies the applicant as the owner; or
 - c. In all other cases, a certificate of origin, bill of sale, or other record that to the satisfaction of the Department identifies the applicant as the owner. Issuance of registration under the provisions of § 29.1-702 is prima facie evidence of ownership of a watercraft and entitlement to a certificate of title

under the provisions of this article.

E. A record submitted in connection with an application is part of the application. The Department shall maintain the record in its files.

F. The Department shall require that an application for a certificate of title be accompanied by payment or evidence of payment of all fees and taxes payable by the applicant under law of the Commonwealth other than this article in connection with the application or the acquisition or use of the watercraft. The Department shall charge \$7 for issue of each certificate of title, transfer of title, or for the recording of a supplemental lien. The Department shall charge \$2 for the issuance of each duplicate title or for changes to a previously issued certificate of title that are made necessary by a change of the motor on the watercraft. Any watercraft purchased and used by a nonprofit volunteer rescue squad shall be exempt from the fees imposed under this section.

G. The application shall be on forms prescribed and furnished by the Department and shall contain any other information required by the Director.

H. 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, he shall, within 30 days, notify the Department in writing of his change of address. A fee of \$7 shall be imposed upon anyone failing to comply with this subsection within the time prescribed.