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4

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A Bill

SENATE BILL 479

5 By: Senator B. Sample
6

For An Act To Be Entitled

8 AN ACT TO AUTHORIZE AND REQUIRE THE ISSUANCE OF A
9 TITLE FOR A WATERCRAFT; TO CREATE THE ARKANSAS
10 MOTORBOAT REGISTRATION AND TITLING ACT; AND FOR OTHER
11 PURPOSES.
12
13

Subtitle

14 TO AUTHORIZE AND REQUIRE THE ISSUANCE OF
15 A TITLE FOR A WATERCRAFT; AND TO CREATE
16 THE ARKANSAS MOTORBOAT REGISTRATION AND
17 TITLING ACT.
18
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 4-2A-104(1)(a), concerning leases subject
24 to other laws, is amended to read as follows:

25 (a) certificate of title statute of this state, including, but
26 not limited to §§ 27-14-801 – 27-14-804 and §§ 27-101-1014 – 27-101-1019,
27 concerning the filing of liens and encumbrances on motor vehicles and
28 motorboats;
29

30 SECTION 2. Arkansas Code § 4-9-311(a), concerning perfection of
31 security interests in property, is amended to read as follows:

32 (a) Except as otherwise provided in subsection (d) of this section,
33 the filing of a financing statement is not necessary or effective to perfect
34 a security interest in property subject to:

35 (1) a statute, regulation, or treaty of the United States whose
36 requirements for a security interest's obtaining priority over the rights of



1 a lien creditor with respect to the property preempt § 4-9-310(a);

2 (2) any other laws of this State which provide for central
3 filing of security interests or which require indication on a certificate of
4 title to property of such interest, including but not limited to §§ 27-14-801
5 – 27-14-807 and §§ 27-101-1014 – 27-101-1019; or

6 (3) a statute of another jurisdiction which provides for a
7 security interest to be indicated on a certificate of title as a condition or
8 result of the security interest's obtaining priority over the rights of a
9 lien creditor with respect to the property.

10
11 SECTION 3. Arkansas Code § 19-5-205(e)(1)(B)(i), concerning the State
12 Central Services Fund, is amended to read as follows:

13 (i) Those special revenues as specified in § 19-6-
14 301(9), (11), (19), (21), (37), (75), (76), (77), (78), (79), (82), (83),
15 (84), (85), (86), (87), (88), (89), (91), (96), (116), (118), (120), (124),
16 (149), (188), (231), (244), (246), ~~and (247)~~, (263), and (264) and eight
17 percent (8%) of those special revenues as set out in § 19-6-301(20) of the
18 Revenue Classification Law, § 19-6-101 et seq.;

19
20 SECTION 4. Arkansas Code § 19-6-301, concerning special revenues
21 enumerated, is amended to add additional subdivisions to read as follows:

22 (263) Motorboat duplicate title, lien filing, lien notation, and
23 certificate of title fees set forth in the Arkansas Motorboat Registration
24 and Titling Act, § 27-101-1001 et seq.; and

25 (264) Motorboat certificate of title with beneficiary processing fees
26 and certificate of title application fees set forth in the Arkansas Motorboat
27 Registration and Titling Act, § 27-101-1001 et seq.;

28
29 SECTION 5. Arkansas Code § 19-6-459 is amended to read as follows:

30 19-6-459. *Commercial Driver License Fund.*

31 *The Commercial Driver License Fund shall consist of those special*
32 *revenues as specified in:*

33 (1) *Section 19-6-301(148), to be used to establish and maintain*
34 *the Arkansas Commercial Driver License Program and for other related purposes*
35 *as required by the Director of the Department of Finance and Administration*
36 *in carrying out the functions, powers, and duties of the Revenue Division of*

1 the Department of Finance and Administration, as set out in the Arkansas
2 Uniform Commercial Driver License Act, § 27-23-101 et seq.; ~~and~~

3 (2) Section 19-6-301(255), to be used for enhancements to the
4 Arkansas Motor Carrier System under § 27-14-613; and

5 (3) Section 19-6-301(263) and (264).

6
7 SECTION 6. Arkansas Code § 27-101-103(1), concerning the definition of
8 "commission", is repealed.

9 ~~(1) "Commission" means the Arkansas State Game and Fish~~
10 ~~Commission;~~

11
12 SECTION 7. Arkansas Code § 27-101-103, concerning definitions related
13 to watercrafts, is amended to add an additional subdivision to read as
14 follows:

15 (14) "Certificate of number" means a motorboat registration or
16 motorboat registration certificate.

17
18 SECTION 8. Arkansas Code § 27-101-108(a), concerning the filing and
19 publication of rules and regulations, is amended to read as follows:

20 (a) A copy of the regulations adopted pursuant to §§ 27-101-101 et
21 seq., 27-101-201 et seq., 27-101-301 et seq., 27-101-501 et seq., ~~and~~ 27-101-
22 601 et seq., and the Arkansas Motorboat Registration and Titling Act, § 27-
23 101-1001 et seq., and of any amendments of those regulations shall be filed
24 in the offices of the Arkansas State Game and Fish Commission, the Secretary
25 of State, the Arkansas State Library, and the Bureau of Legislative Research
26 where each copy shall be preserved as a public record.

27
28 SECTION 9. Arkansas Code § 27-101-110, is amended to read as follows:
29 27-101-110. Deposit of funds in State Treasury.

30 (a) Except as otherwise provided in this chapter, All all fees
31 collected by the Director of the Department of Finance and Administration
32 under ~~the provisions of~~ this chapter shall be deposited as special revenues
33 ~~in~~ into the State Treasury to the credit of the Special Revenue Fund Account
34 of the State Apportionment Fund.

35 (b) All these funds The fees collected under subsection (a) of this
36 section shall be credited to the Boating Safety Account Fund, which is

1 established on the books of the Treasurer of State, the Auditor of State, and
2 the Chief Fiscal Officer of the State.

3
4 SECTION 10. Arkansas Code Title 27, Chapter 101, Subchapter 1, is
5 amended to add additional sections to read as follows:

6 27-101-112. Refund of application fees.

7 An application fee collected by the Office of Motor Vehicle under this
8 chapter shall be:

9 (1) Refunded to the applicant if the application is refused or
10 rejected; or

11 (2)(A) Refunded to the applicant if the fee was not required to
12 be paid under this chapter.

13 (B) A refund shall not be issued under subdivision (2)(A)
14 of this section if the applicant fails to submit an application for refund
15 within six (6) months from the date the applicant paid the application fee.

16
17 27-101-113. Payment by credit card.

18 (a) The Director of the Department of Finance and Administration may:

19 (1) Allow payment by credit card of any fees due under this
20 chapter;

21 (2) Promulgate rules and regulations providing for payment by
22 credit card of any fees authorized under this chapter; and

23 (3) Contract with credit card companies to pay fees normally
24 charged by those companies for allowing the use of their credit cards as
25 authorized by this section.

26 (b)(1) The net proceeds received, or receivable, from credit card
27 companies shall be prorated to the various funds for which they were
28 collected and deposited into the State Treasury for transfer on the last
29 business day of each month, in the same manner and to be used for the same
30 purposes as all other fees collected upon the issuance or renewal of a
31 motorboat registration with certificate of number and the issuance of a
32 motorboat certificate of title.

33 (2) Any amounts deducted from the gross proceeds of motorboat
34 registration with a certificate of number or titling fees paid by credit
35 card, which are deducted for the purpose of paying credit card company fees,
36 shall be cash funds not subject to appropriation and, if withheld by the

1 director, shall be remitted by the director to credit card companies as
2 required under contracts authorized by this section.

3
4 SECTION 11. Arkansas Code § 27-101-304(b), concerning the issuance of a
5 certificate of number, is amended to read as follows:

6 (b) The application shall be signed by the owner of the motorboat and
7 ~~shall be~~ accompanied by a fee as provided in § 27-101-306, verification of
8 the hull identification number, proof the motorboat is listed for assessment,
9 proof of payment of required personal property taxes, and ~~by~~ proof of
10 insurance establishing that the motorboat, if it is equipped with more than
11 fifty horsepower (50 hp), or a personal watercraft, is covered by a liability
12 insurance policy issued by an insurance company authorized to do business in
13 this state.

14
15 SECTION 12. Arkansas Code § 27-101-304(e) and (f), concerning issuance
16 of a certificate of number, are amended to read as follows:

17 (e)(1) ~~Upon receipt of the application in approved form, accompanied~~
18 ~~by proof that the motorboat has been assessed or listed for assessment and,~~
19 ~~if it is equipped with more than fifty horsepower (50 hp), or is personal~~
20 ~~watercraft, is covered by a liability insurance policy issued by an insurance~~
21 ~~company authorized to do business in this state, the director shall enter the~~
22 ~~application upon the records of his or her office and issue to the applicant~~
23 ~~a certificate of number stating the number awarded to the motorboat and the~~
24 ~~name and address of the owner~~

25 The director shall enter upon the records of his or her office an
26 application for issuance of a certificate of number upon receipt of:

- 27 (A) An application submitted in approved form;
28 (B) Proof that the motorboat has been assessed or listed
29 for assessment;
30 (C) Proof that personal property taxes have been paid; and
31 (D) Proof of coverage by a liability insurance policy
32 issued by an insurance company authorized to do business in this state if the
33 motorboat is equipped with more than fifty horsepower (50 hp) or is a
34 personal watercraft.

35 (2)(A) Upon approval by the director of the application and
36 supporting documents required under subdivision (e)(1) of this section, the

1 director shall issue to the applicant a certificate of number stating:

2 (i) The identifying number assigned to the
3 motorboat;

4 (ii) The name and address of the owner; and

5 (iii) A description of the motorboat, including when
6 available the make, model, year, and hull identification number of the
7 motorboat.

8 (B) The certificate of number shall be of a type that
9 prevents as nearly as possible alteration, counterfeiting, duplication, or
10 simulation without ready detection.

11 ~~(2)(A)~~ (3)(A) For the purposes of this section, “proof of
12 insurance” shall consist of a policy declaration page or other documentation,
13 or a copy of a policy declaration page or other documentation in an
14 acceptable electronic format, that reflects the motorboat or personal
15 watercraft coverage furnished to the insured by the insurance company which
16 can be conveniently carried in the motorboat or personal watercraft.

17 (B) Insurance companies shall not be required to provide proof
18 of insurance that may be conveniently carried as required in subdivision
19 ~~(e)(2)(A)~~ (e)(3)(A) of this section if the insurance coverage is provided as
20 part of a homeowner’s insurance policy.

21 (C) As used in this section, “acceptable electronic format”
22 means an electronic image produced on the person’s own cellular phone or
23 other type of portable electronic device that displays all of the information
24 in the policy declaration or other documentation as clearly as the paper
25 policy declaration or other documentation.

26 (D) The presentment of proof of insurance in an acceptable
27 electronic format does not:

28 (i) Authorize a search of any other content of an
29 electronic device without a search warrant or probable cause; or

30 (ii) Expand or restrict the authority of a law enforcement
31 officer to conduct a search or investigation.

32 (f)(1) The certificate of number shall be issued ~~in triplicate with~~
33 ~~the original copy to be~~ and furnished to the owner of the motorboat and upon
34 receipt the owner shall sign in the signature space provided on the
35 certificate of number.

36 (2) ~~The duplicate~~ A copy shall be retained as a record by the

1 director.

2 (3) ~~The triplicate~~ A copy shall be furnished to the commission to be
3 retained for a period of five (5) years.

4

5 SECTION 13. Arkansas Code § 27-101-306(g), concerning the renewal of
6 certificates of number, is amended to read as follows:

7 (g) Certificates of number may be renewed by the owner in the same
8 manner as is provided in this section for initially securing the certificate
9 and upon: ~~payment of the fee as set forth in this section except that the~~
10 ~~certificate of a motorboat shall not be renewed if it is equipped with more~~
11 ~~than fifty horsepower (50 HP) or is personal watercraft unless proof is~~
12 ~~presented that it is covered by a liability insurance policy issued by an~~
13 ~~insurance company authorized to do business in this state.~~

14 (1) Payment of all fees required in this chapter;

15 (2) If applicable, proof the motorboat or personal watercraft is
16 covered by a liability insurance policy issued by an insurance company
17 authorized to do business in this state;

18 (3) Proof the motorboat is listed for assessment; and

19 (4) Proof of payment of required personal property taxes.

20

21 SECTION 14. Arkansas Code § 27-101-309(c), concerning the application
22 for new a certificate of number after change in ownership, is amended to read
23 as follows:

24 (c) ~~The application for transfer of the certificate of number shall~~
25 ~~be shall be accompanied by a fee of two dollars (\$2.00) procedure and fees~~
26 under § 27-101-304 shall apply.

27

28 SECTION 15. Arkansas Code Title 27, Chapter 101, Subchapter 3,
29 concerning motorboat registration and numbering is amended to add an
30 additional section to read as follows:

31 27-101-314. Obligations of certificate of number holders.

32 (a)(1) Upon receipt of a certificate of number issued under § 27-101-
33 304, the owner of the motorboat shall write his or her signature on the
34 certificate of number in the space provided.

35 (2)(A) A certificate of number shall be carried:

36 (i) In the motorboat to which it refers; or

1 (ii) On the person of the driver or the person in
2 control of the motorboat.

3 (B) The certificate of number shall be displayed upon
4 request of a law enforcement officer, any officer of the Arkansas State Game
5 and Fish Commission, or any officer or employee of the Office of Motor
6 Vehicle.

7 (3) A person charged with violating this section shall not be
8 convicted if he or she produces in court a certificate of number for the
9 motorboat that was issued prior to, and in effect at, the time of the arrest.

10 (b) For purposes of this section, the original or duplicate
11 certificate of number is required and a photocopy of the certificate of
12 number shall not be sufficient.

13 (c) This section does not apply when a certificate of number is used to
14 apply for renewal of a certificate of number.

15
16 SECTION 16. Arkansas Code Title 27, Chapter 101, is amended to add a
17 new subchapter to read as follows:

18
19 Subchapter 10 – Arkansas Motorboat Registration and Titling Act

20
21 27-101-1001. Title and purpose.

22 (a) This subchapter shall be known and may be cited as the “Arkansas
23 Motorboat Registration and Titling Act”.

24 (b) The purpose of this subchapter is to establish the requirements and
25 procedures for registering with a certificate of number and titling
26 motorboats manufactured on and after January 1, 2020.

27
28 27-101-1002. Application, exclusions, and limitations.

29 (a) Chapters 1-99 of Title 27 do not apply to motorboats registered
30 with a certificate of number and titled under this Subtitle 7.

31 (b) This subchapter shall apply only to motorboats manufactured on and
32 after January 1, 2020.

33 (c) Title 27, Chapter 101, Subchapters 1-7, apply to all motorboats
34 regardless of the date the motorboat was manufactured.

35 (d)(1) All motorboats, regardless of when the motorboat was
36 manufactured, are subject to the requirements of § 27-101-301 et seq.

1 (2) However, a motorboat manufactured prior to January 1, 2020,
2 is not eligible for issuance of a certificate of title under this subchapter.

3 (e) This subchapter shall not apply to:

4 (1) A motorboat issued a certificate of number under federal law
5 or a federally approved numbering system of another state, provided that the
6 motorboat has not been within this state for more than sixty (60) days;

7 (2) Motorboats from a country other than the United States
8 temporarily using the waters of this state;

9 (3) Motorboats whose owner is the United States Government, a
10 state, or a subdivision of a state;

11 (4) Ship lifeboats; or

12 (5) Homemade motorboats.

13
14 27-101-1003. Registration and titling requirements generally.

15 It is a Class A misdemeanor for a person to operate upon the waters of
16 this state a motorboat of a type required to be titled under this subchapter
17 that is not registered with a certificate of number under § 27-101-301 et
18 seq., or for which a certificate of title, if applicable, has not been issued
19 or applied for, or for which all required fees have not been paid when and as
20 required under this chapter.

21
22 27-101-1004. Application for certificate of title.

23 (a) The owner of a motorboat manufactured on and after January 1, 2020,
24 shall apply to the Office of Motor Vehicle for the issuance of a certificate
25 of title or a certificate of title with beneficiary under § 27-101-1013, for
26 the motorboat upon the appropriate forms furnished by the office.

27 (b) The application shall contain:

28 (1) The name, bona fide residence, and mailing address of the
29 owner or business address if the owner is a firm, association, or
30 corporation;

31 (2)(A) A description of the motorboat, including, when available,
32 the make, model, year, hull identification number, motor or engine serial
33 number or model number, and a manufacturer's certificate of origin.

34 (B) The manufacturer's certificate of origin shall be
35 furnished to the dealer by the manufacturer and shall accompany the
36 application for certificate of title.

1 (C) The manufacturer's certificate of origin shall be on a
2 form prescribed by the Director of the Department of Finance and
3 Administration;

4 (3) A statement concerning all liens or encumbrances upon the
5 motorboat and the names and addresses of all persons having any interest in
6 the motorboat and the nature of the interest; and

7 (4)(A) Further information as may reasonably be required by the
8 office to determine whether the owner is entitled to a certificate of title.

9 (B) When the application refers to a motorboat purchased
10 from a dealer, the application shall, if applicable, be accompanied by:

11 (i) A statement by the dealer or a bill of sale
12 showing any lien retained by the dealer; and

13 (ii) Payment of applicable lien notation and lien
14 filing fees set forth in § 27-101-1029.

15 (c) The application shall be accompanied by:

16 (1) A certificate of title application fee in the amount of eight
17 dollars (\$8.00) per motorboat; and

18 (2) A certificate of title fee in the amount of two dollars
19 (\$2.00) per motorboat.

20 (d)(1) The certificate of title application fee collected under
21 subdivision (c)(1) of this section shall be remitted to the Treasurer of
22 State separate and apart from other taxes and fees.

23 (2)(A) The Treasurer of State shall deduct a percentage of the
24 gross amount of the certificate of title application fee collected under
25 subdivision (c)(1) of this section for the benefit of the Constitutional
26 Officers Fund and the State Central Services Fund as required in §§ 19-5-202
27 and 19-5-203.

28 (B) The net amount remaining after the deduction under
29 subdivision (d)(2)(A) of this section shall be distributed as follows:

30 (i) Fifty percent (50%) of the net amount shall be
31 deposited as special revenue into the State Treasury and credited to the
32 Commercial Driver License Fund for use by the Revenue Division of the
33 Department of Finance and Administration; and

34 (ii) Fifty percent (50%) of the net amount shall be
35 deposited into the State Treasury as trust funds and credited to the State
36 Police Retirement Fund to be used for the State Police Retirement System.

1 (e) A certificate of title shall not be issued under this subchapter
2 absent receipt of the following:

3 (1) Payment of all applicable fees;

4 (2) Proof of payment of personal property taxes;

5 (3) Proof of assessment;

6 (4) Proof of liability insurance to the extent required in § 27-
7 101-301 et seq.; and

8 (5) Any other documentation that may be requested by the office.

9
10 27-101-1005. Lost or damaged certificates.

11 (a) In the event any certificate of title is lost, mutilated, or
12 becomes illegible, the owner or legal representative or successor in interest
13 of the owner of the motorboat for which it was issued, as shown by the
14 records of the Office of Motor Vehicle, shall immediately make application to
15 the office for and may obtain a duplicate certificate of title if the
16 conditions of this section are satisfied.

17 (b) The following information shall be included in the application:

18 (1) The year, make, model, hull identification number, and motor
19 or engine serial number if applicable;

20 (2) The name of a lienholder;

21 (3) A release if the applicant claims that the lien has been
22 released; and

23 (4) Other information required by the office.

24 (c) In addition to the application referred to in subsection (a) of
25 this section, the following fees are imposed and shall be paid to the office
26 at the time that application for issuance of a duplicate certificate of title
27 is made:

28 (1) A certificate of title application fee in the amount of eight
29 dollars (\$8.00) per motorboat; and

30 (2) A certificate of title fee of two dollars (\$2.00) per
31 motorboat.

32 (d)(1) The certificate of title application fee collected under
33 subsection (c)(1) of this section shall be remitted to the Treasurer of State
34 separate and apart from other taxes and fees.

35 (2)(A) A percentage of the gross amount thereof shall be deducted
36 by the Treasurer of State for the benefit of the Constitutional Officers Fund

1 and the State Central Services Fund as required in §§ 19-5-202 and 19-5-203.

2 (B) The net amount remaining after the deduction under
3 subsection (d)(2)(A) of this section shall be distributed as follows:

4 (i) Fifty percent (50%) of the net amount shall be
5 deposited as special revenues into the State Treasury and credited to the
6 Commercial Driver License Fund for use by the Revenue Division of the
7 Department of Finance and Administration; and

8 (ii) Fifty percent (50%) of the net amount shall be
9 deposited into the State Treasury as trust funds and credited to the State
10 Police Retirement Fund to be used for the State Police Retirement System.

11 (e) The office may issue a duplicate certificate of title without
12 notice to a lienholder if the records of the office do not show that a lien
13 exists against the motorboat.

14 (f)(1)(A) The office shall mail notice to a lienholder shown in the
15 records of the office at the address shown in the records for the lienholder.

16 (B) The notice shall state that the lienholder must respond
17 to the office within ten (10) business days from the date of the notice if
18 the lien has not been released, or the duplicate certificate of title will be
19 issued without recording the lien.

20 (2)(A) At the earlier of the time the lienholder responds
21 indicating that the lien has been released or the expiration of the time for
22 response by the lienholder, the office may issue a duplicate certificate of
23 title without recording the name of the lienholder.

24 (B) If the lienholder timely responds indicating that the
25 lien has not been released, the office may issue a duplicate certificate of
26 title that places the name of the lienholder on the duplicate certificate
27 title upon payment of all required lien notation and filing fees.

28 (g) Upon issuance of any duplicate certificate of title, the previous
29 certificate of title shall be void.

30
31 27-101-1006. Grounds for refusing certificate of number or certificate
32 of title.

33 A certificate of number or transfer of a certificate of number shall
34 not be issued under § 27-101-301 et seq., nor shall a certificate of title be
35 issued under this subchapter, if:

36 (1) The Office of Motor Vehicle has been provided with

1 information leading the office to reasonably believe that the relevant
2 application contains any false or fraudulent statement;

3 (2) The applicant fails to furnish required information or
4 reasonable additional information requested by the office;

5 (3) The office has reasonable grounds to believe that the
6 motorboat is stolen or embezzled or that the granting of a certificate of
7 number, the issuance of a certificate of title, or the transfer of a
8 certificate of number would constitute a fraud against the rightful owner or
9 other person having a valid lien upon the motorboat; or

10 (4) All the required fees have not been paid.

11
12 27-101-1007. Submission and receipt of reports and checking
13 applications against indexes.

14 (a) The owner of or person having a lien or encumbrance upon a
15 motorboat that has been stolen or embezzled may notify the Office of Motor
16 Vehicle of the theft or embezzlement, but in the event of an embezzlement,
17 may make a report only after having procured the issuance of a warrant for
18 the arrest of the person charged with the embezzlement.

19 (b) Every owner or other person who has given any such notice shall
20 notify the office of a recovery of the motorboat.

21 (c) The office upon receiving a report of a stolen or embezzled
22 motorboat as provided in subsection (a) of this section shall file and
23 appropriately index the report, shall immediately suspend the certificate of
24 number or title of the stolen or embezzled motorboat, and shall not transfer
25 the certificate of number or certificate of title of the stolen or embezzled
26 motorboat until such time as the office is notified in writing that the
27 stolen or embezzled motorboat has been recovered.

28 (d)(1) The office shall, at least one (1) time each week, compile and
29 maintain a list of all motorboats that have been stolen, embezzled, or
30 recovered as reported to the office during the preceding week.

31 (2) The lists shall be open to inspection by any law enforcement
32 officer or other person interested in the motorboat.

33 (e) The office, upon receiving application for the certificate of
34 number of a motorboat under § 27-101-301 et seq. or application for a
35 certificate of title under this subchapter, shall first check the hull
36 identification number or other identifying number shown in the application

1 against the indexes of registered motorboats and against the index of stolen
2 and recovered motorboats required by this section to be maintained.

3
4 27-101-1008. Organization of records.

5 The Office of Motor Vehicle shall file each application received and
6 issue a certificate of title if all the requirements are properly satisfied
7 and shall register the motorboat with a certificate of number and keep a
8 record of the application in suitable methods ensuring the records will be
9 available as follows:

10 (1) Under a distinctive certificate of number assigned to the
11 motorboat;

12 (2) Alphabetically, under the name of the owner;

13 (3) Under the hull identification number, if available, otherwise
14 any other identifying number of the motorboat; and

15 (4) In any other manner to be decided at the discretion of the
16 office.

17
18 27-101-1009. Issuance of certificate of title.

19 (a)(1) The Office of Motor Vehicle, upon registering a motorboat with
20 a certificate of number under § 27-101-304 and upon receipt of a proper
21 application and all required fees, shall issue a certificate of title.

22 (2) The certificate of title shall be of a type that, as nearly
23 as possible, prevents the document from being altered, counterfeited,
24 duplicated, or simulated without ready detection.

25 (b)(1)(A) The certificate of title shall contain upon its face the
26 identical information required upon the face of the certificate of number.

27 (B) In addition, the certificate of title shall contain:

28 (i) A statement of the owner's title to the
29 motorboat;

30 (ii) A statement of all liens and encumbrances on
31 the motorboat described in the application for the certificate of title;

32 (iii) A statement as to whether possession of the
33 motorboat is held by the owner under a lease, contract of conditional sale,
34 or other similar agreement; and

35 (iv) If a certificate of title is issued as a
36 certificate of title with beneficiary, the information required under § 27-

1 101-1013.

2 (2) The certificate of title shall bear the seal of the office.

3 (c)(1) The certificate of title shall contain upon the front side a
4 space for the signature of the owner, and the owner shall write his or her
5 name with pen and ink in the space upon receipt of the certificate of title,
6 except when a surviving owner or a beneficiary applies for a new certificate
7 of title with beneficiary under § 27-101-1013.

8 (2) The certificate of title shall also contain upon the reverse
9 side forms for assignment of title or interest and warranty of title or
10 interest by the owner, with space for notation of liens and encumbrances upon
11 the motorboat at the time of a transfer.

12 (d)(1) The certificate of title shall be delivered to the owner in the
13 event no lien or encumbrance appears thereon.

14 (2) Otherwise, the certificate of title shall be delivered either
15 to the person holding the first lien or encumbrance upon the motorboat as
16 shown in the certificate of title or to the person named to receive it in the
17 application for the certificate of title.

18

19 27-101-1010. Certificate of title not renewed.

20 A certificate of title shall remain valid until cancellation by the
21 Office of Motor Vehicle for cause or when a transfer in interest of the
22 motorboat occurs.

23

24 27-101-1011. Expiration of certificate of title.

25 (a)(1) A certificate of title issued under this subchapter shall expire
26 upon the determination by the Office of Motor Vehicle that the hull
27 identification number on the motorboat is mutilated, destroyed, or
28 obliterated.

29 (2) Upon expiration of a certificate of title under subdivision
30 (a)(1) of this section, the office shall refer the owner of the motorboat to
31 the Boating Law Administrator of the Arkansas State Game and Fish Commission
32 to:

33 (A) Issue a primary hull identification number to the
34 motorboat; and

35 (B) Verify that the owner of the motorboat permanently
36 affixes the hull identification number to the motorboat in compliance with 33

1 C.F.R. Part 181, Subpart C, as in effect on January 1, 2017.

2 (b) After receipt of a proper application and payment of all required
3 fees under this subchapter, the office shall issue a new certificate of title
4 using the primary hull identification number issued as provided under
5 subsection (a) of this section.

6
7 27-101-1012. Hull identification number verification.

8 (a)(1) The Department of Finance and Administration shall not issue,
9 renew, or update ownership information for a certificate of number under §
10 27-101-304 or a certificate of title under this subchapter until the
11 department determines whether the motorboat has a primary hull identification
12 number meeting the requirements of 33 C.F.R. Part 181, Subpart C, as in
13 effect on January 1, 2017.

14 (2) Verification of the hull identification number may include
15 without limitation a submission of a clear and legible photograph or pencil
16 rubbing of the hull identification number.

17 (b) Upon determination by the department that the motorboat does not
18 have a hull identification number as required by subsection (a) of this
19 section, the department shall refer the owner of the motorboat to the Boating
20 Law Administrator of the Arkansas State Game and Fish Commission to:

21 (1) Assign a primary hull identification number; and

22 (2) Verify that the owner permanently affixes the hull
23 identification number to the motorboat in compliance with 33 C.F.R. Part 181,
24 Subpart C, as in effect on January 1, 2017.

25
26 27-101-1013. Certificate of title with beneficiary.

27 (a) As used in this section:

28 (1)(A) "Beneficiary" means one (1) person designated to become
29 the owner of a motorboat upon the death of the current owner as indicated on
30 the certificate of title issued under this chapter.

31 (B) "Beneficiary" does not include a business, firm,
32 partnership, corporation, association, or any other legally created entity;

33 (2) "Certificate of title with beneficiary" means a certificate
34 of title for a motorboat issued under this subchapter that indicates the
35 present owner of the motorboat and designates a beneficiary as provided under
36 this section; and

1 (3)(A) "Owner" means a person who holds legal title to a
2 motorboat and may include more than one (1) person but not more than three
3 (3) people.

4 (B) "Owner" does not include a business, firm, partnership,
5 corporation, association, or any other legally created entity.

6 (b)(1) The owner or joint owners of a motorboat may submit a transfer-
7 on-death application to the Office of Motor Vehicle to request the issuance
8 of a certificate of title with beneficiary or a change to a certificate of
9 title with beneficiary which directs the office to transfer the certificate
10 of title upon the death of the owner or upon the death of all joint owners to
11 the beneficiary named on the certificate of title with beneficiary.

12 (2) A transfer-on-death application shall contain:

13 (A) A statement as to whether the applicant seeks to add,
14 remove, or change a beneficiary;

15 (B) The full legal name of the beneficiary;

16 (C) The Social Security number of the beneficiary;

17 (D) The address of the beneficiary;

18 (E) The hull identification number of the motorboat and,
19 where applicable, the engine or motor serial number;

20 (F) The year, make, model, and body type of the motorboat;

21 (G) The printed full legal name of the owner of the
22 motorboat;

23 (H) The driver's license or identification card number for
24 the owner of the motorboat; and

25 (I) The signature of the owner of the motorboat.

26 (3) The applicant shall include the following with the transfer-
27 on-death application:

28 (A) The certificate of title for the motorboat issued under
29 this chapter;

30 (B) A certificate of title fee in the amount of two dollars
31 (\$2.00);

32 (C) The certificate of title application fee in the amount
33 of eight dollars (\$8.00); and

34 (D) The certificate of title with beneficiary processing
35 fee in the amount of ten dollars (\$10.00).

36 (4) The proceeds collected under subdivision (b)(3)(C) of this

1 section shall be distributed as set out in § 27-101-1004(d).

2 (5)(A) The certificate of title with beneficiary processing fee
3 remitted under subdivision (b)(3)(D) of this section shall be deposited into
4 the State Central Services Fund for the benefit of the Revenue Division of
5 the Department of Finance and Administration.

6 (B) The fee shall be credited as supplemental and in
7 addition to all other funds as may be deposited for the benefit of the
8 division.

9 (C) The fee shall not be considered or credited to the
10 office as direct revenue.

11 (c)(1) The office shall not issue a certificate of title with
12 beneficiary to an owner of a motorboat if:

13 (A) The motorboat is encumbered by a lien; or

14 (B) The owner holds his or her interest in the motorboat as
15 a tenant in common with another person.

16 (2) If a lien request is made for a certificate of title with
17 beneficiary, the beneficiary shall be removed and the lien added upon payment
18 of all fees required under this chapter.

19 (d) The certificate of title with beneficiary issued by the office
20 shall include after the name of the owner the words "transfer on death to" or
21 the abbreviation "TOD" followed by the name of the beneficiary.

22 (e) During the lifetime of the owner or before the death of the last
23 surviving joint owner:

24 (1) The signature or consent of the beneficiary is not required
25 for any transaction relating to the motorboat for which a certificate of
26 title with beneficiary has been issued; and

27 (2) The certificate of title with beneficiary is revoked by:

28 (A) Selling the motorboat with proper assignment and
29 delivery of the certificate of title to another person; or

30 (B) Filing an application with the office to remove or
31 change a beneficiary as provided under subsection (b) of this section.

32 (f) Except as provided in subsection (e) of this section, the
33 designation of the beneficiary in a certificate of title with beneficiary
34 shall not be changed or revoked absent receipt of a court order requiring a
35 change in the designation of beneficiary.

36 (g) The interest of the beneficiary in a motorboat on the death of the

1 owner or on the death of the last surviving joint owner is subject to any
2 contract of sale, assignment, or security interest to which the owner of the
3 motorboat was subject to during his or her lifetime.

4 (h)(1)(A) Upon the death of the owner, the office shall issue a new
5 certificate of title for the motorboat to the surviving owner or, if there is
6 no surviving owner, to the beneficiary if the surviving owner or beneficiary
7 presents the following:

8 (i) Proof of death of the owner that includes a death
9 certificate issued by the state or a political subdivision of the state;

10 (ii) Surrender of the outstanding certificate of
11 title with beneficiary; and

12 (iii) An application and payment of all fees required
13 under this chapter.

14 (B) A certificate of title issued under this subsection is
15 subject to any existing security interest.

16 (2) If the surviving owner or beneficiary chooses, he or she can
17 submit a completed certificate of title with beneficiary application as
18 provided under this section, which shall be accompanied by all required fees,
19 at the time of the application for a new certificate of title.

20 (3)(i) The transfer under this subsection is a transfer by
21 operation of law, and § 27-101-1022 applies to the extent practicable and not
22 in conflict with this section.

23 (ii) The transfer of a motorboat upon the death of
24 the owner under this section is not testamentary and is not subject to
25 administration under the Probate Code.

26 (j) The procedures and fees under §§ 27-101-1004 and 27-101-1029 shall
27 apply for obtaining a duplicate certificate of title with beneficiary.

28
29 27-101-1014. Liens invalid without compliance.

30 A conditional sale contract, conditional lease, chattel mortgage, or
31 other lien or encumbrance, or title retention instrument upon a motorboat,
32 other than a lien dependent upon possession, is not valid against the
33 creditors of an owner acquiring a lien by levy or attachment or subsequent
34 purchasers or encumbrances, with or without notice, until the requirements of
35 this subchapter have been satisfied.

36

1 27-101-1015. Instruments and jurisdiction.

2 (a) There shall be deposited with the Office of Motor Vehicle a copy of
3 the instrument creating and evidencing a lien or encumbrance, which is to be
4 executed in the manner required by the laws of this state and accompanied by
5 the certificate of title last issued for the motorboat.

6 (b) If a motorboat is subject to a security interest when brought into
7 this state, the validity of the security interest is determined by the law of
8 the jurisdiction where the motorboat was when the security interest attached,
9 subject to the following:

10 (1) If at the time the security interest attaches the parties
11 understand that the motorboat will be kept in this state and the motorboat is
12 in this state within thirty (30) days after attachment for purposes other
13 than transportation through this state, the validity of the security interest
14 in this state is determined by the law of this state;

15 (2) If a security interest is perfected under the law of the
16 jurisdiction where the security interest attached, the following rules apply:

17 (A) If the name of the lienholder is shown on an existing
18 certificate of title issued by that jurisdiction, the lienholder's security
19 interest continues perfected in this state; or

20 (B)(i) If the name of the lienholder is not shown on an
21 existing certificate of title issued by that jurisdiction, the security
22 interest continues perfected in this state for four (4) months after a first
23 certificate of title of the motorboat is issued in this state and also
24 thereafter if, within the four-month period, it is perfected in this state.

25 (ii) Perfection dates from the time of perfection in
26 this state if the security interest is perfected in this state after the
27 expiration of the four-month period;

28 (3) If the security interest is not perfected under the law of
29 the jurisdiction where the security interest attached, the security interest
30 may be perfected in this state, and perfection dates from the time of
31 perfection in this state; or

32 (4) A security interest may be perfected either under
33 subdivision (b)(2)(B) of this section or subdivision (b)(3) of this section
34 as provided in subsection (a) of this section.

35 (c) If the motorboat is not registered with a certificate of number and
36 a certificate of title has not been issued for the motorboat, the certified

1 copy of the instrument creating the lien or encumbrance shall be accompanied
2 by an application by the owner in usual form for an original registration and
3 issuance of an original certificate of title and any fees as required under
4 this chapter.

5
6 27-101-1016. Statement of liens – Issuance.

7 Upon receipt of an application for a certificate of title accompanied
8 by the documents and fees required under this subchapter, the Office of Motor
9 Vehicle shall:

10 (1) File the application and documents with the date and hour the
11 application and documents were received noted on the application; and

12 (2) If the application requirements are properly satisfied, issue
13 a new certificate of title in the name of the owner and a statement of all
14 liens or encumbrances certified to the office existing against the motorboat.

15
16 27-101-1017. Filing as constructive notice.

17 (a) The filing and issuance of a new certificate of title as provided
18 in this chapter shall constitute constructive notice of all liens and
19 encumbrances against the motorboat described in the certificate of title to
20 creditors of the owner, subsequent purchasers, and encumbrancers, except
21 those liens as may be authorized by law dependent upon possession.

22 (b)(1) A lien is perfected on the date of execution if the documents
23 required under § 27-101-1015 are filed with the Office of Motor Vehicle
24 within thirty (30) days from the date of execution.

25 (2) Otherwise, constructive notice shall date from the time of
26 receipt and filing of the documents by the office noted on the application as
27 required under § 27-101-1016.

28
29 27-101-1018. Optional means of recording.

30 (a)(1) At his or her option, a lienholder may:

31 (A) Record the lien on the manufacturer's certificate of
32 origin;

33 (B) Record the lien on an existing certificate of title; or

34 (C) File with the Revenue Division of the Department of
35 Finance and Administration a certified copy of the instrument creating and
36 evidencing the lien or encumbrance.

1 (2) The lienholder shall remit a fee in the amount of one dollar
2 (\$1.00) for each lien filed.

3 (3) The recording or filing shall constitute constructive notice
4 of the lien against the motorboat described therein to creditors of the
5 owner, subsequent purchasers, and encumbrancers, except those liens that are
6 by law dependent upon possession.

7 (4) A photocopy of the manufacturer's certificate of origin or of
8 an existing certificate of title, showing the lien recorded thereon and
9 certified as a true and correct copy by the party recording the lien, shall
10 be sufficient evidence of the recording.

11 (b)(1)(A) The lien shall be deemed perfected and the constructive
12 notice shall be effective from the date of the execution of the instrument
13 creating and evidencing the lien or encumbrance if it is filed as authorized
14 in this section within thirty (30) days after the date of the execution
15 thereof.

16 (B) If the instrument is filed more than thirty (30) days
17 after the date of the execution thereof, the lien shall be deemed perfected
18 and the constructive notice shall date from the time of the filing of the
19 instrument.

20 (2) However, the filing of a lien under this section by the
21 lienholder and the payment of the required fee shall in no way relieve any
22 person of the obligation of paying the fee required by law for filing a lien
23 to be evidenced on a certificate of title of a motorboat.

24
25 27-101-1019. Methods exclusive – Exception.

26 (a) The methods provided in this subchapter of giving constructive
27 notice of a lien or encumbrance upon a motorboat shall be exclusive except as
28 to liens dependent upon possession.

29 (b) Any lien, or encumbrance, or title retention instrument filed as
30 provided in this subchapter, and any documents evidencing them, are exempted
31 from the provisions of law which otherwise require or relate to the recording
32 or filing of instruments creating or evidencing title retention or other
33 liens or encumbrances upon motorboats.

34
35 27-101-1020. Misdemeanor and penalty.

36 (a) It is a Class C misdemeanor for any person to fail or neglect to

1 enter the transferee's name on a properly endorsed certificate of title or
2 fail or neglect to properly endorse and deliver a certificate of title to a
3 transferee or owner lawfully entitled to the certificate of title.

4 (b) A person found to be in possession of a motorboat with an
5 improperly assigned certificate of title that fails to identify the
6 transferee shall immediately establish ownership of the motorboat, register
7 the motorboat with a certificate of number, and pay all required fees and
8 penalties.

9
10 27-101-1021. Obligations of transferee.

11 (a)(1) The transferee of a motorboat shall apply for, or cause to be
12 applied for, a registration with a certificate of number under § 27-101-304
13 and the issuance of a certificate of title under this subchapter within
14 thirty (30) days after the date of the release of lien by a prior lienholder,
15 as provided in § 27-101-1024, or thirty (30) days after the date of the
16 transfer if no lien exists.

17 (2) A motorboat shall not be operated upon the waters of this
18 state for more than thirty (30) days after the release of lien by a prior
19 lienholder as provided in § 27-101-1024, or thirty (30) days after the
20 transfer date if no lien exists, unless a valid registration with a
21 certificate of number and certificate of title have been issued under this
22 chapter.

23 (b) A transferee shall at the same time present the certificate of
24 title, properly endorsed and assigned, to the Office of Motor Vehicle and
25 apply for and obtain a new certificate of title for the motorboat, except as
26 otherwise provided in § 27-101-1022.

27 (c)(1)(A) It is unlawful for a dealer or other person who sells or
28 finances the purchase of a motorboat subject to registration with a
29 certificate of number in this state to use a title retention note to secure
30 his or her interest in the motorboat.

31 (B) As used in this section, a "title retention note" means
32 any instrument that grants the purchaser the right to possession and use of
33 the motorboat, but withholds assignment of ownership on the existing
34 certificate of title and its delivery to the purchaser, until full payment
35 has been made by the purchaser, which makes it impossible for the purchaser
36 to comply with subsection (b) of this section.

1 (2) It shall be a Class C misdemeanor for a motorboat dealer or
2 other seller to fail to comply with this subsection.

3 (d) This section is not intended to limit the rights of a lienholder to
4 perfect or record his or her security interest in a motorboat as provided
5 under §§ 27-101-1014 and 27-101-1019.

6
7 27-101-1022. Transfer by operation of law.

8 (a) Whenever the certificate of title or interest of an owner in or to
9 a registered motorboat is transferred to another person by a method other
10 than voluntary transfer, the registration and certificate of title of the
11 motorboat shall expire, and the motorboat shall not be operated upon the
12 waterways of this state for more than thirty (30) days after the date of
13 transfer.

14 (b)(1) Upon transfer, the new owner shall secure a new registration
15 with a certificate of number under § 27-101-304 and a new certificate of
16 title under this subchapter, if the new owner submits to the Office of Motor
17 Vehicle:

18 (A) The application and documents required to be submitted
19 with the application;

20 (B) Payment of all required fees;

21 (C) Presentation and surrender of the last certificate of
22 title;

23 (D) Evidence that the lien or encumbrance was previously
24 recorded in this state; and

25 (E) The instruments or documents of authority, or certified
26 copies of the instruments or documents of authority, as may be sufficient or
27 required by law to evidence or effect a transfer of certificate of title or
28 interest in or to chattels in this case.

29 (2)(A) If the motorboat to be registered with a certificate of
30 number and titled was previously registered with a certificate of number in a
31 jurisdiction other than Arkansas and if the name of the new owner as
32 lienholder is not shown on the existing certificate of title, a certificate
33 of title shall not be issued to the new owner under this section.

34 (B) Instead, the new owner may secure a new registration
35 and certificate of title by obtaining an order issued by a court of competent
36 jurisdiction directing issuance of the new registration with certificate of

1 number and certificate of title.

2 (3) The new owner, upon transferring his or her certificate of
3 title or interest to another person, shall execute and acknowledge an
4 assignment and warranty of title upon the certificate of title previously
5 issued, if available, and deliver it, as well as the documents of authority
6 or certified copies of the documents of authority, as may be sufficient or
7 required by law to evidence the rights of the person, to the person to whom
8 the transfer is made.

9
10 27-101-1023. Assignment without consent of owner.

11 (a) A person holding a lien or encumbrance upon a motorboat, other than
12 a lien dependent solely upon possession, may assign his or her certificate of
13 title or interest in or to the motorboat to a person other than the owner
14 without the consent of the owner, and without affecting the interest of the
15 owner or the registration with certificate of number of the motorboat, but in
16 this event, he or she shall give to the owner a written notice of the
17 assignment.

18 (b) The Office of Motor Vehicle, upon receiving a certificate of title,
19 along with all required fees, assigned by the holder of a lien or encumbrance
20 shown thereon and giving the name and address of the assignee, shall issue a
21 new certificate of title as upon an original application.

22
23 27-101-1024. Release of lien by lienholder – Disclosure of information.

24 (a) As used in this section, "final payment" means an item is paid when
25 a payee bank or person has:

26 (1) Paid for the item in cash;

27 (2) Settled for the item without having a right to revoke the
28 settlement under statute, clearinghouse rule, or agreement; or

29 (3) Made a provisional settlement for the item and failed to
30 revoke the settlement in the time and manner permitted by statute,
31 clearinghouse rule, or agreement.

32 (b) For purposes of this section, a lien or encumbrance is satisfied
33 when the lienholder receives final payment.

34 (c)(1) Upon the satisfaction of any lien or encumbrance on a motorboat
35 for which the certificate of title is in the possession of the lienholder,
36 the lienholder shall within ten (10) business days from the date of receipt

1 of final payment execute a release of the lien or encumbrance in the space
2 provided in the certificate of title, or as the Office of Motor Vehicle
3 prescribes, and mail or deliver the certificate of title and the release of
4 lien or encumbrance to the next lienholder named in the certificate of title
5 or, if none, to the owner or to any person who delivers to the lienholder an
6 authorization from the owner to receive the certificate of title.

7 (2) Upon the satisfaction of a lien or encumbrance on a motorboat
8 for which the certificate of title is in the possession of a prior
9 lienholder, the lienholder whose lien or encumbrance is paid in full shall
10 within ten (10) business days of receipt of final payment execute a release
11 of lien or encumbrance in the form the office prescribes and deliver the
12 release of lien or encumbrance to the owner or to any person who delivers to
13 the lienholder an authorization from the owner to receive it.

14 (d) A lienholder named in a certificate of title shall upon written
15 request of the owner or of another lienholder named on the certificate of
16 title disclose any pertinent information as to his or her security agreement
17 and the indebtedness secured.

18 (e)(1) A lienholder who fails to comply with subsection (c) of this
19 section shall pay to the person or persons satisfying the lien or encumbrance
20 twenty-five dollars (\$25.00) for the first five (5) business days after
21 expiration of the time period prescribed in subsection (c) of this section,
22 and the payment shall double for each five (5) days thereafter in which there
23 is continued noncompliance, up to a maximum of five hundred dollars (\$500)
24 for each lien.

25 (2) If delivery of the certificate of title is by mail, the
26 delivery date is the date of the postmark for purposes of this subsection.

27
28 27-101-1025. Reregistration and issuance of a new title – Filing.

29 (a) When satisfied as to the genuineness and regularity of the transfer
30 of a motorboat and of the right of the transferee to receive a new
31 registration and certificate of title under this chapter, the Office of Motor
32 Vehicle shall reregister the motorboat under § 27-101-304 and issue a new
33 certificate of title under this subchapter as upon an original application.

34 (b) The request for reregistration and issuance of a new certificate of
35 title shall be accompanied by:

36 (1) A properly endorsed certificate of title;

1 (2) A completed application for registration and certificate of
2 title as required in this chapter;

3 (3) If applicable, proof the motorboat or personal watercraft is
4 covered by a liability insurance policy issued by an insurance company
5 authorized to do business in this state;

6 (4) Payment of all required fees; and

7 (5) Any other documents that may be required by the office.

8 (c) The office shall:

9 (1) Retain and appropriately file every surrendered certificate
10 of title; and

11 (2) Maintain the file required under subdivision (c)(1) of this
12 section to permit the tracing of the certificate of title.

13
14 27-101-1026. Transferor not liable for negligent operation.

15 (a) The owner of a motorboat who has made a bona fide sale or transfer
16 of his or her certificate of title or interest and who has delivered
17 possession of the motorboat to the purchaser or transferee is not liable for
18 any damages resulting from negligent operation of the motorboat by another
19 person.

20 (b) The selling or transferring owner, upon delivery of possession of
21 the motorboat, is not liable for any damage or negligence if the selling or
22 transferring owner:

23 (1) Delivers the certificate of title, properly endorsed and
24 dated with the date of the endorsement, to the purchaser or transferee;

25 (2) Delivers to the Office of Motor Vehicle or placed in the
26 United States mail, addressed to the office, the notice as provided in § 27-
27 101-1027; or

28 (3) Delivers to the office or places in the United States mail,
29 addressed to the office, the appropriate documents and fees for registration
30 of the motorboat to the new owner under the sale or transfer.

31
32 27-101-1027. Notice of sale or transfer.

33 (a) Whenever the owner of a motorboat registered with a certificate of
34 number under this chapter sells or transfers the certificate of title or
35 interest in and delivers possession of the motorboat to another person, the
36 owner may notify the Office of Motor Vehicle of the sale or transfer.

1 (b) The notice shall provide the following information:

2 (1) The date of the sale or transfer;

3 (2) The name and address of the owner and of the transferee;

4 (3) The hull identification number;

5 (4) The identifying number assigned to the motorboat under § 27-
6 101-301 et seq.;

7 (5) A description of the motorboat; and

8 (6) Any other information that may be required by the office.

9
10 27-101-1028. Time requirements for payment of lien or encumbrance.

11 (a) As used in this section:

12 (1) "Customer" means a person who trades in or otherwise provides
13 a motorboat to a motorboat dealer for resale;

14 (2) "Motorboat dealer" means a recognized motor boat dealer; and

15 (3) "Subsequent purchaser" means a person who buys the motorboat
16 that was provided to the motorboat dealer as a trade-in or for resale by the
17 customer.

18 (b)(1) If a motorboat dealer takes possession of a motorboat for
19 purposes of resale and there is an outstanding lien or encumbrance on the
20 motorboat, the motorboat dealer shall in good faith tender full payment on
21 the outstanding lien or encumbrance within ten (10) business days after the
22 motorboat dealer takes possession of the motorboat from the customer.

23 (2) This time period may be shortened if the customer and the
24 motorboat dealer agree to a shorter time period.

25 (c)(1) If the motorboat dealer fails to act in good faith in tendering
26 full payment for the outstanding lien or encumbrance within ten (10) business
27 days or within the time period agreed to by the motorboat dealer and the
28 customer under subdivision (b)(2) of this section, the customer shall have an
29 absolute right to cancel the contract for sale between the customer and the
30 motorboat dealer.

31 (2) If the contract for sale is canceled under subdivision (c)(1)
32 of this section, the motorboat dealer shall be responsible for late fees,
33 finance charges, or any financial penalty that is required to be made by the
34 customer as part of the existing lien or encumbrance.

35 (d)(1) If the motorboat dealer sells the motorboat to a subsequent
36 purchaser without first tendering full payment for the outstanding lien or

1 encumbrance, the subsequent purchaser who buys the motorboat subject to the
2 existing lien or encumbrance shall have an absolute right to cancel the
3 contract for sale between the subsequent purchaser and the motorboat dealer.

4 (2) If the contract for sale is canceled under subdivision (d)(1)
5 of this section, the motorboat dealer shall be responsible for late fees,
6 finance charges, or any financial penalty that is required to be made by the
7 subsequent purchaser as part of the existing lien or encumbrance.

8
9 27-101-1029. Fees.

10 (a) Except as otherwise provided, all fees required under this chapter
11 shall be paid to the Office of Motor Vehicle.

12 (b) The following fees are charged under this subchapter by the
13 Director of the Department of Finance an Administration:

- 14 (1) Certificate of title with beneficiary processing
- 15 Fee.....\$10.00
- 16 (2) Duplicate title fee..... 2.00
- 17 (3) Lien filing fee..... 1.00
- 18 (4) Lien notation fee..... .50
- 19 (5) Title application fee..... 8.00
- 20 (6) Hull identification fee..... 25.00

21
22 27-101-1030. Rules.

23 The Director of the Department of Finance and Administration may
24 promulgate rules for the administration of this subchapter.

25
26
27 */s/B. Sample*
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