

Department of Finance and Administration

Legislative Impact Statement

Bill: SB770

Amendment Number: S1

Bill Subtitle: TO AUTHORIZE AND REQUIRE THE ISSUANCE OF A TITLE FOR A WATERCRAFT; AND TO CREATE THE ARKANSAS MOTORBOAT REGISTRATION AND TITLING ACT.

Basic Change :

Sponsor: Sen. Sample

SB770 allows for watercraft titling. Arkansas has no law requiring the issuance of title for watercraft. Therefore, lienholders cannot file a lien on watercraft that is reflected in the Office of Motor Vehicle records, other than watercraft listed on a lien contract surrendered for the watercraft trailer. Currently, ownership of watercraft is transferred on a small space on the registration certificate. Transferring ownership on a certificate of title would be a much more secure method of transferring ownership since a title document is much more secure than a registration document. Issuance of title for watercraft would be a deterrent to theft of watercraft.

Revenue Impact :

Unknown increase of title fees for new boat purchases manufactured January 1, 2018.

Taxpayer Impact :

For new boats manufactured on and after January 1, 2018, customers would be required to obtain a title as well as a registration for their watercraft and pay the ten-dollar (\$10.00) title fee when initially applying for title and registration in their name. Customers would be required to surrender the watercraft's manufacturer's certificate of origin (MCO) for a new watercraft or the previous owner's title if a used watercraft. Lienholders could have their lien noted on a certificate of title and hold the title until the lien is satisfied.

Resources Required :

Additional programing will be required and is estimated to cost \$45,000.00.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Program the motor vehicle system for changes. Revise the Motor Vehicle Procedures manual and distribute revised manual to State Revenue Offices.

Other Comments :

None.

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Legal Analysis :

Unlike motor vehicles, motorboats are not currently required to be titled in Arkansas. This bill, through Amendment S1, would require that boats manufactured on and after January 1, 2018 be titled. The bill is a consumer protection bill that resulted from inquiries from Arkansas citizens requesting the issuance of motorboat titles to ensure that motorboats are not sold without knowledge of existing security interests and to minimize the potential for the trafficking and sale of stolen motorboats. Currently 29 states issue titles to motorboats, including the neighboring states of Oklahoma and Texas. This bill incorporates many existing provisions of Arkansas law concerning the titling of motor vehicles to ensure that the titling of motorboats is handled in the same fashion as the titling of registered motor vehicles.

A summary of this bill is as follows:

Section 1 provides that motorboat leases will be subject to certificate of title statutes created within the bill.

Section 2 provides that the filing of a financing statement is not necessary to perfect a security interest in motorboats for which a certificate of title is issued.

Sections 3 and 4 pertain to the designation of fee revenue that will be received from processing motorboat title applications.

Sections 5 and 6 make technical corrections to definitions associated with the registration and titling of motorboats.

Section 7 amends existing state law to identify where any rules promulgated in relation to motorboat titling will be filed.

Section 8 amends existing state law to clarify that, with some exceptions, fees levied in relation to the registration and titling of motorboats is dedicated to the Boating Safety Fund (existing motorboat registration fees are already dedicated to this fund).

Section 9 authorizes the refund of application fees (where an application was refused or a fee was paid in error) as well as payment by credit card, and mirrors existing state motor vehicle laws.

Sections 10 through 14 amend existing law concerning the application for, receipt of, and renewal of motorboat certificates of number (registrations). Specifically, these sections require the submission of identifying information regarding the motorboat at the time of motorboat registration. They also require that motorboat registrants file all required applications, pay all required fees, provide proof of assessment and payment of personal property taxes, and provide proof of liability insurance where applicable.

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Section 10 of the bill creates the Arkansas Motor Vehicle Registration and Titling Act. This section generally:

- Provides that motor vehicle laws do not apply to the titling of motorboats, and sets forth exclusions from motorboat titling requirements-see § 27-101-1002;
- Sets forth misdemeanor penalties for operating a boat without a required registration or title and failing to properly transfer titles upon the sale of a motorboat-see §§ 27-101-1003 and 27-101-1020;
- Sets forth the requirements for applications for motorboat titles, as well as the issuance of those titles-see §§ 27-101-1004, 27-101-1009, and 27-101-1025;
- Sets forth requirements for obtaining a duplicate motorboat title-see § 27-101-1005;
- Sets forth grounds for refusing to issue a registration or title-see § 27-101-1006;
- Requires DFA to keep and maintain certain lists, records, and indexes related to the registration and titling of motorboats, including indexes related to reports of theft-see §§ 27-101-1007 and 27-101-1008;
- Identifies that titles remain valid until cancellation and explains when a certificate of title would expire by operation of law-see § 27-101-1010 and 27-101-1011;
- Provides a process to replace mutilated or destroyed hull identification numbers, and requires that hull identification number verifications be performed when an applicant for title does not have a properly endorsed certificate of origin or title. The Arkansas Game and Fish Commission (AGFC) will be responsible for issuing replacement hull identification numbers and performing hull identification number verifications, and fees collected for these services will be designated for use by the commission or its designee-see §§ 27-101-1011 and 27-101-1012;
- Authorizes the issuance of certificate of titles with beneficiary-see § 27-101-1013;
- Sets forth requirements for perfecting liens on motorboats including authorizing direct lien filing with the Office of Motor Vehicles-see §§ 27-101-1014 through 27-101-1019;
- Sets forth certain obligations when the transfer of a motorboat occurs-see §§ 27-101-1021 and 27-101-1022;
- Authorizes the assignment of a title by a lienholder to a successor to the lien-see § 27-101-1023;
- Sets forth requirements regarding the release of liens after final payment or trade-in-see §§ 27-101-1024 and 27-101-1028.
- Provides protection for sellers from negligent operation following the sale of a motorboat, and provides mechanisms for sellers to notify the Office of Motor Vehicles of the sale of motorboats-see §§ 27-101-1026 and 27-101-1027; and
- Establishes required fees and authorizes DFA to promulgate rules-see § 27-101-1029 and 27-101-1030.

With the exception of certificate of title with beneficiary processing fees, all fees levied in this bill are designated for the use of AGFC or its designee. Existing motorboat registration fees are currently designated for deposit into the Boating Safety Fund for use by AGFC. Titling fees levied in this bill are designated for deposit into the Game Protection Fund for use by AGFC. The certificate of title with beneficiary processing fee is designated for use by the Revenue Division of DFA. Hull identification number verification fees authorized in this bill may be charged and used by a designee of AGFC.